

## PART B

### Food Establishments

**Section 201. State Act and Regulations Adopted.** Food establishments, as defined herein, are declared to be subject to the provisions of the Act of May 23, 1945, P.L. 926 (35 P.S. sections 655.1 – 655.13), as amended, The Food Act (31 P.S. sections 20.1 – 20.18), and the Rules and Regulations adopted by the Department of Agriculture of the Commonwealth of Pennsylvania, Title 7, Chapter 46, “Food Code Regulation” as now enacted and as may be hereafter amended. A copy of these regulations shall be supplied to any person operating a food establishment, on request. (Ordinance 1183, September 10, 1987, Section 1, as amended by Ordinance 1595, July 27, 1999, Section 1, and by Ordinance 1773, February 19, 2004, Section 1.)

**Section 202. Definitions.** The definitions, as set forth in the Rules and Regulations of the Department of Agriculture of the Commonwealth of Pennsylvania, Title 7, Chapter 46<sup>10</sup>, as now enacted and as may be hereafter amended, are included herein by reference. In addition to the definitions set forth in the Act, the following words and phrases shall have the meaning ascribed to them in this Section, unless the context indicates otherwise:

**Acts.** Public Eating and Drinking Place Law. The Pennsylvania Public Health Act of May 23, 1945, P.L. 926, as amended, 35 P.S. 655.1 et seq. and The Food Act, 31 P.S. 20.1 et seq.

**Bar Tender.** An employee of a licensed food establishment who tends bar 12 or more hours per week.

**Food Establishment.** Both public eating and drinking places and retail food establishments collectively.

**Municipality.** The Borough of State College, Centre County, Pennsylvania.

**Pennsylvania Department of Agriculture.** The rules and regulations adopted by the Pennsylvania Department of Agriculture of the Commonwealth of Pennsylvania, Title 7, Chapter 46, as now enacted and as may be hereafter amended.

**Walk-Up Window.** Background: The Borough has, and continues to encounter, severe difficulties such as disorderly conduct, noise, litter, and blocking or obstructing sidewalks from late night food and beverages being served through walk-up windows. It is the Borough’s policy that public sidewalks remain safe, clear of litter and free of obstructions so that the public can use them without undue interference, nuisances, or hazards. Thus, this regulation is deemed necessary by the State College Borough Council in order to carry out this policy. Therefore: “Walk-Up Window” is defined as an external opening where food or beverages are passed and/or served to a customer on or standing next to a public sidewalk.

(Ordinance 1183, September 10, 1987, Section 2, as amended by Ordinance 1603, October 7, 1999, Section 2, Ordinance 1655, March 24, 2001, Introduction and Section 1, and by Ordinance

1773, February 19, 2004, Section 2.)

**Section 203. Licenses.**

**a. Requirement.** No person shall conduct or operate a food establishment within the Municipality without first obtaining a license from the Municipality. No license shall be issued until inspection of the premises, facilities, and equipment of such food establishment has been made by the duly appointed representative of the said Municipality and found to conform with the provisions of the Acts and Department of Agriculture rules and regulations.

**b. Applications.** Application for a license and the required fee shall be submitted prior to erection, structural alteration, occupancy, or operation of any food establishment and/or prior to the issuance of any building permit by the Centre Region Code Administration Department.

**c. Inspections.** The Municipality shall have the right of inspection at the submission of application and from time to time to determine compliance with the terms of this ordinance. The Municipal Council shall, from time to time, designate and appoint an Inspector, who shall carry out the inspections in accordance with this ordinance, the Acts and the Pennsylvania Department of Agriculture rules and regulations.

(Ordinance 1183, September 10, 1987, Section 3, as amended by Ordinance 1698, March 19, 2002, and by Ordinance 1773, February 19, 2004, Section 3.)

**Section 204. Miscellaneous Requirements.**

**a. Eating and Drinking Places.** All public eating and drinking places of any size shall post a sign at all public entrances, which sign shall state one of the following:

- (1) "We do not provide separate 'no smoking' areas."
- (2) Separate 'no smoking' areas available (stating applicable times)."
- (3) "No smoking at any time."

The letters composing such signs shall be no less than 1 inch high.

