

MOVHD FOOD PLAN REVIEW QUESTIONNAIRE
 For Use by Food-Service Establishments and Retail Food Establishments

Return to:
 Mid-Ohio Valley Health Department
 Environmental Health Section
 1824 Murdoch Ave.- Suite F406
 Parkersburg, WV 26101

The Following Information Must Accompany this Questionnaire

- 1 - MOVHD Form SF-35
- 2 - Floor Plan showing Equipment Name and Placement
- 3 - Equipment List showing Model Numbers
- 4 - Shop Drawing of any Fabricated Equipment

SECTION 1 - GENERAL INFORMATION

Name of Establishment _____	Seating Capacity _____
Telephone Number _____	Date _____ County _____
Owner or Agent _____ Print Legibly	Signature _____

SECTION 2 - PLAN REVIEW FEE DUE - Based on Seating Capacity

*** Circle Appropriate Amount in Seating Capacity Schedule ***

Seating Capacity	Amount Due
0 to 35	\$ 60.00 (Retail always 60.00)
36 to 75	\$ 120.00
76 and Over	\$ 180.00

FOR HEALTH DEPARTMENT USE ONLY

Amount Received \$ _____	By: Cash or Check	Check # _____	MOVHD Receipt # _____
	Circle One		
Date Received _____	Received By _____		



West Virginia Department of Health and Human Resources
Bureau for Public Health
Office of Environmental Health Services
Public Health Sanitation Division

**FOOD ESTABLISHMENT PLAN REVIEW APPLICATION TO BE COMPLETED BY
THE OPERATOR AND SUBMITTED TO THE REGULATORY AUTHORITY**

Regulatory Authority MOVHP - 364-420-1460

Contact Name and Phone _____ Date Received _____

FOOD ESTABLISHMENT PLAN REVIEW APPLICATION FOR:

☐ NEW ☐ REMODEL ☐ CONVERSION

Name of Establishment: _____

Category: Restaurant ☐, Institution ☐, Daycare ☐, Retail Market ☐, Other ☐

Physical and Mailing Address: _____

Phone if available: _____

Name of Owner: _____

Telephone: _____ email: _____

Applicant's Name: _____

Title (owner, manager, architect, etc.): _____

Mailing Address: _____

Telephone: _____ email: _____

1 set of plans is required to be submitted to the local health dept. 45 days prior to construction or operation

Note: Not all sections may be applicable to every establishment. Contact above Reg. Agency if you have questions.

I have submitted plans/applications to the following authorities (if applicable) on the following dates:

_____ Governing Board of Council	_____ Plumbing
_____ Zoning	_____ Electric
_____ Planning	_____ Police
_____ Building	_____ Fire
_____ Conservation	_____ Other ()

Hours of Operation: Sun _____ Thurs _____
 Mon _____ Fri _____
 Tues _____ Sat _____
 Wed _____

Number of Indoor Dining Seats: _____

Number of Outdoor Dining Seats: _____

Number of Staff: _____
(Maximum per shift)

Total Square Feet of Facility: _____

Number of Floors on which
operations are conducted _____

Maximum Meals to be Served: (approximate number)	Breakfast _____
	Lunch _____
	Dinner _____

Projected Date for Start of Project: _____

Projected Date for Completion of Project: _____

Type of Service: (check all that apply)	Sit Down Meals _____
	Take Out _____
	Caterer _____
	Mobile Vendor _____
	Other _____

Please enclose the following documents:

- _____ Proposed Menu (including seasonal, off-site and banquet menus)
- _____ Plan drawn to scale of food establishment showing location of equipment, plumbing, electrical services and mechanical ventilation
- _____ Manufacturer Specification sheets for each piece of equipment shown on the plan
- _____ Site plan showing location of business in building; location of building on site including alleys, streets; and location of any outside equipment (dumpsters, well, septic system - if applicable)
- _____ Equipment schedule

