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**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**

Legislative Session

1992

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Bill No. \_\_\_\_\_ CB-95-

1992

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Chapter No.

87

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Proposed and Presented by The Chairman (by request -

\_\_\_\_\_ County

Executive) \_\_\_\_\_

Introduced by Council Members MacKinnon and

Casula

Co-Sponsors

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Date of Introduction October 27,

1992

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**BILL**

AN ACT concerning

Food Service Facilities

FOR the purpose of amending the regulations for food service facilities; repealing certain obsolete provisions; clarifying requirements concerning hazard analysis critical control point designations; revising toilet facility and penalty fee

requirements; and adding new regulations for special food service facilities.

BY repealing and reenacting with amendments:

SUBTITLE 12. HEALTH.

Sections 12-104,

12-106,

12-107,

12-108,

12-109,

12-110,

12-111,

12-112, and

12-113,

The Prince George's County Code

(1991 Edition, as amended by CB-34-1992).

BY adding:

SUBTITLE 12. HEALTH.

Sections 12-105.01,

12-114, and

12-115,

The Prince George's County Code

(1991 Edition).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 12-104, 12-106, 12-107, 12-108, 12-109, 12-110, 12-111, 12-112, and 12-113 of the Prince George's County Code be and the same are hereby repealed

and reenacted with the following amendments:

**SUBTITLE 12. HEALTH.**

**DIVISION 2. FOOD SERVICE FACILITIES.**

**Subdivision 2. County Additions, Insertions, and  
Changes to the State Regulations.**

**Sec. 12-104. Definitions.**

(a) In addition to the definition of terms contained in the State regulations adopted by reference in this Division, the following definitions and terminology shall apply and are applicable to such provisions adopted by reference:

(1) **Approving authority** shall mean the Prince George's County Health Officer [or his designee].

(2) **Bulk lot frozen food** shall mean frozen food intended to be thawed and repackaged for retail sale.

(3) **Department** shall mean the Prince George's County Health Department.

(4) **Depot** shall mean a food service facility permitted by the Department or other regulatory agency sanctioned by the approving authority which provides one or more of the following services to mobile special food service facilities on a routine basis: food, utensil wash facilities, potable water or waste disposal facilities.

[(3)] (5) **Food and drink** shall mean all food and drink used for human consumption as defined in [Sections 188 and 192, Article 43, entitled "Health,"] Title 21, Section 101 (i), Health - General Article, Annotated Code of Maryland.

[(4)] (6) **Food cluster** shall mean an enclosed assemblage of adjacent or adjoining food service facilities located within an integrated shopping center as defined in [Subtitle 27,] Section [101] 27-107.1 of this Code, operating within a specifically designated area sharing customer dining areas.

[(5)] (7) **Food service facility** shall mean any place in Prince George's County, except those establishments located on Federal or State [-] owned property, in which food or drink products are manufactured, prepared, packed, handled, stored, sold, served, automatically vended, or distributed on a temporary or permanent basis for consumption by the general public and shall include special food service facilities, but shall not be construed to mean individual, private residences where, without charge, food or drink products are prepared and consumed.

[(6)] (8) **Frozen food** shall mean food or drink, except ice cream or related dairy products, preserved by being subject to temperatures not in excess of  $-10^{\circ}$  F and subsequently transported or stored at temperatures not in excess of  $0^{\circ}$  F.

(9) **Hazard analysis critical control point assessment** shall mean the prioritization of a food service facility into one of the following categories:

(A) High priority - facilities which are at high risk for a foodborne illness and include facilities described by one or more of the following:

(i) Served food to which a foodborne disease outbreak was traced within the five (5) years immediately before the priority assessment;

(ii) Serve groups of persons who are particularly susceptible to disease, for example, very young, aged, hospitalized, or otherwise compromised;

(iii) Serve foods which have a history of being frequent vehicles of foodborne disease;

(iv) Prepare potentially hazardous foods a day or more in advance of serving;

(v) Utilize any combination of two or more preparation processes such as cooking, hot-holding, cooling, or reheating, over more than a four (4) hour period; or,

(B) Moderate priority - facilities which are at moderate risk for a foodborne illness and include facilities that:

(i) Serve foods which are occasionally implicated in foodborne disease outbreaks; or

(ii) Prepare food which is served within four (4) hours of preparation; or,

(C) Low priority - facilities which are at low risk for a foodborne disease occurrence and include facilities that:

(i) Serve foods which have rarely been reported as vehicles of disease;

(ii) Serve commercially packaged food directly

to the consumer or customer; or

(iii) Handle or serve foods that are not potentially hazardous.

\_\_\_\_\_ [(7)] (10) **Health Officer** shall mean the Prince George's County Health Officer or [his] the Health Officer's designee.