Such eating and drinking places may post different signs on different days, but shall only post 1 of the 3 signs permitted during each working day (which may be portions of 2 different days). If an eating establishment indicates, by sign, that there are separate "no smoking" areas available, such areas shall be made available during the times indicated by such eating establishment. Such "no smoking" areas may be varied in size or location during a working or business day.

**b. Retail Food Establishments.** No person shall smoke any pipe, cigar, cigarette or other smoking device in any retail food establishment. All such retail food establishments shall post a sign with letters no less than one inch high at each entrance providing "no smoking at any

time." It shall be considered a violation of this ordinance if any person continues to smoke in any retail food establishment after having been requested to cease smoking by any employee of such retail food establishment.

**c. Outdoor Eating Areas.** . Licensed food establishments that provide exterior eating areas and allow smoking in these areas, shall provide cigarette butt disposal containers and must keep their premises free from the same. Failure to comply with this requirement is declared to be a violation of this ordinance and is subject to the penalties contained herein.

**d. Requirement.** Licensed food establishments that sell or serve food or beverages through a walk-up window shall provide interior lobby or seating space for their customers. Such space shall be available to customers whenever the establishment is open for business. The lobby or seating space shall be sized so as to provide space for customers waiting for service and so that they are not forced to block or obstruct the public sidewalk. Establishments may not block or obstruct public sidewalks in providing walk-up window service.

Food establishments with a walk-up window shall also provide at least one refuse receptacle near the window and on their premises for their customers' use. Refuse receptacles shall be maintained such that refuse is not allowed to spill or blow onto the public right-of-way.

**e. Hours of Operation.** Licensed food establishments that sell or serve food or beverages through a walk-up window shall cease selling or serving food through a walk-up window no later than 12:00 midnight, prevailing time, and may reopen no earlier than 7:00 a.m., prevailing time.

(Ordinance 1183, September 10, 1987, Section 4, as amended by Ordinance 1655, March 24, 2001, Section 2.)

**Section 205. License Fees.** All license fees, renewal fees, plan review fees and late fees shall be set by resolution of Council from time to time.

(Ordinance 1183, September 10, 1987, Section 5, as amended by Ordinance 1344, August 21, 1991, Ordinance 1369, May 4, 1992, Ordinance 1547, November 6, 1997, Section 1, Ordinance 1595, July 27, 1999, Section 2., Ordinance 1809, January 18, 2005, Ordinance 1867, February 20, 2007, Section 1, and by Ordinance 1914, December 15, 2008, Section 9.)

## **Section 206.**

### **a. Certification of Food Establishment Employees.**

(1) Definitions. The following definitions shall apply to this Section:

Sanitation Supervisor. An employee of a food establishment who is in a supervisory or management position with respect to other employees of the establishment and/or in some way responsible for the operation of a food establishment.

(2) Board Approved Training. The State College Board of Health shall approve training programs based on the state food establishment rules and regulations, adopted herein, for the purpose of instructing prospective sanitation supervisors in the food handling requirements.

(3) Sanitation Supervisor on Duty. Within 12 months after the enactment hereof, each food establishment in the Municipality shall have within their employ at least 1 certified sanitation supervisor. Retail food establishments that sell only pre-packaged food shall be exempt from this requirement.

(4) Examinations. Each sanitation supervisor shall be required to take a written examination approved by the State College Board of Health and to achieve a passing grade, which grade shall be determined by the Board of Health.

(5) Certification. All sanitation supervisors who shall have passed an examination administered by the State College Health Department or who can provide proof of passing another examination approved by the State College Board of Health, on payment of the fee provided for herein, shall receive a certificate issued by the Health Department.

Certification shall be valid for 5 years from the date of issuance, unless sooner suspended or revoked, and shall be reissued only after successful reexamination and payment of the required fee. All certificates issued shall be exhibited in a place conspicuous to consumers and the State College Health Department.

The fees payable for sanitation supervisor will be set by resolution of Borough Council from time to time.

(6) Responsibilities of Sanitation Supervisors. Certified sanitation supervisors shall be required to daily observe, instruct, and, if necessary, correct other food establishment employees as set forth in the Board rules. Supervisors shall further be required to observe, practice, and conform with the provisions of the Board rules, the Act, and the Pennsylvania Department of Environmental Resources' rules and regulations.