CONTENTS AND FORMAT OF PLANS AND SPECIFICATIONS

1. Provide plans that are a minimum of 11 x 14 inches in size including the layout of the floor plan accurately drawn to a minimum scale of 1/4 inch = 1 foot. This is to allow for ease in reading plans.
2. Include: proposed menu, seating capacity, and projected daily meal volume for food service operations.
3. Show the location and when requested, elevated drawings of all food equipment. Each piece of equipment must be clearly labeled on the plan with its common name. Food equipment schedule, which includes the make and model numbers and listing of equipment, must be submitted. Submit drawings of self-service hot and cold holding units with sneeze guards.
4. Designate clearly on the plan equipment for adequate rapid cooling, including ice baths and refrigeration, and for hot-holding potentially hazardous foods.
5. Label and locate separate food preparation sinks when the menu dictates to preclude contamination and cross-contamination of raw and ready-to-eat foods.
6. Label and locate warewashing sinks and/or dishwashers.
7. Clearly designate adequate handwashing lavatories for each toilet fixture and in the immediate area of food preparation.
8. Provide the room size, aisle space, space between and behind equipment and the placement of the equipment on the floor plan.
9. On the plan represent auxiliary areas such as storage rooms, garbage rooms, toilets, basements and/or cellars used for storage or food preparation. Show all features of these rooms as required by this guidance manual.
10. Include and provide specifications for:
 - a. Entrances, exits, loading/unloading areas and docks;
 - b. Complete finish schedules for each room including floors, walls, ceilings and coved juncture bases;

- c. Plumbing schedule including location of floor drains, floor sinks, water supply lines, overhead waste-water lines, hot water generating equipment with capacity and recovery rate, backflow prevention, and wastewater line connections;
- d. Lighting schedule with protectors;
- e. A color coded flow chart demonstrating flow patterns for:
 - food (receiving, storage, preparation, service);
 - food and dishes (portioning, transport, service);
 - dishes (clean, soiled, cleaning, storage);
 - utensil (storage, use, cleaning);
 - trash and garbage (service area, holding, storage);
- f. Ventilation schedule for each room;
- g. A mop sink or curbed cleaning facility with facilities for hanging wet mops;
- h. Garbage can washing area/facility;
- i. Cabinets for storing toxic chemicals;
- j. Dressing rooms, locker areas, employee rest areas, and/or coat rack as required;
- k. Completed Food Est. Plan Review Application (SF-35)
- l. Site plan (plot plan)

PLEASE CIRCLE/ANSWER THE FOLLOWING QUESTIONS

FOOD SUPPLIES:

1. Are all food supplies from approved sources? YES / NO
2. What are the projected frequencies of deliveries for Frozen foods _____,
Refrigerated foods _____, and Dry goods _____.
3. Provide information on the amount of space (in cubic feet) allocated for:
Dry storage _____,
Refrigerated Storage _____, and
Frozen storage _____.
4. Identify the location and containers that will be used to store bulk food products (rice, flour, sugar, etc.).

FOOD PREPARATION PROCEDURES:

Explain the following with as much detail as possible. Provide descriptions of the specific areas on the plan where food is prepared.

Explain the handling/preparation procedures for the following categories of food. Describe the processes from receiving to service including:

- How the food will arrive (frozen, fresh, packaged, etc.)
- Where the food will be stored
- Where (prep table, sink, counter, etc.) the food will be washed, cut, marinated, breaded, cooked, etc. When (time of day and frequency/day) food will be handled/prepared

READY-TO-EAT FOOD (salads, cold sandwiches, raw shellfish)

PRODUCE

POULTRY

MEAT

SEAFOOD

THAWING FROZEN PHF (TCS) FOOD:

Thawing Method(s) (check all that apply and indicate where thawing will take place):

_____ Under Refrigeration: _____

_____ Running Water less than 70° F _____

_____ Microwave (as part of cooking process): _____

_____ Cooked from frozen state: _____

_____ Other: (describe) _____

List all foods that will be cooked and served _____

List all foods that will be held hot prior to service: _____

List all foods that will cooked and cooled: _____

List all foods that will be cooked, cooled, and reheated: _____

Provide a HACCP plan for specialized processing methods of foods such as Reduced Oxygen Packaging (vacuum packaging, cook-chill, etc.), use of additives to render a food non-PHF (TCS) food, curing and smoking for preservation, and molluscan shellfish tanks.

COOKING:

1. Will food product thermometers be used to measure final cooking/reheating temperatures of PHF's?
YES / NO

What type of temperature measuring device: _____

2. List types of cooking equipment.

HOT/COLD HOLDING:

1. How will hot PHF's be maintained at 135°F or above during holding for service? Indicate type, number, and location of hot holding units.

2. How will cold PHF's be maintained at 41°F (5°C) or below during holding for service? Indicate type and number of cold holding units.

