

Chapter 8.08 – FOOD ESTABLISHMENTS

Sections:

8.08.010 Applicability.

All food establishments in the county must comply with this chapter, chapter 8.04, the 2013 FDA Food Code including Annex 1 Subpart 8-903 and Annex 7 Guide 3-B, and the Arizona Administrative Code (A.A.C.) Title 9, Chapter 8, Article 1. Any conflicts or inconsistencies are resolved in the following order of priority: 1. this title; 2. the FDA Food Code; 3. the A.A.C.

8.08.020 Definitions.

- A. "Commissary" means an approved fixed food establishment that stores, prepares, portions, or packages food for service elsewhere or that provides a service area for mobile food establishments.
- B. "Farmers market" means an organized group of stalls or booths where farmers or other vendors sell their produce or food products directly to consumers.
- C. "Micro market" means an unattended food establishment where commercially prepackaged, time/temperature control for food safety foods or ready-to-eat fruits and vegetables are vended to employees of a business.
- C. "Mobile food establishment" means a food establishment that is designed to be readily moveable and mounted on a motorized vehicle frame or vehicle-drawn or a pushcart or in a structure not permanently attached to the land.
- D. "Pet friendly patio" means a designated outside dining service area where pets may accompany their owners.
- E. "Pushcart" means a non-self-propelled vehicle limited to serving ready-to-eat foods.
- F. "Re-inspection" means an inspection to check whether violations have been corrected.
- G. "Routine inspection" means a comprehensive inspection determining compliance with all aspects of the food code.
- H. "Seasonal food establishment" means a temporary food establishment that operates for a period of no more than four months on a predetermined schedule in conjunction with a single or regular event at a single location.

- I. “Event coordinator” means an individual who is responsible for ensuring the food establishments at an event possess a current operating permit and liaising with the department.
- J. “Temporary food establishment” means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event.

8.08.030 Mobile food establishments—generally.

A. Construction requirements.

1. Exterior.

- a. A mobile food establishment must permanently affix the business name to at least two structural sides of the unit in four-inch or taller lettering. The business name must be clearly visible to the consumer at the service window, at any entrance to the mobile food establishment, and on at least one other side of the establishment.
- b. Food service openings are limited to 216 square inches (such as 12 inches x 18 inches) each, and must be equipped with a screen (16 mesh per square inch minimum) or solid door that must be closed when not in use. Multiple service openings must be at least 18 inches apart.
- c. All waste disposal connections must be of different size or type than those used for supplying potable water. The waste connection must be located lower than the water inlet connection to prevent contamination of the potable water system. Wastewater outlets must be greater than 1 inch and potable water inlets must be no larger than $\frac{3}{4}$ inch unless otherwise approved by the department. Potable water system inlets must be capped when not in use.
- d. All exterior water system connections must include an approved backflow prevention device.

2. Interior.

- a. The cab or driving portion must be completely separated from the food preparation and serving areas by a wall or door.
- b. Doors to the food preparation and serving areas must be self-closing and kept closed.
- c. A three-compartment sink equipped with two integral metal drain boards must be permanently installed. Each compartment must be at least 12 inches wide, 12

inches long and 10 inches deep, or 10 inches wide, 14 inches long and 10 inches deep, and each drain board must be at least 144 square inches. A metal shelf may be used instead of one drain board if approved by the department.

- d. A self-contained hand washing sink of at least 9 inches wide, 9 inches long and 5 inches deep with integral splash-guards must be permanently installed with a potable water tank with a minimum 10 gallon capacity and 15 percent greater capacity waste tank. The flow rate of hot and cold water to the sink basin must be at least one-half gallon per minute.
- e. Interior walls and ceilings must be light in color.
- f. A pressurized potable water system, supplying hot and cold water, with a minimum capacity of 30 gallons, must be permanently installed. A liquid waste storage tank with a capacity at least 15 percent larger than the potable water storage tank is required for all mobile food establishments serving any open food or drink. This provision does not apply to pushcarts.

B. Additional operating permit requirements.

- 1. Mobile food establishments must operate from an approved commissary and provide a commissary agreement to the department as a part of the documents submitted during plan review for a new permit, at permit issuance or renewal, and upon request. Trucks and pushcarts that only sell or dispense individually packaged, commercially processed items from an approved source are exempt from providing a commissary agreement.
- 2. Mobile food establishments must notify the department of any substantial changes to their daily operations within a week of the change. A global tracking device must be permanently installed on the mobile unit.
- 3. Mobile food establishments serving time/temperature control for safety (TCS) foods must log their visits to the approved commissary or fixed food establishment. The log must be in a format approved by the department and kept with the commissary at all times.