(7) Suspension and Revocation of Certificates. Any person certified hereunder who knowingly fails to follow the responsibilities set forth herein may be suspended by the State College Health Department for a specified period. Any person certified hereunder who knowingly submits false information to any representative of the State College Board of Health or, having previously been suspended, fails to perform the responsibilities set forth herein, may have such certification revoked by the State College Health Department.

Any person whose certification is suspended or revoked shall be notified of such action, in writing, and shall have the right, within one week after receipt of such notice, to request, in writing, a hearing before the State College Board of Health. The said Board shall conduct such hearing as soon as possible thereafter and shall determine whether such person shall have such certification suspended, and the length of time thereof, or revoked. Any person whose certification is revoked may not be recertified within 1 year from the date of such revocation.

**b. Alcohol Awareness Program.**

(1) Background. The State College Council, recognizing the critical role that servers of alcohol have regarding the control of alcohol consumption and recognizing the need for appropriate training for such servers, hereby enacts an ordinance to promote and require establishments serving alcohol to have designated employees attend a “Training for Intervention Procedures” (TIPS) course offered by the Borough of State College. Further, it is the intention and desire of the Borough of State College to offer the TIPS course at least quarterly so that establishments are able to have their employees attend.

(2) Owners of licensed food establishments that serve alcohol shall, at a minimum, designate a Manager of Record and one other employee who shall attend the “Training for Intervention Procedures” (TIPS) course offered by the Borough. The Manager of Record shall be an employee who is responsible for and supervises the servers of alcohol within the establishment. If the Manager of Record or other designated employee changes for any reason, the establishment owner shall designate a replacement within 90 days of the change.

(3) Owners of licensed food establishments that serve alcohol shall have until the expiration of their current license (March 31, 2004) to have their designated employees attend the TIPS course offered by the Borough. After this date, establishment owners shall be responsible for ensuring that they have at least 2 employees, including a Manager of Record, registered with the Borough as having attended the Borough’s TIPS course.

(4) If, after March 31, 2004, a licensed food establishment serving alcohol does not have 2 employees registered as having attended the Borough’s TIPS course, the establishment’s owner(s) shall have 90 days to have the necessary employees, including a designated Manager of Record, attend such a course. If such a course is not offered by the Borough within the 90-day period, then the establishment shall be granted additional time to comply until such a course is offered.

(5) The Borough will maintain a registry of persons attending the Borough's course and the attendance shall be valid for a period of 5 years. After the 5-year period, the names will be removed from the registry and persons wishing to renew shall be required to attend another Borough TIPS course.

(6) In addition to the required annual food establishment license fee, establishments serving alcohol shall pay an additional fee of \$50.00 to the Borough to help cover the costs of the TIPS course.

(7) Owners of licensed food establishments serving alcohol that violate any of the provisions of this ordinance shall be subject to the penalty clause in Section 207 of this Chapter.

(Ordinance 1183, September 10, 1987, Section 6, as amended by Ordinance 1241, April 17, 1989, Ordinance 1480, October 5, 1995, Ordinance 1547, November 6, 1997, Ordinance 1747, May 7, 2003, Ordinance 1752, July 25, 2003, and by Ordinance 1752, July 25, 2003, Ordinance 1848, July 17, 2006, Section 1, and by Ordinance 1914, December 15, 2008, Section 10.)

**Section 207. Penalties.** Any person who shall violate any of the provisions of Sections 201 through 206 herein or of the Acts or of Pennsylvania Department of Agriculture rules and regulations, or who resist or interfere with any authorized representative of the Municipality in the performance of his duties shall, upon conviction thereof before any District Justice, be sentenced to pay a fine of not less than \$100.00 nor more than \$1,000.00 plus costs, to be paid to the Municipality or, in default thereof, to be confined in jail for a period of not more than 30 days. (Ordinance 1183, September 10, 1987, Section 7, as amended by Ordinance 1547, November 6, 1997, Section 3, and by Ordinance 1773, February 19, 2004, Section 4.)<sup>50</sup>