

Mid-Ohio Valley Health Department Food Handler Regulation

TITLE

This Regulation shall be known as the Mid-Ohio Valley Health Department Food Handler Regulation, and shall cover the West Virginia counties of Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood.

PURPOSE

The Mid-Ohio Valley Health Department has an obligation to ensure that food establishments in the Mid-Ohio Valley region provide safe food for the public. The Mid-Ohio Valley Board of Health believes that mandatory standardization of food safety training of food employees is necessary.

The Mid-Ohio Valley Board of Health further believes a Food Employee who serves as a “Manager In Charge,” must have a greater knowledge of food service than food employees, because he/she supervises food employees, and is required by the Food Code to ensure the facility operates to the standards of the regulatory authority. Based on results from food inspections it is apparent that many “Managers In Charge” do not possess the knowledge needed to meet the requirements of the Food Code. When inspections are performed, it is the “Manager In Charge” who ultimately insures corrections have been made and the food establishment is meeting the standards set by the Food Code.

DEFINITIONS

The following words and phrases, whenever used in this regulation, shall be construed as defined in this section:

“Food Employee” means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

“Food Establishment” means an operation that stores, prepares, packages, serves, or otherwise provides food for human consumption:

(a) Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location where consumption is on or off the premises and regardless of whether there is a charge for the food.

Food Establishment does not include:

- (a) A food establishment that offers only prepackaged foods
- (b) A produce stand that only offers whole, uncut, fresh fruits and vegetables

“Food Handler’s Card” means a West Virginia Department of Health and Human Resources Food Service Worker’s Permit that is obtained by passing a food training course from a local West Virginia Health department.

“Food Protection Manager Certification Program” means a food handling training program that has been approved by the Conference for Food Protection as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Program.

“Manager In Charge” means an individual that is responsible for the operation of a Food Establishment. This person must be accessible by telephone within 15 minutes, and available onsite within 30 minutes when needed by a Health Inspector.

“Person” means an association, individual, partnership, other legal entity, government, or governmental subdivision or agency.

“Potentially Hazardous Food” means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth and toxin formation.

REQUIREMENTS

At all times during the operation of a food establishment, there shall be a Manager In Charge” that is certified by a Food Protection Manager Certification Program. This provision does not remove the requirement by the Food Code to have a person in charge onsite at all times. Section 2-101.11 of the 2005 FDA Food Code states “The permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

Any new “Manager In Charge” of an establishment will have one hundred twenty (120) calendar days from the hire or promotion date to obtain and provide proof to the management of the establishment that they possess certification from an approved Food Protection Manager Certification Program.

Non-profit temporary food establishments are exempt from the “Manager In Charge” certification requirement.

All food employees must hold a valid Food Handler’s Card.

Any new food employee of an establishment will have sixty (60) calendar days from the hire date to obtain and provide proof to the management of the establishment that they possess a valid Food Handler's Card.

ENFORCEMENT

- A. Enforcement of this article shall be implemented by the Mid-Ohio Valley Health Officer, or his or her designee.
- B. Notice of the provisions set forth in this article shall be given to all applicants for food establishment permits in the West Virginia counties of Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood.
- C. The Mid Ohio Valley Health Department shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance of this ordinance.
- D. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Mid-Ohio Valley Health Department.
- E. Any owner, manager, operator or employee of any food service establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.
- F. If any "Manager In Charge" is unable to pass the Food Protection Manager Certification Program after two (2) proven attempts, that person shall contact the Mid Ohio Valley Health Department and make arrangements to enroll in a program to obtain the necessary knowledge.

VIOLATIONS AND PENALTIES

- A. Willful violation of this Food Handler Regulation is an unlawful act. Any person who owns, manages, operates, or otherwise controls the use of a food establishment shall commit a willful violation if he/she is:
 - 1. a food employee and does not possess a valid food handlers card
 - 2. a "Manager In Charge" and does not possess a valid Food Protection Manager Certification
- B. Penalties:

Violation of the provisions of this regulation is a misdemeanor and the Mid Ohio Valley Health Department may take enforcement actions for violation in accordance with WV Code § 16-1-18.

At the time of the adoption of the Food Handler Regulation, West Virginia Code 16-1-18 **“Penalties for violating provisions of article”** provided as follows:

“Any person violating any of the provisions of this article for which the penalty is not otherwise provided, or any of the rules or orders issued pursuant to this article, shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars.”

ADMINISTRATIVE DUE PROCESS

Those persons adversely affected by the enforcement of this regulation desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Division of Health’s rule, “Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.”

The Mid-Ohio Valley Health Department Food Handler Regulation will become effective **July 1, 2010**.

The Mid Ohio Valley Health Department will enforce the Food Handler Regulation sixty (60) days after the effective date for food workers and one-hundred-twenty (120) days for Food Protection Manager Certification for the “Manager In Charge”.

Revised May 2011