



Consumer Health and Food Safety
3950 S. Country Club, Suite 100
Tucson, AZ 85714

Telephone: 520.243.7908 Fax: 520.628.9597

RE: Starting Your Own Food Business in a Previously Permitted Food Establishment

Dear New Business Owner:

Welcome to Pima County and its growing retail food economy. The Pima County Health Department is here to assist you in developing a successful business. This letter provides important information for achieving that goal.

As a new owner, you must apply for an operating permit from the Health Department to operate the business, because the previous permit is not transferable pursuant to Pima County Code (P.C.C.) §8.04.130(D). The Health Department encourages you to schedule an onsite consultation to evaluate the conditions of the food establishment before purchasing the food business or immediately after purchasing it. When applying for your operating permit, you will be asked to provide this information:

1. A copy of the bill of sale, lease agreement or other legal document with your name or your corporation's name, and the address of the food establishment. This is needed to confirm your authority to have the previous permit cancelled.
2. A copy of your anticipated menu. The menu does not have to be in its final version nor include pricing.
3. A list of the equipment, plumbing fixtures or other related items you will be removing, replacing or installing.
4. The date you plan to open. If you are currently open and serving food, provide the date you opened. It is a violation of the Pima County Code §8.04.130(A) to operate without a valid permit issued by the Pima County Health Department to the current business owner.

Because you are a new owner, the food establishment is a "new food establishment" as defined in P.C.C. §8.08.020(7). As a new food establishment, it must comply with the current food code regulations.

For example, if needed, you will be required to repair the restaurant's interior structure, install plumbing fixtures, or replace defective equipment. Correcting these items may require submission of construction blueprints to Pima County Development Services Department for a health plan review. This submittal would be in addition to any other process required to comply with building safety requirements or to obtain a Certificate of Occupancy.

Your business must be inspected before the Health Department will issue the operating permit. Two types of inspections are required before issuing the permit:

1. an operational inspection that focuses on how the business prepares and serves food, and
2. a structural inspection that will identify structural, equipment and other non-operational deficiencies within the food establishment.

The operational and structural inspection may be done at the same time. These inspections are required, even for a previously permitted business.

If your business is closed, a pre-operational inspection is required. You will need to schedule the pre-operational inspection with the Health Department at least three (3) days in advance of when you

want the inspection. You are encouraged to schedule this inspection as soon as possible after you have completed the purchase of the business, and before you do any construction, repairs, or replace any equipment. The pre-operational inspection will cover the same items as the structural inspection described above.

If your business is operating, the Health Department will conduct an unannounced routine inspection usually 30 days after receiving the permit application. The inspector could conduct a structural inspection to review the sanitary conditions of the interior, food equipment and plumbing fixtures at the same time or on another date. If deficiencies are found, you will be given sufficient time to make the required corrections.

Once approved, you will be issued an *initial* operating permit. Within 180 days of the operational inspection, you must gain *regular* status of your operating permit by having an inspection rating of "Excellent" or "Good," and correcting any deficiencies from the pre-operational or structural inspection.

In 2001, the Pima County Board of Supervisors adopted the *Arizona Food Code*, which was incorporated into Pima County Code Title 8. This Code is also known as the Sanitary Code or the Health Code. Its purpose is to protect the public health; and prevent unhealthful, unsanitary conditions and public health nuisances in food establishments. To assist you in understanding and complying with the Food Code, the Health Department offers a food sanitation class twice a month. To register and prepay for classes, please call 520.243.7908 or visit the web link for Consumer Health & Food Safety on www.pimahealth.org. You may obtain a copy of the Pima County Food Code on the Internet from Municode.com or download it at the Consumer Health and Food Safety web link.

We look forward to working with you in meeting the requirements of operating a food business in Pima County. The Health Department offers consultations, for a fee, for prospective and current business owners. We invite you to visit our web page at www.pimahealth.org and click on the link that says, "Consumer Health and Food Safety." Should you have any questions or require additional information, please contact us at 520.243.7908 or via email at chfs@pima.gov.

Sincerely,

Staff of Consumer Health and Food Safety

Attachment: Change of Ownership

cc: File

Change of Ownership

Transferring Operating Permit Issued by the Health Department

The operating permit is not transferable (see Pima County Code §8.04.130(D)). Each new permit-holder (owner) must apply to be “approved” by the Health Department to operate his or her food business. Each time a business applies for an operating permit, the applicant must pay a fee.

Definition for “Change of Ownership”

The term “Change of Ownership” refers to changing from one permit-holder to another permit-holder the financial and Food Code responsibilities for the operating permit issued by the Health Department. It does not refer to the buying, selling or transfer of real property; to the lease; or to any other legal transaction between the former business owner and the new one. See Pima County Code §8.08.020(7) for the definition of a “change of owner.”

Owner or Permit-Holder of the Operating Permit

An “owner” is sole proprietor, partnership, association, corporation or governmental agency who is responsible for all activities associated with the operating permit. The “permit-holder” (owner) will ensure compliance with the ordinances in Pima County’s Health and Safety Code: Title 8.04 and 8.08. The “permit-holder” is financially responsible to pay all fees associated with the operating permit.

Notices of Violation

Notices of Violation (N.O.V.) are legal documents issued to persons or businesses in violation of a County, State or Federal regulation. The N.O.V. will state the section(s) from the Pima County Code, Arizona Administrative Code, Arizona Revised Statute and/or Federal Code that has been violated, and the process for correcting the N.O.V. The N.O.V. remains part of the public records for the business. N.O.Vs are issued to businesses for not having a valid operating permit issued by the Health Department, or if the business has remodeled the food establishment without prior approval from the Health Department. The N.O.V. may be issued to the business owner and/or property owner.