C. Operations.

- 1. Mobile food establishments must report at least daily to their approved commissary for supplies, food storage, vehicle and equipment cleaning, waste disposal, and service operations.
- 2. TCS foods must be prepared on the same day of sale or service. TCS foods must not be held over from a previous day's operation unless otherwise approved by the

department. Time without temperature control may not be used by mobile food establishments.

3. Food preparation must be limited to cooking, reheating, or assembling ingredients that have been prepared at the commissary.
4. All food preparation and storage must be done at the commissary or inside the mobile unit, unless the department approves a variance.
5. When in transit, all windows and vents to the food preparation area must be closed and all food appropriately protected.
6. All tea except instant tea must be brewed with boiling water.
7. Food offered for self-service must be wrapped or packaged in a manner that prevents contamination.
8. Ice for consumption or that contacts food must be made from potable water.
9. Bacon-wrapped hotdogs must be pre-wrapped at the commissary.
10. Mobile food establishments must not reuse consumer service-ware.
11. Mobile food units must not connect to water or waste water systems except during servicing operations at a commissary or as approved by the department.
12. All water tanks, pumps and hoses must be flushed and sanitized before being placed in service after construction, repair, modification, or periods of nonuse longer than seven days. Potable water tanks must be flushed and sanitized monthly.
13. Wastewater holding tanks must be emptied into an approved sewage disposal system.
14. The potable water tank must be filled using an approved food grade potable water hose that is not used for any other purpose.
15. Grease must be disposed of in a manner approved by the department.
16. When a mobile food establishment operates at the same site for more than two hours, sanitary toilet facilities for employees must be available within 200 feet of the unit. Mobile food establishments located further than 200 feet from a sanitary toilet must provide a portable toilet unit for employees.
17. Mobile food establishments selling or dispensing open food or beverages must provide employees with hot and cold potable water, hand washing soap, and sanitary towels.

18. The operating area must be kept clean and free from refuse at all times.
19. A mobile food establishment must not be located within 100 feet of a petting, riding, or holding area for animals unless dust and runoff are controlled.

D. Commissary.

1. All commissaries, including qualifying restaurants, must obtain a permit as a commissary.
2. A commissary located outside of Pima County must provide a copy of its current operating permit issued by the applicable health department and a copy of a health inspection report issued by its regulatory authority within the previous six months.
3. A commissary may service a limited number of mobile food establishments. The health officer determines the maximum number of mobile food establishments that a commissary is able to support based on the menu items, the volume of food being prepared or stored, the capacity of the commissary equipment, and the capacity of the mobile unit equipment.
4. Reports: A commissary must submit reports to the department disclosing the names, addresses and operating license numbers of all mobile food establishments using the commissary in accordance with the following schedule:
 - a. Monthly and annually at the time of permit renewal for the commissary;
 - b. Within ten business days after a commissary adds or removes a mobile food establishment; and
 - c. Upon request by the department.
5. Failure to submit any report to the department is grounds for the revocation of the commissary's operating permit.
6. Servicing Area.
 - a. A commissary must provide a servicing area for the mobile food establishment. Within the servicing area, separate areas must be provided for:
 - i. flushing and drainage of liquid wastes;
 - ii. potable water servicing; and
 - iii. loading and unloading of food and related supplies.

- b. The surfaces in the servicing area must be constructed of smooth nonabsorbent material, such as concrete or machine-laid asphalt, and must be maintained in good repair, kept free of visible dirt and debris, and graded to drain.
- c. If the servicing area has walls, they must be maintained in good condition and kept sanitary.
- d. Potable water servicing equipment must be installed according to applicable plumbing requirements, and must be stored and handled in a way that protects the water and equipment from contamination.

8.08.040 Temporary, seasonal, and farmers market food establishments.

- A. Event coordinator. Any event with more than one temporary, seasonal, or farmers market food establishment must have an event coordinator. The event coordinator must obtain a permit before any food establishment permits for the event may be issued.
- B. Available permits.
 - 1. A food establishment may obtain a temporary, seasonal, or annual permit based on the duration and location of its operations.
 - 2. A food establishment offering only food samples may obtain a temporary, seasonal, or annual sampling permit.
 - 3. A food establishment or an event coordinator may obtain a permit fee reduction for an event organized by a non-profit 501(c)(3) organization that provides an attestation that a portion of the profits will be reinvested in future development of the event or be used to benefit the local community.
- C. Permit duration and location limitations.
 - 1. Temporary permits are valid for up to 14 days and for a single location and event.
 - 2. Seasonal permits are valid for up to 120 days and for a single location and event.
 - 3. Annual permits are valid for up to a year and for multiple locations.
 - 4. A food establishment must apply for a permit at least 14 days prior to an event to avoid a late fee.
- D. Restricted Operations.

