

# ***CONSUMER FOOD SAFETY ORDINANCE***

*An ordinance governing the operation of food service establishments within the county requiring certain permits, training and providing penalties for violations thereof.*

## **SECTION I: AUTHORITY**

This ordinance is enacted pursuant to Section 192.300, RSMo which provides, in part as follows: The county commissions and the county health center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules and regulations shall not be in conflict with any rules or regulations authorized and made by the Department of Health and Senior Services in accordance with this chapter or by the Department of Social Services under Chapter 198, RSMo.

## **SECTION 2: APPLICABILITY**

These regulations apply to all food service providers in Pulaski County.

## **SECTION 3: DEFINITIONS**

The following words and phrases shall have the following meanings:

- 3.01 Board: The Pulaski County Health Department Board of Trustees.
- 3.02 The Code: The current recommendations of the Missouri Department of Health and Senior Services relating to food service.
- 3.03 Food establishment: An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption, as defined in The Code.
- 3.04 Temporary Food Event: A food establishment that operates and serves potential hazardous foods (as per the Food Code, Section 3.02) for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration (major fairs / festivals), as defined in The Code.
- 3.05 Regulatory authority: The Administrator of the Pulaski County Health Department or an authorized representative.
- 3.06 Environmental Public Health Specialist (EPHS): A Person who has graduated from an accredited four year college with major specialization in one or a combination of the following: biology, chemistry, bacteriology, food science, soil

science, sanitary service or environmental health along with courses and training required by the Missouri Department of Health and Senior Services.

- 3.07 Permit: The document issued by the regulatory authority that authorizes a person to operate a food establishment and/or temporary food event.

#### SECTION 4: PERMIT COMPLIANCE PROCEDURES

- 4.01 Each food establishment within Pulaski County Health Department's jurisdiction shall be required to obtain and post in view of the public, a County Food Establishment permit in order to operate such food establishment. Each permit shall be renewed on or before January 1<sup>st</sup> of each year. After January 2<sup>nd</sup> a late fee will be assessed weekly until all permit fees, late fees, and re-inspection fees are paid in full. No person shall operate a food service establishment / temporary food event that does not have a valid permit issued to him or her by the regulatory authority.
- 4.02 Any person desiring to operate a food service establishment / temporary food event shall make written application for a permit on forms provided by the regulatory authority. A permit may not be transferred from one person to another or from one type of operation to another. Such application shall include, but not limited to, the name and address of each applicant, the location and type of the proposed food service establishment, the signature of each applicant, and payment of a renewable annual fee. The permits are valid from January 1<sup>st</sup> through December 31<sup>st</sup> and must be renewed each year.
- 4.03 Prior to approval of an application for a permit, the EPHS shall inspect the proposed food service establishment to determine compliance with the requirements of this ordinance.
- 4.04 The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this ordinance. The food service establishment shall receive a priority rating of high, medium or low according to the Food Establishment Public Health Priority Assessment guidelines as stated by the Missouri Department of Health and Senior Services in the Environmental Health Operational Guidelines.
- 4.05 Food Establishments, with the exception of Temporary Food Establishments, with a priority rating of high or medium shall have at least one employee on duty during all hours of operation that has successfully completed an approved food safety training course and/or demonstrates full knowledge of the Code. Failure to comply with this Section (4.05) shall constitute a critical violation.

Continuous critical or non critical violation(s) will constitute that at least one employee on duty will have to attend and successfully complete an approved food safety training course.

4.06 An inspection of a food service establishment shall be performed based on the priority status of the establishment (refer to attachment A). The priority schedule is as follows:

Medium to High Priority..... Inspection every twelve (12) months  
Low Priority ..... Inspection every twenty-four (24) months

Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this ordinance. Seasonal establishments that operate nine (9) months or less each year shall be inspected once per season of operation.

4.07 The EPHS after proper identification shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this ordinance. The EPHS shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.

4.08 Whenever an inspection of a food service establishment is made, the findings shall be recorded on the inspection report. The inspection report form shall summarize the requirements of this ordinance. At the conclusion of the inspection, a copy of the completed inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available as a public document according to the Missouri Sunshine Law.

