

BOROUGH OF DARBY
COUNTY OF DELAWARE
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 748

FOOD HANDLING ESTABLISHMENTS

WHEREAS, the Borough of Darby is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, including but not limited to the Borough Code; and,

WHEREAS, the Legislature of the Commonwealth vests the Borough of Darby with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, *inter alia*, the Borough's finances, the maintenance of peace, good government, safety and welfare of the Borough, its trade, commerce and manufacturers; and,

WHEREAS, it is in the best interests of the public health, peace, safety, good order and welfare of the community to ensure that food handling establishments are registered, inspected and sanitary; and,

NOW, therefore be it ORDAINED by the Council of the Borough of Darby as follows:

I. General Provisions.

- A. The following are hereby declared by the Council of the Borough of Darby to be against the public health, welfare and good order. It shall be illegal for any person, persons, company or corporation to act, permit or allow any of the actions in this Ordinance.
- B. The term "person" in this chapter shall include the plural as well as the singular and shall apply to any company or corporation, wherever appropriate.
- C. Darby Borough adopts by reference the Commonwealth of Pennsylvania, Department of Agriculture, rules and regulations

under Title 7, Chapter 46, adopted December 12, 2003, as if fully set out in this chapter and as may from time to time be amended.

II. Inspection And License Required.

Any and all persons, companies, corporations, markets, stores or similar establishments which handle, vend, sell or expose for sale within the Borough of Darby, Pennsylvania, any food or food product meant for human consumption shall, before April 1 of each and every calendar year, undergo an inspection by the Health Officer certifying to the sanitary and proper conditions required for both the storage, handling and sale of food or food products.

III. Standards.

For the protection, health and well-being of the citizens of Darby, Pennsylvania, safe, sanitary and proper conditions are defined to be those as defined by the Pennsylvania Department of Health, plus any further conditions and regulations as enacted by any ordinance of the Borough of Darby, Pennsylvania.

IV. Right of Entry.

The Health Officer of the Borough of Darby is hereby authorized and ordered to enter into or upon any property, public or private, in order to make the required inspection or inspections of all places where food or food products meant for human consumption are held, stored or exposed for sale or sold, either at retail or wholesale, within the Borough of Darby, Pennsylvania, at any time during business hours. At least one inspection shall be made during each calendar year, prior to April 1.

V. Food Handler's Cards.

Each and every establishment where food meant for human consumption is held, stored, vended, exposed for sale or sold shall obtain a Darby food handler's card for each and every employee of said establishment, prior to any employee actually working in such establishment. All cards shall be maintained in a file upon the premises and must be presented for inspection during business hours upon demand of either the Health Officer or any member of the Borough Council.

VI. Health Report.

Any person who wishes to be employed in food handling shall obtain from the Health Officer the food handler's health report, which is to be completed and signed by a licensed physician. Upon return of this signed report to the Health Officer, provided that the applicant is free from disease, a Darby food handler's card shall be issued to the applicant upon payment of a fee of \$2. All such cards shall expire on the last day of each calendar year and must be renewed in the same manner in which they were originally obtained; provided, however, that any card issued after September 1 of any year shall expire the last day of the following year. All food handler's health reports shall be maintained for a period of three years by the Health Officer.

VII. Employee Cleanliness.

All establishments covered by this chapter shall maintain a restroom containing soap and running hot water. A sign shall be prominently posted which states "All Employees Must Wash Hands With Soap and Water Before Returning to Work" or words to that effect. Furthermore, all employees are to be verbally instructed as to this requirement.

VIII. Food Storage Temperatures.

The following are the maximum temperatures at which the following foods and beverages are to be stored:

- A. Ice cream, milk, meat, cold beverages and other perishable foods not mentioned in this chapter: 40° F.
- B. Seafood and poultry: 32° F.
- C. Frozen foods: 0° F.

IX. Garbage Collection.

At least once each week, all garbage, trash and refuse shall be collected by that agent employed by the establishment. Prior to collection, all trash and refuse must be kept within a fully enclosed container or closed plastic bag. All garbage must be kept within a garbage can with a tight-fitting lid to absolutely exclude all insects, rodents and animals. None of the materials mentioned in this section may be openly exposed for any reason whatsoever,

either deliberately or accidentally. For purposes of this chapter, "garbage" is defined to be any organic matter.

X. Fees.

- A. The cost of each inspection shall be \$100. The cost for each reinspection, when needed, shall be \$50. The cost for the original license and for a replacement license shall each be \$10. The Health Officer will receive, as compensation, 50% of all money collected for inspections, reinspections and licensing of food-handlers in addition to any other compensation allotted by Darby Borough.
- B. The Council of the Borough of Darby may, from time to time, revise the aforementioned fee schedule, by resolution.

XI. Display Of License; Transient Vendors.

- A. The license issued by the Health Officer shall be prominently displayed at the place of business.
- B. At the discretion of the Health Officer, transient vendors may be excluded from the provisions of this chapter.

XII. Violations And Penalties.

Any person, companies, corporations, markets or stores or similar establishments which shall fail to obtain a license or the proper number of Darby food handler's cards as required by this chapter shall immediately cease and desist operations upon written orders from the Health Officer. Any establishment that continues operation in violation of this chapter shall, upon conviction, pay a fine of not less than \$300 for each day of the violation, as well as all costs of prosecution. In default of payment of fine and costs, the offender shall be committed to prison for not fewer than 10 days for each day the violation existed.

XIII. Correction Of Conditions.

Any establishment in which there exists any unsanitary conditions, any condition or conditions which present a threat or hazard to the health and well-being of the patrons of the establishment or the citizens of Darby shall be given not less than one hour nor more than one week to correct the

improper condition or conditions. Upon failure of the owners to correct the offending condition or conditions, an immediate closure of the business shall be ordered. The Health Officer shall immediately place at the entrance a sign reading "Closed by the Health Officer." Any establishment which continues operation after the issuance of the closure order or which removes, causes to be removed or permits the removal of the aforementioned sign by anyone except the Health Officer shall be subject to a fine of not less than \$150 nor more than \$300 for each day that the offense continues, together with the costs of prosecution. In default of payment of fine and costs, the owners shall be imprisoned for 15 days for each day of the violation.

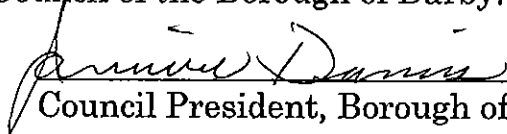
XIV. Exempt Organizations.

Any nonprofit organization, such as churches, firehouses or clubs, shall be exempted from the provisions of this chapter, except that they shall be inspected and licensed at no charge, provided that they meet the standards set forth in this chapter.

XV. Repealer; Severability; Effective Date.

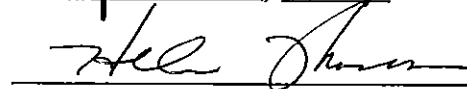
- A. All Ordinances and/or Resolutions, or parts thereof, conflicting herewith are repealed insofar as the matters herein are affected.
- B. The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered. It is hereby declared the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional clause, sentence, subsection, or section had not been included therein.
- C. This Ordinance is effective immediately upon final adoption and publication thereof according to law.

ENACTED this 20th day of May, 2009, after publication in a newspaper of general circulation according to law and a motion to approve passed by the Council of the Borough of Darby.




Council President, Borough of Darby.

APPROVED this 20th day of May, 2009



Mayor, Borough of Darby.

ATTEST:



Secretary, Borough of Darby.