(11) Mobile unit shall mean a special food service facility which is a mechanically, electrically, manually, or otherwise propelled vehicle that is relocated following each day's operation to an approved depot or other location acceptable to the approving authority.

\_\_\_\_\_ [(8)] **Nonprofit organization** shall mean an organization having verifiable tax exempt nonprofit status from the United States Internal Revenue Service.]

\_\_\_\_\_ [(9)] (12) **Operating from a fixed location for a temporary period** shall mean operating a food service facility for not more than five (5) days at a fixed location. The five (5) day period of time is subject to variance at the discretion of the Health Officer. However, operating a food service facility or a special food service facility intermittently at one (1) location and operating mobile units as a food service facility or special food service facility relocating at different sites shall not be construed as operating for a temporary period.

[(10)] **Potentially hazardous foods** shall mean any food that consists in whole or in part of milk or milk products,

eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole, uncracked, odor-free shell eggs.

(11) **Repackaging at approved temperatures** shall mean that during the process of repackaging frozen foods to be sold in a thawed state, no portion of the product has reached temperatures exceeding 45° F.

(12) **To thaw and to defrost** shall mean to allow frozen food to achieve temperatures in excess of 0° F, by whatever means, except in the case of temporary conditions such as defrost cycles or loading and unloading, in which case the internal product temperature did not exceed +10° F and such product has been returned to 0° F as quickly as possible thereafter.]

**Sec. 12-106. Toilet facilities.**

(a) Every food service facility shall be provided with adequate and conveniently located toilet facilities for its employees. Separate toilet rooms shall be provided for each sex whenever both males and females are employed or when Subsection (e) of this Section is applicable; provided, however, that one (1) toilet facility shall be adequate for both male and female employees and customers in establishments [employing five (5) or fewer full-time individuals (thirty-five (35) hours or more per week) and three (3) or fewer part-time

individuals (twenty (20) hours or less per week)] having five (5) or fewer employees on duty at any given time and, when applicable, seating is provided for ten (10) or fewer customers.

(b) The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in clean condition, in good repair and well lighted and ventilated. Handwashing signs [and a placard containing disease control information] shall be posted in each toilet room used by employees [or in the] and at all kitchen handsink locations.

[(b)] (c) Such toilet facilities shall comply with the regulations of the State and of the local Plumbing Code and shall be located [on the same premises as] within the permitted establishment. Toilet facilities located off the premises of a food service facility which has a gross floor area of five hundred (500) square feet or less shall be considered satisfactory provided that such toilet facilities are located within the same building or structure, can be reached by interior access only, [and within a reasonable distance but] are not more than three hundred (300) feet away from the facility, and are accessible during all hours of operation. [Class II and Class III] Temporary special food service facilities shall have toilet facilities located within a reasonable distance and be accessible during all hours of operation.

[(c)] (d) Toilet facilities for a food cluster as required



in Subsection (a) above shall be the responsibility of the management of the integrated shopping center and shall be considered satisfactory provided that such facilities are conveniently located within the integrated shopping center and within a reasonable distance from any individual food service facility within said food cluster and are accessible during all hours of operations.

(e) A food service facility established after January 1, 1979, which provides seating for patrons, must provide adequate and approved toilet facilities for said patrons as specified by Section 21-325 (b), Health- General Article, Annotated Code of Maryland, as amended.

**Subdivision 3. Permits and Inspections.**

**Sec. 12-107. Applicability of Division; exclusions.**

(a) This Division shall not apply to package liquor stores or service stations, selling prepackaged snack food or drink, unless they handle potentially hazardous foods as defined in the regulations adopted by this Division.

(b) This Division shall apply to "excluded organizations" as defined by COMAR 10.15.03.02B.20.

**Sec. 12-108. Food permits required.**

(a) It shall be unlawful for any person to operate a food service facility without a valid permit [from] issued by the Health Officer, provided that this permit requirement shall not apply to vending machine locations, licensed pursuant to Section 12-162 through 12-167 of this Subtitle, or operated

solely for the sale of canned or bottled beverages [or pasteurized dairy products], or any commercially packaged food or drink which is not perishable, or to machines commonly known as gumball machines; and provided further that this permit requirement shall not apply to a fruit or vegetable stand [operated on the property] where [the] fresh, non- processed produce is [grown for the sole purpose of selling self-produced farm or garden products] handled, displayed and sold.

(b) Any person desiring to operate a food service facility shall make written application to the Health Officer for a [written] permit to operate the facility.

(c) Application for a food service facility permit shall be [by written application] on a form approved by the Health Officer and shall, in the case of new facilities or facilities materially altered, [include] be accompanied by plans and specifications for the proposed facility.

**Sec. 12-109. Permit issuance; denial.**

(a) When, upon review of the application form and following a complete inspection [of the premises] of the food service facility, the Health Officer is satisfied that the facility complies with the provisions of this Division, the appropriate requirements of the Secretary of Health and Mental Hygiene, and State and County health laws, a [written] permit to operate [a food service facility] shall be issued.