1. Food preparation is limited to cooking, reheating, or assembling ingredients that have been prepared in a fixed food establishment that has a current operating permit, or is otherwise approved by the department.
 2. A food establishment utilizing a commissary or food establishment located outside of Pima County must provide the department with a copy of its current operating permit and an inspection report issued by its regulatory authority within the past six months.
 3. Time/temperature control for safety foods must be prepared on the same day of sale or service. TCS foods must not be held over from a previous day's operation unless otherwise approved by the department. Time without temperature control may not be used.
 4. Menu items are limited to those listed on its operating permit application.
- E. Minimum structural requirements.
1. Overhead protection. A food establishment must have overhead protection from the weather.
 2. Floors. Floors must be constructed of concrete, asphalt, tight wood, or other cleanable material and kept in good repair. Dirt or gravel, when graded to drain, may be used as sub-flooring when covered with a removable platform or heavy tarping material that is kept clean.
 3. Walls. Food establishments must have the capacity to erect walls when necessary to protect food from blowing dust, insects, and other possible contaminants.
- F. Equipment. Equipment must be located and installed to prevent food contamination and facilitate cleaning. Cooking equipment may be located outside the overhead protection if required by the fire department.
- G. Ware-washing. A three bin set-up is required for the washing, rinsing, and sanitizing of utensils and equipment on site. Acceptable sanitizers include chlorine, quaternary ammonia, or iodine. Test strips must be available to check the concentration of the sanitizer. A food establishment that does not have such a ware-wash set-up must possess sufficient quantities of food preparation and service items to avoid reuse of contaminated items.
- H. Water. All water must be potable. Food establishments must have sufficient hot water for hand washing, and for cleaning and sanitizing equipment. When the distribution system for the potable water is by a hose conveyance, the hose must be a "food grade" hose that has not been used for any other purpose. Proper backflow prevention must be provided.

- I. Waste. All sewage, including liquid waste, must be disposed of according to law. A mobile unit may not be connected to a fixed water supply unless the unit uses a sanitary sewage disposal system. All connections must prevent the potential of cross-connection.

- J. Hand washing.
 - 1. A convenient hand washing facility with warm running water, soap, individual paper towels, and a waste container must be available for food service worker hand washing. Gravity flow hand washing stations must have an off/on function allowing the water to run without constant pressure at the point of water discharge.
 - 2. The hand washing station must be set up and operational prior to food service workers handling food or utilizing food contact surfaces. The station must be designated for hand washing only and must be accessible at all times. Multiple hand washing stations may be required if the booth is large or has several food service workers.
 - 3. Food establishments operating under an annual permit must provide a hand sink capable of generating pressurized hot water with integral waste water collection.

- K. Food storage and protection.
 - 1. Food must be transported and stored in a manner to protect it from cross-contamination and maintain its temperature within the TCS parameters.
 - 2. Ice used for food storage must either be stored in containers that drain continuously or be drained as often as necessary to prevent the accumulation of water, and to prevent the mouth contact point of any canned or bottled beverage from submersion.
 - 3. Food must be served in a manner that protects it from contamination by the consumer.

- L. Food samples.
 - 1. All unwrapped food products that have not been distributed by the end of the business day must be discarded.
 - 2. No public self-service sampling is allowed. Each sample must be handed to the customer, or placed in single-service containers.
 - 3. A physical barrier, such as an approved sneeze guard, must be in place to prevent contamination of any samples left exposed to the public.
 - 4. Only single-service utensils and containers may be used for serving samples.

5. A lined waste container that is easily accessible to the public must be provided at the sampling area.

8.08.050 Food safety certification and training.

- A. All food establishments except temporary, seasonal, and farmers markets must have a person in charge on the premises during all times of operation. A person in charge may obtain a food sanitation certificate from the department to satisfy the person in charge requirements.
- B. These establishments must employ at least one person in charge who is ANSI certified as a food protection manager.

8.08.060 Enforcement.

- A. Any of the following will result in the immediate closure of a food establishment when it presents an imminent health hazard:
 1. Sewage back up in the food preparation, cleaning and sanitizing, or food service areas;
 2. Failure to appropriately retain or dispose of sewage;
 3. Interruption of electrical or water service for more than one hour;
 4. Inability to maintain TCS foods at proper temperatures;
 5. Lack of functional hand washing facilities;
 6. Apparent onset of a foodborne illness outbreak;
 7. Flooding;
 8. Fire or activation of a fire suppression system;
 9. Use of poisonous or toxic materials that results in contamination of food or food contact surfaces;
 10. For fixed food and mobile food establishments, lack of hot water under pressure for more than 24 hours;
 11. For a temporary, seasonal, or farmers market food establishment, a priority item violation that cannot be corrected during the department's inspection;
 12. Any grossly unsanitary condition or circumstance that may endanger public health.
- B. Violations that result in probationary status:

