

Franklin County Food Regulations

REGULATIONS GOVERNING THE CONSTRUCTION, RENOVATION, AND OPERATION OF FOOD SERVICE ESTABLISHMENTS WITHIN THE COUNTY, REQUIRING CERTAIN PERMITS, TRAINING, AND PROVIDING PENALTIES FOR VIOLATION THEROF.

SECTION 1. AUTHORITY

This ordinance is enacted pursuant to Section 192.300 RSMo, and as may hereafter be amended, which provides in par as follows:

The county commissions and the county health boards of the several counties may make and promulgate orders and ordinances or rules and regulation, respectively, as will tend to enhance the public health and prevent the entrance of infectious, contagious, and communicable and dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the department of health in accordance with this chapter or by the department of social services under chapter 198 RSMo.

Section 192.300 RSMo authorizes the county health board to establish and collect fees to pay for any costs incurred in carrying out such orders, ordinances, rules, or regulations.

SECTION 2. APPLICABILITY

These regulations apply to all food service establishments including, but not limited to, restaurants, processors, warehouses and distribution centers in Franklin County.

SECTION 3. REGULATIONS

The inspection of food establishments and operations and the enforcement of these regulations shall be regulated with 19 CSR 20-1.025 Sanitation of Food Establishments, including any revisions, modifications, amendments to the rule, and re-adoption of the rule, and the adoption of any successor rule or rules, which may be enacted after the adoption of the regulations. A copy shall be maintained on file in the office of the County Clerk, and shall be adopted by reference in whole.

SECTION 4. DEFINITIONS

4.1 Code refers to the Missouri Food Code, 19 CSR 20-1.025 Sanitation of Food Establishments, hereby adopted by reference.

www.health.state.mo.us/FoodCode/

4.2 Food Establishment(a) "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(i) Such as a restaurant; satellite or central preparation facility; catered feeding location; catering operation if the operation provides food directly to a Consumer or to a conveyance used to transport people; market; vending (location) operation, if the operation provides potentially hazardous foods; conveyance used to transport people; institution; or food bank; and

(ii) That relinquishes possession of food to a Consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(b) "Food establishment" includes:

(i) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location *unless the vending or feeding location is permitted by the regulatory authority* satellite catered feeding location, a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(ii) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(c) "Food establishment" does not include:

- (i) An establishment that offers only prepackaged foods that are not potentially hazardous;
- (ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (iii) A food processing plant;
- (iv) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the Consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;
- (v) An area where food that is prepared as specified in Subparagraph (c)(iv) of this definition is sold or offered for human consumption;
- (vi) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 4, breakfast is the only meal offered, the number of guests served does not exceed 12, and the Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the regulatory authority; or
- (vii) A private home that receives catered or home-delivered food.
- (viii) Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served: (AA) Non-potentially hazardous processed foods, except low acid canned and acidified foods as specified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes; (BB) The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food; (CC) The seller only sells, samples or serves the food directly to the end consumer; (DD) All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name of all the ingredients in the food and a statement that the product is prepared in a kitchen that is not subject to inspection by the Department of Health and Senior Services. It is recommended that honey manufacturers/processors include this additional statement to its label, "Honey is not recommended for infants less than twelve (12) months of age."; and (EE) The consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to inspection by the Department of Health and Senior Services if the foods specified in Subparagraph 1-201.10(B) (31)(c)(viii)(AA) are sold, sampled or served in unpackaged, individual portions. The Department of Health and Senior Services shall have the final authority in determining whether a food is non-potentially hazardous and may enjoin individuals who violate the provisions of this section from selling, sampling or serving these foods.

4.3 Temporary Food Service Establishment is a food service establishment that operates for a period of not more than five (5) consecutive days and no more than 15 days per year. Fairs, festivals or recognized and community sponsored events, serving food and open to the public, are all examples of temporary events.

4.4 Exemption a food service establishment operated not more than 15 days per year and no more than 5 days per event by any fraternal, benevolent, charitable, religious, or not-for-profit organization shall be exempt from all of the provisions of this ordinance, so long as the said food service function does not jeopardize the public health.

4.5 Regulatory Authority is the Franklin County Health Department and authorized representative(s).

4.6 Required Plans means plans that must be submitted as part of the permit approval process for new construction and remodeled facilities regulated under these regulations. Plans must include information on the intended menu, floor plan, equipment and mechanical plans, construction materials, interior finish schedule, and other information that may be required by the regulatory authority for proper review to ensure compliance with the Code.