COOLING:

Please indicate by checking the appropriate boxes how PHF's will be cooled to 41°F (5°C) within 6 hours (135°F to 70°F in 2 hours and 70°F to 41°F in 4 hours). Also, indicate where the cooling will take place.

COOLING METHOD	THICK MEATS	THIN MEATS	THIN SOUPS/ GRAVY	THICK SOUPS/ GRAVY	RICE/ NOODLES
Shallow Pans					
Ice Baths					
Reduce Volume or Size					

Rapid Chill					
Other (describe)					

REHEATING:

1. How will PHF's that are cooked, cooled, and reheated for hot holding be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds within two (2) hours? Indicate type and number of units used for reheating foods.

EMPLOYEE TRAINING

1. Will food employees be trained in good food sanitation practices? YES / NO

Method of training:

Number(s) of employees:

2. Will disposable gloves and/or utensils and/or food grade paper be used to prevent handling of ready-to-eat foods? YES / NO

3. Is there a written policy to exclude or restrict food workers who are sick or have infected cuts and lesions? YES / NO

Please describe briefly:

4. Will employees have paid sick leave? YES / NO

A. FINISH SCHEDULE

Applicant must indicate which materials (quarry tile, stainless steel, 4" plastic coved molding, etc.) will be used in the following areas. Materials must be smooth, nonabsorbent, and easily cleanable. Studs,

joist and rafters may not be exposed in walk-in refrigeration units, food preparation areas, or equipment washing areas. Utility service lines may not be unnecessary exposed on walls or ceilings.

	FLOOR	COVING	WALLS	CEILING
Kitchen				
Bar				
Food Storage				
Other Storage				
Toilet Rooms				
Dressing Rooms				
Garbage & Refuse Storage				
Mop Service Basin Area				
Warewashing Area				
Walk-in Refrigerators and Freezers				

B. INSECT AND RODENT CONTROL

APPLICANT: Please check appropriate boxes.

- | | | | |
|---|-----|-----|-----|
| | YES | NO | NA |
| 1. Will all outside doors be self-closing and rodent proof? | () | () | () |

- | | YES | NO | NA |
|---|-----|-----|-----|
| 2. Are screen doors provided on all entrances left open to the outside? | () | () | () |
| 3. Do all window openings have a minimum #16 mesh screening? | () | () | () |
| 4. Is the placement of electrocution devices identified on the plan? | () | () | () |
| 5. Will all pipes & electrical conduit chases be sealed; ventilation systems exhaust and intakes protected? | () | () | () |
| 6. Is area around building clear of unnecessary brush, litter, boxes and other harborage? | () | () | () |
| 7. Will air curtains be used? If yes, where? _____ | () | () | () |

C. GARBAGE AND REFUSE

- | | YES | NO | NA |
|---|-----|-----|-----|
| 1. Will refuse be stored inside? Do all containers have lids? | () | () | () |
| 2. Is there an area designated for garbage can or floor mat cleaning
If so, where? _____ | () | () | () |

- | | | | |
|--|-----|-----|-----|
| 3. Will a dumpster or compactor be used? | () | () | () |
|--|-----|-----|-----|

Number _____ Size _____

Frequency of pickup _____

Contractor _____

- | | | | |
|--|-----|-----|-----|
| 11. Will garbage cans be stored outside? | () | () | () |
|--|-----|-----|-----|

12. Describe surface and location where dumpster/compactor/garbage cans are to be stored

13. Describe location of grease storage receptacle

- | | | | |
|--|-----|-----|-----|
| 14. Is there an area to store recycled containers? | () | () | () |
|--|-----|-----|-----|

Indicate what materials are required to be recycled;

() Glass

- () Metal
- () Paper
- () Cardboard
- () Plastic

15. Is there any area to store returnable damaged goods?

YES NO NA
() () ()

D. PLUMBING CONNECTIONS

	AIR GAP	AIR BREAK	*INTEGRAL TRAP	*"P" TRAP	VACUUM BREAKER	CONDENSATE PUMP
Toilet						
Urinals						
Garbage Grinder						
Ice machines						
Ice storage bin						
Sinks a. Mop b. Janitor c. Handwash d. 3 Compartment e. 2 Compartment f. 1 Compartment g. Water Station						
Steam tables						

Dipper wells						
Refrigeration condensate/ drain lines						
Hose connection						
Potato peeler						
Beverage Dispenser w/carbonator						
Other						

* **TRAP:** A fitting or device which provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage or waste water through it. An integral trap is one that is built directly into the fixture, e.g., a toilet fixture. A 'P' trap is a fixture trap that provides a liquid seal in the shape of the letter 'P.' Full 'S' traps are prohibited.