4.09 Food from food service establishments outside the jurisdiction of the Pulaski County health authority may be sold within the County of Pulaski if such food service establishment conforms to the provisions of this ordinance or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the EPHS may accept a report from fellow EPHS in other jurisdictions where such food service establishments are located.

**SECTION 5: FEES**

5.01 The Pulaski County Health Department Board of Trustees will establish reasonable fees to pay for any costs incurred in the performance of the duties described in these regulations. All money generated from the permitting, re-inspection, training and/or enforcement action shall be deposited into a Pulaski County Health Department fund to be used for implementing the above standards.

- 5.02 Non-for-profit organizations that fall under the Internal Revenue Code Section 501c, city/county municipalities and faith based organizations are exempt from the fee schedule, however are required to comply with the rules and regulations of this ordinance.

## SECTION 6: SUSPENSION/ REVOCATION

- 6.01 The regulatory authority without warning, notice, or hearing may suspend any permit to operate a food service establishment if the holder of the permit does not comply with the requirements of this ordinance, and if the operation of the food service establishment constitutes an imminent and substantial hazard to public health. Suspension is effective upon service of the notice required by section 6.04 of this ordinance and food service operations shall immediately cease. Any person, firm, corporation, or association which violates the orders of this ordinance by continuing to operate a food service establishment after suspension of such permit is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law.
- 6.02 Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the regulatory authority by the holder of the permit within ten (10) days of receiving the suspension notice. The regulatory authority may end the suspension at any time the reasons for suspension no longer exist.
- 6.03 The board may, after providing opportunity for hearing, suspend or revoke a permit for serious or repeated violations of any of the requirements of this ordinance or for interference with the EPHS in the performance of duty.

Examples of violations of this ordinance that shall result in suspension or revocation of a permit:

- 6.03.1 An imminent health hazard.
- 6.03.2 One (1) or more identical repeat critical violations on two (2) consecutive inspections;
- 6.03.3 Two (2) or more critical violations on two (2) consecutive inspections; or
- 6.03.4 Ten (10) or more non-critical violations on two (2) consecutive inspections.
- 6.04 A notice provided for in this ordinance is properly served when it is delivered to the holder of the permit, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be placed in the facilities file.

- 6.05 The hearing provided for in this ordinance shall be conducted by the Board along with a County Commissioner and a City Official of involved City at a time and place designated by it, however the hearing shall be held no later than ten (10) day from receipt of written request for hearing. The final finding will be based upon the evidence presented and complete hearing record and shall sustain, modify or rescind any notice or order considered at the hearing. A written decision shall be furnished to the holder of the permit by the regulatory authority. Hearings shall be conducted pursuant to Chapter 536, RSMo and any appeal to the courts shall be based on the record of Chapter 536 RSMo.
- 6.06 Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit upon correction of critical and/or non-critical violations.

#### SECTION 7: CORRECTION OF VIOLATIONS

- 7.01 The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the provisions of the current code.
- a) If an imminent health hazard exists, such as a complete lack of refrigeration or water and/or sewage has backed-up into the establishment, the establishment shall immediately cease food service operations. Operation shall not be resumed until correction of the violations have occurred along with written authorization by the regulatory authority.
  - b) All critical violation(s) as described in the current Missouri Department of Health & Senior Services (MoDHSS) Food Code items shall be corrected as soon as possible, but in any event, within 24 hours following the inspection. A follow-up inspection shall be conducted to confirm correction; there will be no charge for this follow-up inspection however if the establishment continues to have critical violation(s) and a second follow-up inspection is required, the establishment will be charged a non-compliance fee for each subsequent inspection.
  - c) All non-critical violation(s) as described in the current MoDHSS Food Code items shall be corrected as soon as possible, but in any event, within 30 days. A follow-up inspection may be conducted to confirm correction; there will be no charge for this follow-up inspection however if the establishment continues to have non-critical violation(s) and a second follow-up inspection is required, the establishment will be charged a non-compliance fee for each subsequent inspection.
  - d) In the case of temporary food service establishments, all violations shall be corrected immediately. If violations are not corrected