4.7 Approved Program means a food safety training program conducted by the Franklin County Health Department, a nationally recognized program, or that of another health department, which may be accepted upon review by the regulatory authority. Franklin County Health Department will provide training on a regular basis or as needed.

4.8 Distressed Food means food substances that are being stored or transported in a facility or vehicle that is involved in any type of accident, collision, fire, flood, weather-related or other type of disturbance which may adulterate the food substances, cause food to experience temperature stress, or in any way cause the food

substances to be of questionable quality for human consumption.

4.9 Public Health Priority Assessment is a worksheet used to determine a priority rating (low, medium, high) for establishments, given past history of violations, types of food served, preparation requirements of foods served, number of meals served, and population served. See attached Food Establishment Public Health Priority Assessment Worksheet.

SECTION 5. PERMIT APPLICATION

5.1 A person may not own or operate a food establishment in Franklin County without a valid permit issued by the regulatory authority.

5.2 Only a person who complies with the requirements of these regulations and the code shall be entitled to retain such a permit. A valid permit shall be posted in every food establishment.

5.3 Permits shall be renewed annually. Permit applications and fees must be submitted and approved before a permit is issued.

5.4 Applicants must submit a completed application for a permit to the Franklin County Health Department. Application forms are available at the Franklin County Health Department.

5.5 New establishments must submit application, fees, required plans and specifications for approval no later than 14 business days prior to opening for business. A pre-opening inspection will be conducted by the regulatory authority, to determine if the establishment is in compliance with the code and this ordinance. If an existing establishment closes for remodeling purposes, a pre-opening inspection and fee will be required. If a change of ownership or a change of location of an existing establishment occurs, renewal of the establishment's permit shall be required along with any necessary plans. The permit shall be obtained by the owner of the establishment or by an officer of the legal ownership. Permits are **not** transferable. A permit shall be valid from the date of issuance until December 31st of that year. Failure to obtain a permit before opening shall result in the levy of an additional \$100.00 payment fee.

5.6 A permit may be revoked or a permit application denied if the permit holder or applicant has failed to comply with any part of this rule until such time that the regulatory authority determines that they are in compliance. When a permit is revoked, the holder of the permit may apply for a new permit upon correction of all violations. While under denial, a food establishment may not be open to the public.

SECTION 6. PERMIT COMPLIANCE

6.1 Establishment inspections

- (A)** Representatives of the regulatory authority, after identification, shall be permitted to enter any food service establishment, have access to the entire facility, and take digital photos of any reasonable time for the purpose of making inspections to determine compliance with this ordinance. The representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.
- (B)** The regulatory authority shall perform an inspection of a food establishment at least once annually or more often as determined by the Public Health Priority Assessment (low, medium, high priority) and availability of regulatory authority personnel. Additional inspections may be performed as necessary for the enforcement of regulations.
- (C)** Temporary food establishments shall have inspections conducted at the discretion of the regulatory authority. Factors that would influence the decision of the regulatory authority to inspect temporary food establishments are, but not limited to the following: availability of regulatory authority personnel during operation of the temporary food establishment, date of the most recent inspection, past inspection history, and types of food prepared and served to the public by the establishment.
- (D)** Restaurant inspections (observations, details, forms, etc.) may be published by the Franklin County Health Department as deemed appropriate. Restaurant inspections are public record and may be obtained from the regulatory authority, within three business days, upon written request.

6.2 Correction of violation

The completed inspection form shall specify a reasonable period of time for correction of the violations found and a correct by date shall be set for each violation in accordance with the following provisions:

- (A) If an imminent health hazard is determined by the regulatory authority to exist, the establishment shall immediately cease all food operations until authorized by the regulatory authority to resume.
- (B) All Critical violations shall be corrected as soon as possible, but in any event, within 72 hours following inspection. The permit holder should contact the regulatory authority within 3 days after the inspection to report correction status.
- (C) All non-critical violations shall be corrected by time mutually agreed upon by person in charge at time of inspection and the regulatory authority or next routine inspection.
- (D) In the case of a temporary food establishment, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment could face closure until authorized to resume by the regulatory authority.
- (E) If, upon re-inspection, any violations are found to be uncorrected after the correct by date, previously agreed upon, an additional follow up inspection shall be scheduled and a \$100.00 fee shall be levied upon the establishment for this second follow up. Failure to correct the specified violations upon a second follow up shall result in revocation of the food establishment's operation permit.