1. Are floor drains provided & easily cleanable, if so, indicate location:

E. WATER SUPPLY

1. Is water supply public () or non-public/private ()?
2. If private, has source been approved? YES () NO () PENDING ()

Please attach copy of written approval and/or permit.

3. Is ice made on premises () or purchased commercially ()?

If made on premise, are specifications for the ice machine provided? YES () NO ()

Describe provision for ice scoop storage: _____

Provide location of ice maker or bagging operation _____

4. What is the capacity of and location of the hot water generator?

5. Is the hot water generator sufficient for the needs of the establishment? Provide calculations for necessary hot water (see Part 5 & Part 9 under Section III in this manual)

6. Is there a water treatment device? YES () NO ()

If yes, how will the device be inspected & serviced?

7. How are backflow prevention devices inspected & serviced?

F. SEWAGE DISPOSAL

1. Is building connected to a municipal sewer? YES () NO ()

2. If no, is private disposal system approved? YES () NO () PENDING ()

Please attach copy of written approval and/or permit.

3. Are grease traps provided? YES () NO () If so, where? _____

4. Size of trap? _____ Approval letter from Sanitary Bd. Provided? () Yes () No

Provide schedule for cleaning & maintenance _____

G. DRESSING ROOMS

1. Are dressing rooms provided? YES () NO ()

2. Describe storage facilities for employees' personal belongings (i.e., purse, coats, boots, umbrellas, etc.)

H. GENERAL

1. Are insecticides/rodenticides stored separately from cleaning & sanitizing agents?

YES () NO ()

Indicate location: _____

2. Are all toxics for use on the premise or for retail sale (this includes personal medications), stored away from food preparation and storage areas? YES () NO ()

3. Are all containers of toxics including sanitizing spray bottles clearly labeled?

YES () NO ()

4. Will linens be laundered on site? YES () NO ()

If yes, what will be laundered and where? _____

If no, how will linens be cleaned? _____

5. Is a laundry dryer available? YES () NO ()

6. Location of clean linen storage: _____

7. Location of dirty linen storage: _____

8. Are containers constructed of safe materials to store bulk food products? YES () NO ()

9. How will cooking equipment, cutting boards, counter tops and other food contact surfaces which cannot be submerged in sinks or put through a dishwasher be sanitized?

Chemical Type: _____

Concentration: _____

Test Kit: YES / NO

10. Will ingredients for cold ready-to-eat foods such as tuna, mayonnaise and eggs for salads and sandwiches be pre-chilled before being mixed and/or assembled? YES/NO

If not, how will ready-to-eat foods be cooled to 41°F?

11. Will all produce be washed on-site prior to use? YES / NO

12. Is there a planned location used for washing produce? YES / NO

If yes, describe the location.

If not, describe the procedure for cleaning and sanitizing multiple use sinks between uses.

13. Describe the procedure used for minimizing the length of time PHF's will be kept in the temperature danger zone (41°F - 140°F) during preparation.

14. Will the facility be serving food to a highly susceptible population? YES / NO

If yes, how will the temperature of foods be maintained while being transferred between the kitchen and service area?

15. Indicate all areas where exhaust hoods are installed:

LOCATION	FILTERS &/OR EXTRACTION DEVICES	SQUARE FEET	FIRE PROTECTION	AIR CAPACITY CFM	AIR MAKEUP CFM

--	--	--	--	--	--

16. How is each listed ventilation hood system cleaned?

I. SINKS

1. Is a mop sink present? YES () NO ()

If no, please describe facility for cleaning of mops and other equipment:

2. If the menu dictates, is a food preparation sink present? YES () NO ()

J. DISHWASHING FACILITIES

1. Will sinks or a dishwasher be used for warewashing?

Dishwasher ()

Two compartment sink ()

Three compartment sink ()

2. Dishwasher—type of sanitization used?

Hot water (temp. provided) _____

Booster heater _____

Chemical type _____

Is ventilation provided? YES () NO ()

3. Do all dish machines have templates with operating instructions? YES () NO ()

4. Do all dish machines have temperature/pressure gauges as required that are accurately working?
YES () NO ()

5. Does the largest pot and pan fit into each compartment of the pot sink? YES () NO ()

If no, what is the procedure for manual cleaning and sanitizing?

