

FOOD SERVICE OPERATION AND RETAIL FOOD ESTABLISHMENT REGULATION

WHEREAS, the Ohio Public Health Council has made and amended rules providing uniform standards and procedures for plan review, construction, maintenance, equipment, operation and inspection of Food Service Operations and Retail Food Establishments throughout the State of Ohio and are contained in Chapters 901:3-4 and 3717 of the Ohio Administrative Code: and

WHEREAS, the Food Service Operation and Retail Food Establishment rules Chapters 901:3-4 and 3717 are minimum standards: and

WHEREAS, Chapter 3717 of the Ohio Revised Code allows the Board of Health to establish its own fees for administering and enforcing the requirements of Chapters 901:3-4 and 3717: and

WHEREAS, the enforcement of these rules is crucial to the effectiveness in protecting the public health and safety: and

WHEREAS, due to recent changes in the law regarding licensing, and it is necessary to adopt revisions to this regulation to enable this Board to make this regulation applicable to retail food establishments and to establish its fees in accordance with such laws for the preservation of the public health.

NOW THEREFORE, BE IT RESOLVED by the Board of Health of the Combined Allen County General Health District, that Chapters 901:3-4 and 3717, Ohio Administrative Code are hereby adopted by incorporation by reference as if fully rewritten herein, together with the following regulations as authorized by Section 3709.21 of the Ohio Revised Code.

Section 1.0 Definitions

1.1 A "new" Food Service Operation/Retail Food Establishment means:

- (A) A business or operation that has not been previously licensed pursuant to these regulations.
- (B) A licensed operation which undergoes a change of ownership and will be extensively altered and the licensor has not granted permission to transfer the license. A new license would be required subject to an appropriate plan review.
- (C) A reactivated food service operation or retail food establishment which has not been continually licensed or has not been in operation for twelve consecutive months shall be considered a new operation and shall comply with the rules in effect at the time of reactivation.

1.2 The definitions of terms, as defined in the Ohio Administrative Code, Chapter 3717 shall be applied with the same meaning in this regulation.

Section 2.0 Fees

2.1 Any fees for application, license, permit, registration, inspections, sampling, or other fee for services rendered by the Board of Health under this regulation shall be in accordance with the uniform system of fees as established by the Board of Health and as the same is amended from time to time, the applicable portions of which are hereby incorporated by reference.

Section 3.0 License Not Transferable

3.1 No license which has been issued to a food service operation or retail food establishment may be assigned or transferred.

Section 4.0 Authority to Suspend a License, Embargo Food or Require Cease use of any Article

4.1 On determining that a license is in violation of any requirement of the Ohio Revised Code Chapter 3717 or the rules adopted under it and that the violation presents an immediate danger to the public health, the licensor may suspend the licensee's food service operation license or retail food establishment license without giving written notice or affording the licensee the opportunity to correct the violation. As permitted by the Ohio Revised Code 3717.29 and 3717.49, the Board of Health delegates this authority to the Health Commissioner.

4.2 If any article such as a utensil, material, or piece of equipment is found to present a public health hazard in a Retail Food Establishment, the article may be tagged for removal from use by the Health Commissioner or a Registered Sanitarian employed by the Board of Health.

4.3 If it is determined that any baby food has passed its expiration date or any food is unsafe for human consumption, the authority to embargo food in a Food Service Operation or Retail Food Establishment is delegated to the Health Commissioner or a Registered Sanitarian employed by the Board of Health.

Section 5.0 Plan Review

5.1 Alterations to an existing food service operation or retail food establishment by a person holding a valid license for that location will not be assessed a plan review fee. A plan review fee will be assessed for any new operation as defined in Section 1.1 above.

Section 6.0 Temporary License Application

6.1 A completed food service operation or retail food establishment application form, fee, and the plan information as required by the licensor, shall be filed with the licensor not less than ten calendar days prior to the day of the event. The plan review information must clearly show that the applicable requirements of Chapters 901:3-4 and 3717 will be met prior to license issuance. Failure to comply with this section shall be grounds for the denial of the license.

Section 7.0 Relief From Personal Liability

7.1 The Health Commissioner or any person charged with the enforcement of any provisions of the Food Service Operation and Retail Food Establishment regulation shall not be personally liable while acting for the Board of Health of the Combined Allen County General Health District and within the scope of that person's authority is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties.

Section 8.0 Penalties

8.1 Any person who violates any provision of this regulation is subject to penalties to provided in Section 3709.99 of the Ohio Revised Code.

Section 9.0 Effect of Partial Invalidity

9.1 Should any part of this regulation be declared unconstitutional for any reason, the remainder of this regulation shall not be affected thereby.

Section 10.0 Appeals

10.1 Any person adversely affected by this regulation shall have such rights of appeal as granted by law or applicable regulation.

Section 11.0 Effective Date

11.1 Be it further resolved that the amendments to this regulation shall take effect for the Combined Allen County General Health District the 31st day of July, 2009. Adopted this 10th day of July 2009, by the Combined Allen County General Health District Board of Health.