- immediately, the establishment shall cease food service operations until authorized by the regulatory authority to resume operations.
- e) The inspection report shall state that failure to comply with any time given for corrections may result in cessation of food service operations. An opportunity for hearing on the inspection findings or the time limitations or both will be provided if a written request is filed with the regulatory authority within ten (10) days following cessation of operations. If a request for hearing is received, a hearing shall be held within ten (10) days of receipt of the request.
  - f) Whenever a food service establishment is required under provision of these Rules and Regulations to cease operations, it shall not resume operations until it is shown on a re-inspection form that conditions responsible for the order to cease operations no longer exist.

## SECTION 8: PROCEDURE WHEN INFECTION IS PRESENTED

- 8.01 When the EPHS has reasonable cause to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:
- 1) The immediate exclusion of the employee from employment in food service establishments;
  - 2) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
  - 3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
  - 4) Adequate medical and laboratory examination of the employee and of other employees body discharges.
- 8.02 The regulatory authority may require vaccination of food employees for certain food borne diseases for which vaccine is available, such as Hepatitis A, if one or more of the following conditions are met:
- a) The disease is endemic in Pulaski County;
  - b) The food establishment has been implicated in an outbreak of the disease within the past twelve months or;
  - c) The food establishment has a history of nonconformance with the regulatory authority's rules and regulations regarding food handling and hygiene.
- 8.03 The Pulaski County Health Department may offer to administer the vaccine to food employees at a reduced cost.

- 8.04 A food employee may decline to be vaccinated pursuant to this section. However, if a food employee declines to be vaccinated, he/she shall be restricted from working with exposed food, clean equipment, utensils, linen, and unwrapped single-service and single-use articles.

#### SECTION 9: REVIEW OF CONSTRUCTION DESIGN

- 9.01 Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, the building requirements of the Missouri Food Code shall apply. The construction design of the food service area will be submitted to the EPHS for review and approval before construction, remodeling or conversion begins. The following items will be required: the proposed layout, arrangement, mechanical plans, and the construction materials of work areas. This provision is in addition to any County and/or City building codes.
- 9.02 The EPHS shall conduct a pre-opening inspection of the food service establishment prior to the start of operations to determine compliance with the approved food service area design and requirements of this ordinance.

#### SECTION 10: SERVERABILITY

If any article, chapter, section, clause or phrase of this regulation is, for any reason, held to be invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this regulation. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the regulatory authority.

#### SECTION 11: ENFORCEMENT INTERPREATION:

This ordinance shall be enforced by the regulatory authority in accordance with the interpretations thereof contained in the current edition of the "United States Department of Health and Human Services, Public Health Services, Food and Drug Administration Food Code as adopted by the Missouri Department of Health and Senior Services, and the Department of Health and Senior Services Environmental Health Operational Guidelines (EHOG) Manual.

In addition the provisions of this ordinance may be enforceable under section 192.300 RSMo and referred to the Prosecuting Attorney for enforcement.

## Food Service Priority Status Attachment A

Food service establishments will be evaluated using the Food Establishment Public Health Priority Assessment guidelines as stated by the Missouri Department of Health and Senior Services, which scores each food establishment based on the following items:

- Previous inspection history
- Types of foods served
- Number of steps involved in food preparation (cooking, holding, cooling, reheating)
- Foods served from a buffet
- Number of meals served per day
- Critical population served

The priority assessment form will ensure that every food service establishment is rated using the same guidelines to determine if an establishment is High, Medium or Low Priority.

### **High Priority Establishments\*:**

Food service establishments preparing potentially hazardous foods from a raw state fall into this category.

Examples include but are not limited to: raw chicken, beef, pork, seafood, sushi, barbecue, breaded meats, and refried beans.

### **Medium Priority Establishments\*:**

Food service establishments preparing commercially prepared potentially hazardous foods will fall into this category.

Examples include but are not limited to: pre-cooked pizza and deli meats.