6. Are there drain boards on both ends of the pot sink?

YES () NO ()

7. What type of sanitizer is used?

Chlorine

Quaternary ammonium

Hot Water

Other

8. Are test papers and/or kits available for checking sanitizer concentration? YES () NO ()

K. HANDWASHING/TOILET FACILITIES

1. Is there a handwashing sink in each food preparation and warewashing area? YES () NO ()

2. Do all handwashing sinks, including those in the restrooms, have a mixing valve or combination faucet? YES () NO ()

3. Do self-closing metering faucets provide a flow of water for at least 15 seconds without the need to reactivate the faucet? YES () NO ()

4. Is hand cleanser available at all handwashing sinks? YES () NO ()

5. Are hand drying facilities (paper towels, air blowers, etc.) available at all handwashing sinks?

YES () NO ()

6. Are covered waste receptacles available in each restroom? YES () NO ()

7. Is hot and cold running water under pressure available at each handwashing sink? YES () NO ()

8. Are all toilet room doors self-closing? YES () NO ()

9. Are all toilet rooms equipped with adequate ventilation? YES () NO ()

10. Is a handwashing sign posted in each employee restroom? YES () NO ()

STATEMENT: I hereby certify that the above information is correct, and I fully understand that any deviation from the above without prior permission from this Health Regulatory Office may nullify final approval.

Signature(s)

Owner(s) or responsible representative(s)

**Mid-Ohio Valley Health Department
CLEAN INDOOR AIR REGULATION**

TITLE

This Regulation shall be known as the Mid-Ohio Valley Health Department Clean Indoor Air Regulation covering the counties of Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood.

FINDINGS and PURPOSE

The United States Surgeon General and other authoritative public health authorities have determined that involuntary inhalation of tobacco smoke (a) is a cause of numerous diseases in healthy non-smokers; (b) is a major contributor to indoor air pollution; (c) places children, unborn children of pregnant women, elderly people, and individuals with cardiovascular and/or respiratory disease at special risk; (d) is a trigger for acute episodes of respiratory distress and myocardial infarction; (e) increases the lifetime exposure to carcinogenic tobacco smoke of both smokers and non-smokers; (f) burdens the health care system by increasing the number and frequency of required hospital admissions and emergency visits thereby increasing the public and private expenditures required for the treatment; (g) reduces the life expectancy of persons consistently exposed to secondary smoke and (h) causes substantial losses in productivity through smoking related absences from work and school.

Excerpted from the December 2, 2003 WV Supreme Court Decision #31120.... "In attempting to minimize the effects of tobacco smoke on the general public in public places, the regulations of [boards of health] address a serious health issue which the Legislature has recognized. Based upon the foregoing observations, we find that clean indoor air regulations of local boards of health that place restrictions on smoking in enclosed public places (1) are consistent with the findings of the Legislature "that smoking may cause lung cancer, heart disease, emphysema and other serious health problems," (2) advance the legislatively prescribed public policy "to provide the state with a citizenry free from the use of tobacco," and (3) fall within the bounds of authority granted by the Legislature to such boards....."

Accordingly, the purposes of this Regulation are:

1. to protect the public health and welfare by prohibiting smoking in public places,
2. to prohibit smoking in places of employment,
3. to recognize that where the need to breathe smoke-free air conflicts with the desire to smoke, the need to breathe smoke-free air shall have priority,
4. to facilitate smoking cessation by active smokers and
5. to discourage non-smokers from taking up the habit and thereby developing a nicotine addiction.

DEFINITIONS

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

- A. "Bar" means any establishment that is primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages.
- B. "Business" means any entity formed for profit-making purposes.
- C. "E-cigarette" means any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor.
- D. "Employee" means any person employed for direct and indirect monetary wages or anything of value, or any person who volunteers for a non-profit entity.
- E. "Employer" means any entity including a municipal corporation, or non-profit entity that employs the paid or volunteer services of one or more persons.
- F. "Enclosed Area" is defined as any area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on more than two sides.
- G. "Fraternal Organization" is a private club that allows entry for dues-paying members and their guests.
- H. "Free Standing Video Lottery Room" means a room that is devoted to the placement of video lottery machines licensed by the WV Gaming Commission.
- I. "Grocery Store" means any supermarket, convenience store, and other retail food production and marketing establishments.
- J. "Place of Employment" means any enclosed area under the control of a public or private employer whose employees normally frequent this area during the course of employment.
- K. "Enclosed Public Place" means any enclosed area to which the public is invited or in which the public is permitted. A private residence is not a "public place."
- L. "Restaurant" means any establishment that serves food to the public, guests, patrons, and employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