Remodeling

We advise you to first contact the Health Department’s Consumer Health and Food Safety Program at (520) 243-7908 before starting any remodeling project. You may be issued a Notice of Violation for any unapproved remodeling of the kitchen. However, you may make decorative changes to the dining area without approval from the Health Department as long as you do not add to or remove food equipment or plumbing fixtures from the dining area.

Please consult the “Starting a Food Business” guidelines published on Consumer Health and Food Safety’s web page http://www.pimahealth.org/healthfood/diy_plan_review.pdf and the FDA Plan Review Guide at <http://www.cfsan.fda.gov/~acrobat/prev.pdf>. In order to submit plans, please follow the procedure in this guideline:

<http://www.pimaxpress.com/Building/PDFs/2008/08%2005.06%20CHFS%20Review%20Handout.pdf>.

Health Code “Grandfathering”

There is no “grandfathering” of food safety regulations. Pima County Code allows the Health Department to require compliance with the *current* Food Code, regardless of how long the previous

business operated. Each new permit-holder of the operating permit must bring his or her food business into compliance.

Types of Inspections

The business will have 1) an operational and a structural inspection or 2) a pre-operational inspection followed by an operational inspection. The Health Department will perform an operational inspection if you are open for business, i.e. providing food to customers. At the end of the operational inspection, your business will have a rating of Excellent, Good, Needs Improvement or Provisional. The structural inspection will be conducted to determine if the food establishment's structure complies with the Food Code. According to established policy, the Health Department may approve a permit and allow it to remain on "*initial*" status until you accomplish the corrective actions required.

If you are not operating, the Health Department will conduct a pre-operational inspection to approve your business to operate. After passing the pre-operational inspection, an operational inspection will be completed within 45 days to evaluate how well the food establishment complies with the Food Code.

Health Department Consultations

Beginning July 1, 2009, the Health Department will offer consultations for a fee. This consultation will help the prospective business owner understand the requirements for compliance with the Food Code. The prospective business owner can request a consultation with Health Department staff, however, the current owner must agree to have the consultation conducted.

Deficiencies and Corrective Actions

Deficiencies are violations of the Food Code. The Health Department is always willing to work with you to accomplish corrective actions in a timely and cost effective manner. All deficiencies must be corrected as soon as possible. Depending on the severity of deficiency or the health hazard, you may have to submit a written action plan to correct the deficiencies within the first 180 days, or your business' opening date may be postponed until the violations are corrected. At the end of the six months, the Health Department will determine if your permit can be upgraded to "regular" status. The Health Department may take corrective actions to bring your business into compliance with Pima County Code if you do not achieve regular status within six months.

Typical Corrective Actions Required by the Health Department

Three categories represent most corrective actions: 1) food equipment, 2) plumbing, and 3) interior structural deficiencies.

Refrigeration

1. You must replace refrigeration that is not National Sanitation Foundation (NSF)-approved. All refrigerators must have the blue NSF label or metal stamp on the interior of the unit. No residential refrigerators are allowed. Residential freezers may be granted an extension for replacement if you do not use it to cool foods and it is a frost-free type.
2. You must repair or replace your refrigeration equipment if it cannot maintain an internal food temperature of 41°F or less.
 - To gain the approval to operate, the air (ambient) temperature must be 40°F or less inside the refrigerator.
 - The appropriate thermostat setting should be 35°F to 38°F for the unit.

- The inside of the refrigerator must be in good condition, free of major defects like the gaskets hanging from the door or the metal/plastic interior showing pitting, cracking or rust.
- Enough shelving must be present in the refrigerator to separate raw animal foods from ready-to-eat foods and produce.
- Enough refrigeration equipment must be present for the volume of anticipated business.

Other Food Equipment

3. You will have to repair or replace defective food equipment. Defective equipment is equipment that has major structural defects or does not work.
4. If the hood has an Ansul® (fire suppression) system, then it must have a current tag. The hood must not have an excessive buildup of grease and soiling. If your business was closed, before reopening, we strongly recommend that you have a professional company evaluate the hood and clean the hood's interior, the filters and the ductwork. If you have continued operating, you should have the hood and Ansul® system checked and serviced as soon as possible.
5. Have all food equipment thoroughly clean. Remove rust from shelving and recoat the metal surface with a product that is food safe or food grade and made for sealing metal.

Plumbing

6. You may have to install or replace plumbing fixtures like hand washing sinks, food preparation sinks, mop sinks, three-compartment sinks, dishwashers, grease traps or water heaters. You will have to correct any improperly installed fixtures.
7. Water heaters must have a minimum capacity of 50 gallons. Water temperature at hand washing and ware washing sinks must be at least 110°F. If there is a dish machine, it must reach the required minimum water temperatures that are stipulated by the manufacturer for the wash and rinse cycles.
8. Floor sinks will have to be installed for sinks or equipment that requires indirect drainage to the sewer system. Often in older food establishments, all sinks are connected directly to the sewer system. Sinks that require indirect connections are food preparation (culinary) sinks, and the sanitizing basin of the three-compartment sink. Dish machines and icemakers also require indirect drainage.

Interior Structural Deficiencies

9. You may have to repair or replace flooring that is the wrong type, shows excessive wear or was improperly installed.

The Health Department does not approve linoleum for kitchen areas. Vinyl Commercial Tile (VCT) should only be applied in food preparation and storage areas, but not under cooking equipment. You will be asked to remove VCT under cooking equipment and replace it with sealed concrete, quarry tile or any other material that has the same characteristics of concrete or quarry tile.

10. You must repair structural deficiencies to the interior such as holes in the walls or gaps around pipe penetrations that could allow vermin to enter your business. If the Sanitarian (Health Inspector) observes evidence of live, dead or fecal droppings from animals or insects, you must have a licensed pest control company evaluate and treat your business.