(b) If the facility does not meet the foregoing requirements, the Health Officer shall deny a permit to operate

a food service facility. Final denial shall be in writing.

**Sec. 12-110. Posting permit; term; renewal; fees.**

(a) The permit issued by the Health Officer shall be prominently posted in public view [on the premises of] within the food service facility.

(b) Permits shall be issued for a period not in excess of one (1) year, expiring on the date designated by the Health Officer. In order to achieve a systematic schedule of renewals, the Health Officer may [in his discretion] issue a permit for a fraction of a year. Except for special food service facilities, seasonal operations and delinquent permit renewals, fees for permits issued for a fraction of a year shall be prorated on a quarterly basis.

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**Sec. 12-111. Closure; [reinstatement after] suspension of permit; fines.**

(a) In cases where there is a serious violation of the regulations adopted herein, the requirements of the Secretary of Health and Mental Hygiene, or the State and County health laws which in the sound discretion of the Health Officer creates a serious and immediate danger to the public health, the Health Officer may issue a written order closing the facility subject to a hearing held, at the request of the operator at the time of closure, and a decision thereupon within 72 hours after issuance of the order. It shall be unlawful for such establishments to remain open after being

ordered closed unless within the 72-hour period the Health Officer either rescinds the order or fails to hold [a] the requested hearing and render a decision.

(b) Any person whose permit has been suspended and/or whenever an establishment has been ordered to close pursuant to the regulations adopted herein, the owner or operator may at any time thereafter apply in writing for reinstatement of the permit or to reopen the facility. Upon receipt of such application, the Health Officer shall have an inspection of the premises made, and if the food service facility is found to be in compliance with the requirements of this Division, the appropriate requirements of the Secretary of Health and Mental Hygiene and the health laws of the State and County, the Health Officer shall reinstate the permit or reopen the facility. A fee of One Hundred Dollars (\$100.00) shall be paid for each such inspection performed during regular working hours, and a fee of One Hundred Seventy-Five Dollars (\$175.00) shall be paid for inspections performed during [weekend or evening] non-working hours.

(c) Whenever a food service facility opens or remains open for business without a valid permit, or after being ordered to close in accordance with the provisions of Subsection (a) above, or while a valid permit has been suspended, any owner or operator of such food service facility shall be punished by a fine not to exceed Three Hundred Dollars (\$300.00) a day. Each day such food service facility remains open for business shall

constitute a separate offense pursuant to this Subsection.

**Sec. 12-112. Inspections; access.**

(a) The Health Officer shall make inspections of food service facilities to determine compliance with this Division, the appropriate requirements of the Secretary of Health and Mental Hygiene, and the health laws of the State and County.

(b) The Health Officer shall be permitted access to all parts of food service facilities during regular business hours and shall be permitted to inspect all records of food purchased to determine its source.

(c) Class I, III and IV special food service facilities shall be available for an annual inspection at the time and place designated by the Health Officer prior to licensure or re-licensure.

**Sec. 12-113. Chronic offenders; Fines.**

(a) For the purposes of this Section, a "chronic offender" is defined as any person who operates a food service facility and who demonstrates a pattern of violating regulations, said pattern of violations being evidenced by:

(1) On two (2) or more occasions within a twelve (12) month period, suspension of the food service facility permit pursuant to Section 12-111 of this Subdivision and/or notices of proven violations of regulations under this Division which do not result in a permit suspension, all rights of appeal having been exhausted; or

(2) [A corrected rating score for the food service

facility of less than seventy (70) on any routine inspection conducted pursuant to Section 12-112 for the purpose of determining the facility's compliance with the regulations under this Division.] On two (2) or more occasions within a twelve (12) month period the Health Officer requires a compliance hearing.

(b) For the purposes of this Section, an "offense" is defined as a permit suspension pursuant to Section 12-111 or a notice of proven violation of the regulations under this Division in excess of [two (2)] one (1) such permit suspension[s] and/or notice[s] of violation[s] within a twelve (12) month period, or [any routine inspection as described in Subsection (a) (2)] more than one (1) required compliance hearing within a twelve (12) month period.

(c) A chronic offender of the provisions of this Code shall be subject to a civil fine not to exceed Five Hundred Dollars (\$500.00) for each separate offense.

SECTION 2. BE IT FURTHER ENACTED that Sections 12-105.01, 12-114, and 12-115 be and the same are hereby added to the Prince George's County Code to read as follows:

**SUBTITLE 12. HEALTH.**

**DIVISION 2. FOOD SERVICE FACILITIES.**

**Subdivision 2. County Additions, Insertions, and Changes to the State Regulations.**

**Sec. 12-105.01. Food clusters; refuse disposal.**

(a) In a food cluster it shall be the responsibility of the shopping center management to satisfactorily maintain and provide an approved means to dispose of refuse and to meet prescribed housekeeping requirements.