M. "Retail Store" means any establishment that sells goods or services directly to members of the general public including, but not limited to, specialty stores, department stores, pharmacies, banks, automobile dealerships, showrooms, professional offices, service stations, repair or maintenance stores, barber or beauty shops, cleaners, and laundromats.

N. "Retail Tobacco Store" means a retail store utilized primarily for the sale of tobacco products and in which the sale of other products is merely incidental. It is a facility that does not possess a food service permit.

O. "Smoking" means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this regulation.

APPLICATION OF ARTICLE TO COUNTY-OWNED FACILITIES

All enclosed facilities including buildings and vehicles owned by the counties or municipalities covered in this regulation or any agency that receives any monetary support from the counties or municipalities covered in this regulation shall be subject to the provisions of this article.

REGULATION OF SMOKING IN ENCLOSED PUBLIC PLACES

Smoking shall be prohibited in all enclosed public places with Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood Counties, including, but not limited to the following places:

Grocery Stores and Convenience Stores

Retail Stores

Bars

Restaurants

Video Lottery Rooms

Retail Tobacco Stores

Fraternal Organizations

Elevators

Stairwells

All means of public transit, including ticket, boarding and waiting areas

All waiting areas and lobbies in all business and non-profit entities

Restaurants

Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or any subdivision of the State during such time as a public meeting is in progress

All patient rooms, waiting rooms, and other public areas in health care facilities, including but not limited to hospitals, clinics, pharmacies, primary care facilities, physical therapy facilities, doctors' offices, dentists' offices, and optometrists' offices

Enclosed shopping malls

Bowling Alleys

Polling places
All fire department facilities
Child care and adult day care facilities
Private schools
Galleries, libraries and museums
Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or similar performance
Auction houses
Lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities
Private offices in places of employment

Notwithstanding any other provision of this section, any person who controls any establishment or facility described in this section may declare that entire establishment or facility as non-smoking.

In any dispute arising under this Regulation, the concerns of the non-smoker shall be given precedence.

REGULATIONS OF SMOKING IN ENCLOSED PLACE OF EMPLOYMENT

- A. It shall be the responsibility of the employers to provide a smoke-free workplace for all employees.
- B. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee.
- C. Notwithstanding any other provision of this section, every employer shall have the right to designate any place of employment, or any portion thereof, as a no-smoking area.

REASONABLE DISTANCE

Designated smoking areas shall occur at a reasonable distance of 15 feet or more from any entrance, exit, window, or ventilation unit of any building or enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means. This shall include fresh air intake areas for the heating, ventilation, and air-conditioning (HVAC) systems of any building.

WHERE SMOKING IS NOT REGULATED

- A. Notwithstanding any other provisions of this Regulation to the contrary, the following areas shall not be subject to the smoking restrictions of this Regulation:

1. Private residences, except when used as a child care or health care facility.
2. Residents, prior to September 4, 2003, of personal care homes who had smoking privileges under WV 64CSR 14.8.12.3 as stipulated by the West Virginia Supreme Court of Appeals, December 2, 2003.

B. Notwithstanding any other provisions of this section, any person who controls any establishment described in this section may declare that establishment as a non-smoking facility.
WHERE SMOKING WILL BE REGULATED AFTER 5/1/2014

1. Designated Hotel and Motel rooms rented to guests shall be subject to the restrictions of this regulation on **5/1/2014**.
2. The conference or meeting rooms or public and private assembly rooms of hotels and motels while these places are being used for private functions shall be subject to the restrictions of this regulation on **5/1/2014**.
3. The conference or meeting rooms or public and private assembly rooms of fraternal organizations while these places are being used for private functions shall be subject to the restrictions of this regulation on **5/1/2014**.

B. Notwithstanding any other provisions of this section, any person who controls any establishment described in this section may declare that establishment as a non-smoking facility.

C. Newly constructed establishments or those acquired by a change of ownership, going into business after the effective date of this regulation shall be smoke-free facilities.