1. Five or more priority or priority foundation violations during one inspection.
 2. A pattern of non-compliance. For purposes of this section, a pattern of non-compliance means:
 - a. Three violations of a priority or priority foundation item in the same risk factor or intervention within five routine or re-inspections; or
 - b. Four violations of the same good retail practices within six routine or re-inspections.
 3. Willfully obstructing or failing to cooperate with an inspection.
- C. Within 10 days of being placed on probationary status a food establishment must:
1. Correct all violations;
 2. Provide a written corrective action plan showing, for each of the violations identified, the actions it will take or has taken to correct the violations and prevent future violations;
 3. Register staff identified by the department to take a department-taught food service worker training at the food establishment's expense;
 4. Pass a re-inspection; and
 5. Pay a fine of \$190 for an initial probationary status or \$380 for a second probationary status within twelve months.
- D. The operating permit of a food establishment that fails to satisfy the requirements in subsection C or otherwise receive a written accommodation from the department will be revoked. A food establishment whose operating permit has been revoked must obtain a new operating permit, and meet all current code requirements.
- E. An owner who has an operating permit revoked more than two times during a three-year period is ineligible for a new operating permit.
- F. Suspension and reinstatement of permits for temporary, seasonal or farmers market food establishments.
1. An operating permit will be suspended where priority or priority foundation violations are not corrected immediately.
 2. The operating permit will be reinstated upon successful re-inspection by a health officer.

8.08.070 Micro markets requirements – General.

- A. A micro market may only be located where access can be limited to employees of the business.
- B. The area of a micro market in which food is displayed is limited to three hundred square feet or less.
- C. All micro market display units must be certified by an ANSI-accredited certification program and comply with the National Automatic Merchandising Association Standards.
- D. All micro market display units offering time/temperature controlled for safety food must have a self-closing door and an automatic shut-off that prevents the equipment from opening when there is a power failure, mechanical failure, or other condition that prevents food from being maintained at safe temperatures. After any automatic shut-off, the equipment may not be used until the equipment is serviced and restocked with food that has been maintained at safe temperatures.
- E. Prepackaged food items must be appropriately labeled.

8.08.080 Pet friendly patio requirements – General.

- A. A food establishment must obtain a pet friendly patio permit before animals, other than service animals, are allowed in or on the food establishment premises. To obtain a pet friendly patio permit, a food establishment must have the following:
 - 1. A separate entrance to the pet friendly patio from the exterior of the food establishment.
 - 2. A sign with at least half inch letters posted at the front entrance of the food establishment and easily visible to the public that states: "Pet Friendly Patio - access only through outdoor patio. For complaints contact the Pima County Health Department."
- B. A food establishment with a pet friendly patio must comply with the following requirements:
 - 1. No food may be prepared in the outdoor patio area, including mixing drinks and serving ice, except that a beverage glass may be filled from a pitcher or other container that has been filled inside the food establishment.
 - 2. The outdoor patio must be continuously kept free of visible pet hair, dander, and other pet-related waste and debris. The outdoor patio must be hosed down or mopped, and sanitized with animal-friendly chemicals at the beginning of each shift during which food or beverages are served (breakfast, lunch, dinner, or late-hours). If a food establishment has continuous food or beverage service without designated shifts, the outdoor patio must be hosed down or mopped, and sanitized with animal-friendly chemicals every six hours that the food establishment is open for business, except that such cleaning is not required if no pet has been present on the outdoor patio since the last cleaning.

3. Waste created from a pet's bodily functions must be immediately cleaned up with animal-friendly chemicals. The food establishment must provide bags and a bag-lined fly-tight container for use by customers for waste disposal. The contents of the fly-tight container must be disposed of, as often as necessary, outside of the food establishment in an appropriately covered waste receptacle.
4. Equipment used to clean the outdoor patio must be kept separate from other cleaning equipment and must not be used in other areas of the food establishment.
5. Employees must not touch, pet, or otherwise handle any pet while serving food or beverages or handling tableware.
6. All pets must be kept on a short leash or in a pet carrier and remain in the control of the customer at all times while in the outdoor patio area.
7. Pets are not allowed on any seat, chair, a customer's lap, table, countertop, or similar surface in the outdoor patio area.
8. Pets shall not be allowed to have any contact with reusable food service dishes or utensils. A pet may only have contact with disposable single-service containers that provide food or water to the pet or with pet-owner provided containers.
9. All patio surfaces shall be constructed of materials that are smooth, easily sanitized, and durable.

8.08.090 Gloves, use limitation.

Latex gloves may not be used in direct contact with food.

8.08.100 Violation—Penalty.

A person violating any provision in this chapter is subject to the penalties prescribed in Chapter 8.04 of this code.