**Subdivision 3. Permits and Inspections.**

**Sec. 12-114. Food Service Manager Certification.**

(a) After October 1, 1993, no food service facility shall operate unless a minimum of one employee has a valid food service manager certificate or is enrolled in an approved course that will train the employee to be a certified food service manager.

(b) After March 1, 1994, no food service facility shall operate unless it is under the immediate control of a certified food service manager during all hours of operation.

(c) The Approving Authority may postpone or waive the requirement of paragraph (b), above, if, in unusual circumstances, its application to a particular licensee would result in undue hardship.

(d) The food service manager certificate shall be issued by the Department.

(e) A food service facility permit shall not be issued by the Health Officer until the facility complies with Paragraph (a), (b) and (c), above.

(f) This section shall not apply to low priority food service facilities, food facilities regulated under COMAR 10.15.04, or to Class I, II, and IV special food service

facilities.

(g) Application for a food service manager certificate must be made to the Department by submitting the following:

(1) A completed application along with a Twenty-five Dollar (\$25.00) fee, and a recent photograph clearly showing the applicant's facial features when trimmed to a size of 2 inches by 2 inches; and

(2) Original written evidence of successful completion, within three (3) years of the date of the application, of a food serviced manager certification course approved by the Maryland State Department of Health and Mental Hygiene (DHMH);  
or

(3) An original transcript or official grade notification form from a college or other institution or organization offering a DHMH approved course; or

(4) Other documentation acceptable to the Department showing successful completion of a DHMH approved course; or

(5) A valid food service manager certificate from a local jurisdiction with a reciprocal agreement on certification with the Department.

(6) A person required to obtain a food service manager certification for a food service facility operated by the Board of Education of Prince George's County or by a volunteer fire company or rescue squad shall be exempt from the fee provision of this section.

(h) A food service manager certificate shall be issued in



the name of an individual only, and shall be valid for a period of three (3) years.

(i) Applications for renewal of the food service manager certificate will be sent by the Department at least sixty (60) days prior to the expiration date of the current certificate. Renewal certificates will be issued upon receipt of the following:

(1) A complete application along with the Twenty-five Dollar (\$25.00) fee; and

(2) An original certificate of successful completion issued by an institution or organization or other acceptable documentation providing an approved recertification course; or

(3) Proof of having provided a minimum of three (3) training courses, approved by the Department, to staff of the facility (ies) where employed during the previous certification period; or

(4) Proof of having conducted a monthly self-inspection program approved by the Department during the previous certification period.

(j) A food service facility, upon written notice by the Department, will be subject to a fine of Five Hundred Dollars (\$500.00) on each occasion that said facility fails to provide proof that it is under the immediate control of a certified food service manager during all hours when food is being prepared, handled, or served, except as provided in paragraphs (c) and (f), above, or that a supervisory employee(s) is/are

currently enrolled in an approved course. Proof of enrollment in an approved course must be submitted to the Department within two (2) weeks of written notification to the facility. Application for certification must be made within one week of satisfactory completion of the course.

**Sec. 12-115. Special Food Service Facilities - Mobile Units.**

(a) The following provisions shall apply to Class I, III and IV special food service facilities:

(1) Vehicle Identification

(A) The following must be plainly visible and permanently affixed, with a minimum three (3) inch high letters of contrasting color, to the exterior body of the mobile unit:

(i) Name of mobile unit and/or operator, and

(ii) Address and telephone number of operator.

(B) A valid and current Health Department issued decal must be displayed at all times.

(C) A valid registration card and vehicle tag must be provided prior to licensure, if applicable.

(2) Food handling; storage; source

(A) Any mobile unit failing to meet specified requirements of COMAR 10.15.03 must provide written confirmation of accessibility to an approved depot for one or more of the following:

(i) Utensil washing facilities;

(ii) Disposal of liquid and solid wastes;

(iii) Source of potable water; and

(iv) Storage of foods.

(B) Mobile units must provide cold storage units capable of maintaining potentially hazardous food at 45o F or below.

(C) Potentially hazardous food which has been displayed for service may not be served again.

(D) Operators of mobile units must provide evidence that the equipment is capable of reheating, cooking, or hot/cold holding of potentially hazardous foods, as required by this Code.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 24th day of November, 1992.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY:

\_\_\_\_\_

Richard J. Castaldi  
Chairman

ATTEST:

\_\_\_\_\_  
Joyce T. Sweeney  
Acting Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_  
\_\_\_\_\_

BY:  
Parris N. Glendening  
County Executive

KEY:

Underscoring indicates language added to existing law.  
[Brackets] indicate language deleted from existing law.  
Asterisks \*\*\* indicate intervening existing Code provisions  
that remain  
unchanged.