POSTING OF SIGNS

- A. Because rules regulating smoking are primarily self-enforcing, their success depends heavily upon adequate signs.
- B. The owner, operator, manager or other person having control of a building or other place covered by this Regulation shall post conspicuous "No Smoking" signs in every place.
- C. Every establishment where smoking is controlled by this regulation shall have posted at each entrance a conspicuous sign stating that smoking is prohibited.
- D. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this regulation by the owner, operator, manager, or other person having control of such area.

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 a business license in the Counties of Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood.

C. Any citizen who desires to register a complaint under this chapter may initiate enforcement with the Mid-Ohio Valley Health Department.

D. The Health Department shall, while an establishment is undergoing otherwise mandated inspections and at other times, inspect for compliance of this ordinance.

E. Any owner, manager, operator or employee of any establishment regulated by this article shall inform persons violating this article of the appropriate provisions thereof.

NON-RETALIATION

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or member of the public because such person exercises any rights afforded by this Regulation. An employee must be 18 to work in a designated smoking area.

VIOLATIONS AND PENALTIES

A. Violation of this Clean Indoor Air Regulation is an unlawful act. Any person who owns, manages, operates or otherwise uses a premise shall commit a violation if they:

- (1) Permit smoking on a premises subject to their control in an area where smoking is prohibited by the provisions of this clean indoor air regulation, or
- (2) Violate any provisions of this clean indoor air regulation.

B. Penalties:

The Board of Health may, at its option, seek civil relief and/or file a misdemeanor complaint under W.VA. Code 16-2-15 against any person who violates this clean indoor air regulation.

Enforcement through civil process includes, but is not limited to, a petition for injunctive relief.

Any person who violates this clean indoor air regulation may be charged with a misdemeanor under W.VA. Code 16-2-15 and, upon evidence, be subject to a monetary fine. At the time of the adoption of this Clean Indoor Air Regulation, West Virginia Code 16-2-15 provided as follows:

Chapter 16-2-15. Obstructing local health officers and others in the enforcement of public health laws; other violations, penalties.

Any person who willfully obstructs any local health officer, public health nurse, sanitarian or any other person charged with the enforcement of any public health law, in the performance of that person's legal duties in enforcing the law, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars and not more than five hundred dollars.

Any person who willfully violates any of the provisions of this article, or any of the rules or orders adopted or issued pursuant to the provisions, for which a penalty is not otherwise provided, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than two hundred dollars and not more than one thousand dollars.

Magistrates have concurrent jurisdiction with the circuit courts of this state for violations of provisions of this article.

Public Education

The Mid-Ohio Valley Health Department shall engage in a continuing program to explain and clarify the purposes and requirements of this ordinance to citizens affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this ordinance.

Because supporting the WV Legislature's goal of a tobacco free populace is also part of the mission of the Mid-Ohio Valley Health Department (MOVHD) and its Board of Health, MOVHD will assist all those who want to quit with cessation classes, access to the Quit Line, and other aids in their journey towards breaking their addiction to tobacco.

OTHER APPLICABLE LAWS

This regulation shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable federal, state, or local law or ordinance.

SEVERABILITY

If any portion of this regulation, or the application thereof, shall be held invalid, the other provisions of this regulation shall not be affected, and to this end the provisions of this regulation are declared to be severable.

Effective Date

This article shall become effective March 26, 2013.

Adopted by the Mid-Ohio Valley Board of Health

July 26, 2005

Modified November 24, 2009

Modified May 24, 2011

Modified March 26, 2013

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 Board of Health 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 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 that 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 the section:

"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.

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

Non-Profit temporary food establishment 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 the 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 the 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 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 violations if he/she is:

- 1. a food employee and does not possess a valid food handlers card**

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 - 1. a food employee and does not possess a valid food handlers card**

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; 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**

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

Person means as association, individual, partnership, other legal entity, government, or governmental subdivision or agency.

Food Handlers Card means a West Virginia Department of Health and Human Resources Food Service Workers permit that is obtained by passing a food training course from a local West Virginia Health Department or from an approved on-line course.

Requirements for Persons in Charge and Food Employees

At all times during the operation of a food establishment, there shall be a Person in Charge. If the person in charge is not certified, then there shall also be a Manager in Charge that is certified by the Food Protection Manager Certification Program. and accessible during time of operation.

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.

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 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 January 28, 2016

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Revised January 28, 2016