

Chapter 8.04 - HEALTH PROVISIONS GENERALLY

Sections:

8.04.010 - Short title.

The ordinances codified in this title and future ordinances enacting rules and regulations may be cited and shall be known as the health code.

8.04.020 - Scope and legal authority.

- A. Abolishment of City-County Health Department.
 - 1. The city-county health department, which was previously established by joint acts of the city council of Tucson and the board of supervisors of the county, was abolished as of June 30, 1955.
 - 2. The action taken in the form of a resolution creating a city-county department of health by the board of supervisors of the county on July 9, 1954, was repealed and rescinded effective June 30, 1955.
- B. Establishment of County Health Department. A county department of health was established as of July 1, 1955, pursuant to A.R.S. sections 36-182 through 36-191, as amended.
- C. The health code adopted and contained in this title, and the enforcement thereof by the department or any peace officer, shall be liberally construed and applied to protect the public health and prevent unhealthful or unsanitary conditions or public health nuisances.
- D. These rules and regulations are adopted pursuant to A.R.S. sections 11-251, 36-136, 36-184, and 36-187, as amended.

8.04.030 - Definitions.

The following definitions apply throughout the health code, unless a different meaning is clearly indicated by the context or stated in the chapter:

- A. "Board of health" means the county board of health.
- B. "Board of supervisors" means the county board of supervisors.
- C. "Certificate of approval to construct" means approval to construct or remodel a regulated establishment.
- D. "Department" means the county health department.
- E. "Fixed" means attached to the land in a physical place.
- F. "Health officer" means the director of the county health department or his authorized representative.
- G. "Regulated establishment" means an entity required to obtain a permit issued by the department in order to conduct all or some of its operations.
- H. "Requested inspection" means a health and sanitation inspection of a non-regulated establishment requested by the establishment or a regulating agency.

8.04.040 - Plan approval required.

The following regulated establishments are required to submit plans and specifications for the department's approval for the construction or substantial alteration of their facilities:

- A. Food establishments;
- B. Public or semi-public aquatic facilities;
- C. Mobile home and travel trailer parks;
- D. Motels, hotels and tourist courts;
- E. Ice manufacturing and beverage plants;
- F. Schools, with respect to facilities regulated by Arizona Administrative Code Title 9;
- G. Camp grounds and children's camps.

8.04.050 - Application for approval to construct.

Before any regulated establishment may construct or enter into a contract for the construction or substantial alteration of any facility listed in section 8.04.040 it must apply to the department for approval. The application must be submitted at least thirty days before the proposed start date of the project and be accompanied by the appropriate fee and the following:

- A. Scaled drawings of the work to be done. Sufficient detail must be shown on the drawings to make clear to the department what work is to be done. All scaled drawings must be submitted electronically, with the exception of those for mobile food, limited manufacturing, and catered food sites;
- B. Complete specifications to supplement the drawings;
- C. Additional data as may be required by the health officer including a design report describing the project, the basis of design, together with design data and other pertinent information necessary to give a clear understanding of the work to be undertaken.

8.04.060 - Certificate of approval to construct.

If plans and specifications submitted to the department comply with the requirements of this title, the health officer will issue a certificate of approval to construct. If construction is not completed within one year after the date of issue, the certificate of approval to construct is void, unless a written extension of time is granted by the health officer.

8.04.070 - Construction in compliance with approved plans.

All work shall conform to approved plans and specifications. Should it be necessary or desirable to make any material change in the design of the approved establishment which will affect the capacity, hydraulic conditions, flow, an operating unit or sanitary feature of the proposed work, revised plans and specifications, together with a written statement of the reason for the change, must be submitted to the health officer for review, and approval must be obtained in writing before the work affected by the change is undertaken. Minor revisions not affecting the capacity, hydraulic conditions, flow, operating unit or sanitary feature will be permitted during construction without further approval but plans clearly showing such alterations must be filed with the department at the completion of the entire project.

8.04.080 - Access to construction sites for inspection.

- A. The health officer is permitted to inspect the construction site of any regulated establishment prior to issuing a certificate of approval to construct.
- B. The health officer is permitted to inspect any regulated establishment during construction to ensure that the work is being completed in accordance with the approved plans and specifications.

8.04.090 - Notification required for final inspection.

The regulated establishment must notify the department at least 10 business days before the expected date of completion of the work to allow final inspection by the health officer.

8.04.100 – Extension of certificate of approval to construct.