6.3 Prevention of food-borne disease transmission

- (A) The regulatory authority shall act when it has reasonable cause to believe that food borne disease transmission has occurred, by closing a food establishment in order to investigate a food-borne outbreak associated with the establishment until, in the opinion of the regulatory authority, no further danger of disease transmission exists.
- (B) The regulatory authority shall act when it has reasonable cause to believe that a food handler or handlers have possibly transmitted a disease, may be infected with a communicable disease transmissible through food, may be a carrier of infectious agents which are transmissible through food, or are affected with a boil, infected wound, or acute respiratory infection by:
 - 1) Making appropriate investigation, including securing a confidential medical history.
 - 2) Requiring appropriate medical examination, including collection of specimens for laboratory analysis of a suspected food handler or handlers.
 - 3) By requiring the owner/manager to exclude or restrict an employee from working until cleared by a physician.

6.4 Distressed Foods and Disaster

Any time there is an incident involving transported foods, fire, interruption of water supply or power supply, a backup of sewage into the establishment, or any other event which may compromise the safety of the food or the sanitation of a food establishment, the owner or manager must immediately notify the regulatory authority and if so ordered cease all food operations and comply with all requirements for destruction, disposal, or recondition of food or food equipment as determined by the regulatory authority.

6.5 Additional Provisions

- (A) When, during the course of an inspection, the regulatory authority deems any food product(s) to be unsafe, the permit holder must comply with all requirements imposed by the regulatory authority for destruction, disposal, or reconditioning of the food in question.
- (B) The regulatory authority may, without warning or hearing, close any food establishment or revoke any

permit to operate a food establishment for serious or repeated violations, for interference with the regulatory authority in the performance of duty, or if the operation of the food establishment otherwise constitutes an imminent hazard to public health. Revocation of the permit is effective upon service of the notice.

Listed below are examples of, but not limited to, violations that may result in revocation of a permit:

- a) One (1) or more identical repeat critical items on two (2) consecutive inspections
- b) Three (3) or more critical items on two (2) consecutive inspections
- c) Ten (10) or more non-critical items on two (2) consecutive inspections
- d) Failure to notify the regulatory authority when an imminent health hazard exists or has occurred.

SECTION 7. WHOLE, CUT, RAW FRUITS AND VEGETABLES AND NUTS

Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption may be sold to individuals and food establishments.

Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption do not have to be packaged.

Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready to eat form.

SECTION 8. VIOLATIONS/PENALTIES

Any person who violates any provision of these regulations is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1000 or by imprisonment for not more than 60 day, or by both fine and imprisonment. For each day during any portion of which any violation of the provisions of this article is found to exist and is continue, such person or persons is guilty of separate offenses for each day and shall be punished therefore as provided.

SECTION 9. FOOD SAFETY CERTIFICATION

All management and supervisory staff of high and medium priority food establishments, must have documentation of approved food safety certification from an approved program at all times of operations. Certification requirements shall be in effect one year from effective date of this ordinance or, if thereafter, 3 months subsequent to hiring. Certification must be current/renewed every five years. Non-compliance of appropriate staff training and documentation of said training will result in a \$100.00 fee levied upon the establishment on the first occasion and closure upon the second occasion.

SECTION 10. FEES

See exhibit B.

SECTION 11. GREIVANCE PROCESS

Upon notice of denial or revocation of permit or closure, the permit holder may file a written request to the regulatory authority within three (3) days of the notice to request a hearing with the regulatory authority to be held within 10 days receipt of the request.

SECTION 12. SAVING CLAUSE

If any part of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this order.

SECTION 13. AMENDMENTS

Regulations may be amended at anytime pursuant to RSMo 192.300.

BE IT ORDAINED AS FOLLOWS:

SECTION 1: The County Commission hereby promulgates and adopts the Franklin County Food Regulations as recommended and requested by the Franklin County Health Department.

SECTION 2: The County Clerk is hereby ordered to have the regulations printed and available in his/her office for distribution to the public.

SECTION 3: A copy of the regulations shall be published in some newspaper in this county, with the first publication occurring not later than 30 days after the adoption of these regulations.

REGULATIONS SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER THE DATE OF ITS PASSAGE AND APPROVAL.

PASSED THIS ____ DAY OF _____ 20____.

John Griesheimer
Presiding Commissioner

Tim Brinker
First District Commissioner

Michael Schatz
Second District Commissioner

ATTESTED TO:

Debbie Door
County Clerk