### **Low Priority Establishments\*:**

Food service establishments serving non-potentially hazardous ready-to-eat foods fall into this category.

Examples include but are not limited to: popcorn, soda, nachos and alcoholic drinks.

### **Temporary Food Event:**

A food establishment that operates for a period of no more than fourteen (14) days in conjunction with a single event or celebration, as defined in The Code.

### **School Cafeterias:**

All food service establishments operated by the local school districts.

All School Cafeterias fall into the High Priority Establishment category however with the facilities being a non-profit organization, with some districts having several school cafeterias these facilities will fall under the School Cafeterias.

Examples include but are not limited to: Elementary, Middle and High School cafeterias.

### **Childcare Establishments:**

All Licensed Childcare establishments.

Examples include but are not limited to: Active Family Home Childcares, Licensed Centers, Group Homes and License-Exempt Facilities.

***\* Your category status could change based on your menu and methods of preparation. This will be evaluated on an annual basis.***



**Pulaski County Health Department  
Pulaski County Home Health Agency**

101 12th Street, Crocker MO 65452

Health Department 573/736-2217 WIC 573/736-2218 Fax 573/736-5370

Home Health Agency 573/736-2219 Fax 573/736-5847

[www.pulaskicountyhealth.com](http://www.pulaskicountyhealth.com)



## Consumer Food Safety Ordinance Fees:

Payable to the: Pulaski County Health Department

Annual permit\* fees for Food Service Facilities:

- High Priority Est. .... \$ 75.00
- Medium Priority Est. .... \$ 60.00
- Low Priority Est. .... \$ 50.00
- Temporary Food Event ..... \$ 10.00
- School Cafeteria ..... \$ 50.00
- Childcare Est. .... \$ 50.00

*The permits are valid from January 1<sup>st</sup> through December 31<sup>st</sup> and must be renewed each year; the permit is not transferrable from one person to another or from one type of operation to another.*

*\* Each permit includes one routine inspection and one re-inspection if needed to confirm compliance. If a second re-inspection is required a fee of \$50.00 will apply.*

*\*Late fee will be assessed at \$ 5.00 per week.*

*\*The National Environmental Health Association (NEHA) Prometric Certified Professional Food Manager Course Training will be offered at a rate of \$ 50.00 which includes the book and exam. Upon successful completion of the course the certificate is good for five years.*

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER  
Service provided on a nondiscriminatory basis

April 8, 2011

**AN ORDINANCE CREATING AND APPROVING A FOOD SAFETY  
ORDINANCE FOR PULASKI COUNTY**

Be it ordained by the Commissioners of the County of Pulaski as follows:

**SECTION 1.** That the Commissioners of the County of Pulaski have determined that there is a need to create and approve a Food Safety Ordinance pursuant to Section 192.300 RSMo.

**SECTION 2.** That the Food Safety Ordinance attached hereto as Exhibit A is incorporated herein as if fully set forth herein.

**SECTION 3.** That the County Clerk is hereby directed to send copies of said ordinance to the Pulaski County Health Department Board of Trustees and any other interested party and make available copies in his office.

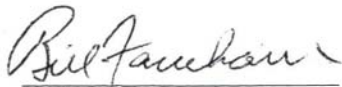
\* **SECTION 4.** The County Clerk is directed to have published the Food Safety Ordinance published in some newspaper in the county for three successive weeks not later than 30 days after the passage of this ordinance.  
*Health dept will cover cost of newspaper.*

**SECTION 5.** Any violation of this ordinance shall be referred to the Prosecuting Attorney by the county Commission or the County Health Department Board of Trustees for prosecution as stated in Section 192.300 RSMo.

**SECTION 6.** That this ordinance shall be in full force and effect from the date of its passage.

So moved and seconded, and passed with the unanimous consent of the Pulaski County Commission.

IT IS SO ORDERED:



Bill Farnham  
Eastern Dist. Commissioner



Gene Newkirk  
Presiding Commissioner



Ricky Zwernick  
Western Dist. Commissioner

Date: 8-8-11