A regulated establishment may request a six-month extension of the certificate of approval to construct by submitting a written request to the department together with the appropriate fee. Additional six-month extensions may be requested in the same manner. The department may deny an extension if the plans no longer comply with the health code.

8.04.110 - Operating permit required.

- A. No person may operate a regulated establishment without a valid operating permit.
- B. Applicants must complete an application form provided by the department.
- C. Applicants must comply with all applicable laws, rules, and regulations.
- D. Operating permits are valid for one year from the date of issuance, unless suspended or revoked.
- E. An operating permit is not transferable from person to person or place to place.
- F. Operating permits must be placed in a conspicuous location visible to the public and approved by the department.
- G. An operating permit is required for the following:
 - 1. Food establishments;
 - 2. Ice manufacturing and beverage plants;
 - 3. Public and semi-public aquatic facilities;
 - 4. Motels, hotels, resorts and tourist courts;
 - 5. Mobile home and travel trailer parks;
 - 6. Adult amusement establishments;
 - 7. School facilities regulated by A.A.C. Title 9;
 - 8. Camp grounds and children's camps.
- H. Annual operating permit and late fees:
 - 1. Operating permits must be renewed annually. If the operating permit fee is not paid before the expiration of the prior permit period a late payment fee will be assessed. If a regulated establishment fails to pay the annual fee and late payment fees within 30 days of the expiration date, the regulated establishment must cease operations and apply for a new operating permit and will be subject to compliance with all current applicable laws, rules, and regulations.

2. Regulated establishments operating without a valid operating permit may be subject to posted notices at entrances to the establishment stating that the establishment does not possess the mandatory operating permit. The regulated establishment must not remove or alter the notices.
- I. The department may suspend an operating permit upon written notice to the permit holder that an immediate and imminent danger to public health exists. Where the danger to the public is not imminent the department must provide five calendar days' written notice to the permit holder of suspension of the operating permit.
 - J. Regulated establishments must allow the health officer to inspect the facility during its operating hours.

8.04.120 – Fees.

- A. Fees for inspections must be paid before the department conducts the inspection.
- B. Fees are assessed according to the fee schedule established by the board of supervisors.

8.04.130 - Hearing procedure.

- A. Right of appeal. A regulated establishment that is adversely affected by the actions of the department may submit a request for appeal to the director of the department. The request for appeal must be in writing and be submitted within 10 business days of notice of the adverse action. The notice of adverse action must inform the regulated establishment of the right to appeal. In the event the action taken is pursuant to A.R.S. section 36-601(B), the time for appeal is 15 days. If no appeal is filed, the department's action becomes final when the time for appeal has expired.
- B. Appointment of hearing officer. Upon receiving a request for appeal, the director of the department shall appoint a hearing officer to hold a hearing on the matter within 20 days from the time the director received the request for appeal. The hearing officer shall be an impartial person who is trained in law and is knowledgeable about this title.
- C. Notification of hearings. The hearing officer shall notify the person requesting the appeal that a hearing on the appeal will be held at a specified time and place.
- D. Rights of parties at hearing. The person requesting the appeal and the department may appear on their own behalf or through counsel, may submit evidence, and have the right to confront witnesses of the other side by cross-examination. A corporation may appear only through a corporate officer or counsel.
- E. Conduct of hearing. The hearing officer shall conduct the hearing in a manner consistent with due process. Witnesses shall be sworn and their testimony recorded manually or by recording device. The cost of transcribing such testimony shall be paid by the party requesting it. The hearing officer shall receive relevant, probative and material evidence and shall exclude all irrelevant, immaterial or unduly repetitious evidence. The formal rules of evidence need not be followed. Proof shall be by a preponderance of the evidence. The hearing officer may issue subpoenas pursuant to A.R.S. section 12-2212.
- F. Hearing officer's recommendation. Within five days of the hearing's completion, the hearing officer shall submit a written recommendation to the director that the appeal be affirmed or denied. This recommendation shall contain findings of fact and conclusions of law which are the basis of the hearing officer's recommendation.

- G. Director's decision. Within three days of receiving the hearing officer's recommendation, the director shall notify the person requesting the appeal of the decision. The director's decision is final.
- H. Notice. Whenever notice is required to be given, it shall be given in a manner that is reasonably calculated, under all circumstances, to inform the person of the action to be taken.

8.04.140 - Violation—Penalty.

- A. Any person who violates any provision of the health code is guilty of a Class 3 misdemeanor as provided by A.R.S. section 36-191, unless otherwise indicated.
- B. The health officer may also seek injunctive relief.
- C. In addition, the health officer may proceed under A.R.S. section 36-602.