

PULASKI COUNTY HEALTH CENTER
Consumer Food Safety Regulation
Regulation No. 13-05

PURPOSE:

To establish permit compliance procedures for food establishments in Pulaski County including fees for cost incurred in the performance of the duties described in these regulations. These duties include, but are not limited to, education, inspection, permit processing, review of plans, emergency response incidents and violation enforcement.

Section 1. REGULATIONS NOT TO SUPERCEDE DEPARTMENT OF HEALTH REGULATION AND RULES

The Pulaski County Health Center is mandated by Sections 192.280 and 192.290 of the Revised Statutes of Missouri to enforce rules and regulations of the Missouri Department of Health promulgated in furtherance of Chapter 192. The Missouri Department of Health has adopted by reference thereto, the 2013 Food Code of the Federal Drug Administration as 19 CSR 20-1.026 subject to stated deletions and exceptions. That is the present food code that is mandated to be enforced by state.

The Pulaski County Health Center will enforce any code adopted by the Missouri Department of Health and legally in affect as State Regulation. This enforcement of whatever regulation that is legally in force is statutorily mandated in section 192.280 and 192.290 of the Revised Statues of Missouri.

These regulations are not intended to supercede statutes or regulations but to establish Pulaski County regulations for the establishment of fees, inspection, permit processing, review of plans, emergency response incidents, violation enforcement and related activities for food establishments. The limiting of these regulations to food establishments does not establish any intent to not enforce the Missouri Food Code by the Pulaski County Health Center.

Section 2. INCORPORATION BY REFERENCE OF MISSOURI FOOD CODE AND STATEMENT OF AUTHORITY TO ADOPT REGULATION

The Pulaski County Health Center incorporates by specific reference thereto the Missouri Health Code, 19CSR 20-1.025; which is set forth unto these regulations. This regulation is enacted pursuant to Section 192.300 of the Revised Statutes of Missouri. The incorporation of the Missouri Health code into these regulations includes all deletions, exceptions, and if adopted, local option regulations set forth in 19 CSR 20-1.025 and additions not in conflict with Department of Health Regulations and Rules.

Section 3. APPLICABILITY

These regulations apply to all food service providers in Pulaski County meeting the "Food Establishment" definition.

Section 4: DEFINITIONS

The following words and phrases shall have the following meanings:

- 4.1 **Board:** The Pulaski County Health Center Board of Trustees.
- 4.2 **Code:** The current "Missouri Food Code" adopted and used by the Missouri Department of Health and Senior Services.
- 4.3 **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.
- 4.4 **Food establishment:** An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption, and more particularly as the term "food establishment" is defined in Section 1.201.10(B) (31) of the Code.
- 4.5 **Mobile Food Unit:** Vehicle mounted food service establishment designed to be readily movable and which may operate from a commissary and/or a designated service area. Mobile Food Units are not restricted to operate exclusively in conjunction with events or celebrations.
- 4.6 **PCHC:** Pulaski County Health Center
- 4.7 **Permit:** A written authorization issued by the PCHC which authorizes a person to operate a food establishment or food vendor.
- 4.8 **Regulatory authority:** The Health Director of the Pulaski County Health Center or an authorized representative.
- 4.9 **Temporary Food Event:** A temporary setup in which food is prepared for a particular event that is open to the public such as a booth selling meals at a fair/festival (lasting less than 14 days).

Section 5: PERMIT COMPLIANCE PROCEDURES

- 5.1 Each food establishment within Pulaski County Health Center'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 before January 1st of each year and annually thereafter. No person shall operate a food establishment that does not have a valid permit issued to him or her by the regulator authority.
- 5.2 Any person desiring to operate a food establishment 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 the name and address of each applicant, the location and type of the

proposed food establishment, the signature of each applicant, and payment of a renewable annual fee. The permits are valid from January 1st through December 31st and must be renewed each year.

5.3 Prior to approval of an application for a permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with the requirements of this regulation.

5.4 The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed food establishment complies with the requirements of this Regulation. The food 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.

5.5 Food Establishments with a priority rating of high or medium shall have at least one manager and/or person in charge on duty during all hours of operation that has an approved food manager's certification. The certification must be obtained by the individual no later than sixty (60) days from the start of employment as a manager or person in charge. A food manager's certification shall be awarded to an individual only after successful completion of an accredited program. The food manager's certification shall be valid for five (5) years from the date of issuance and renewed upon expiring. A food establishment with a priority rating of low shall have at least one person on duty during all hours of operation that has an approved food handler's certificate. A food handler's certificate is valid for two (2) years and renewed upon expiring. Failure to comply with this section (5.5) shall constitute a violation.

5.6 An inspection of a food establishment shall be performed based on the priority status of the establishment. The priority schedule is as follows:

- High Priority.....Inspection every six (6) months
- Medium Priority.....Inspection every twelve (12) months
- Low Priority.....Inspection every eighteen (18) months

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

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

5.8 Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report. 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.

- 5.9 Food from food establishments outside the jurisdiction of the PCHC authority may be sold within the County of Pulaski if such food service establishment conforms to the provisions of this regulation or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the regulatory authority may accept a report from responsible authorities in other jurisdictions where such food service establishments are located.

Section 6. FEES

- 6.1 The Pulaski County Health Center 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, plan review, training and/or enforcement action shall be deposited into the Pulaski County Health Center's general fund to be used for supporting the activities described in these regulations for which those fees were generated as set forth in Section 192.300 Revised Statutes of Missouri.
- 6.2 Not-for-profit organizations that fall under the Internal Revenue Code Section 501c, corporations; city and/or county municipalities and faith-based organizations are exempt from the fee schedule, however are required to comply with the rules and regulations of this regulation.

Section 7: SUSPENSION/REVOCAION

- 7.1 The regulatory authority without warning, notice, or hearing may suspend any permit to operate a food establishment if the holder of the permit does not comply with the requirements of this regulation, and if the operation of the food establishment constitutes an imminent and substantial hazard to public health. Suspension is effective upon service of the notice required by section (7.2) of this regulation and food service operations shall immediately cease.
- 7.2 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.
- 7.3 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 regulation or for interference with the EPHS in the performance of duty.

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

- 7.3.1 Conditions considered to be an imminent health hazard exist and the operator has not voluntarily discontinued operations.
- 7.3.2 Priority violations on two (2) follow-up inspections.

- 7.4 A notice provided for in this regulation 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.
- 7.5 The hearing provided for in this regulation shall be conducted by the Board at a time and place designated by it. The Board shall make a final finding 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.
- 7.6 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 priority and/or core violations.

Section 8: CORRECTION OF VIOLATIONS

- 8.1 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 lack of refrigeration, water, hot water or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operation shall not be resumed until authorized by the regulatory authority.
 - b) All priority 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 seventy-two (72) hours following the inspection or next business day if it occurs on weekend or holiday. 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 priority violation(s) and a second follow-up inspection is required, the establishment will be charged an additional inspection fee for each subsequent inspection. The priority violation(s) shall be corrected in the time frame given by the regulator authority prior to their arrival.
 - c) All core 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 following the inspection. A follow-up inspection may be conducted to confirm correction within thirty (30) days, but in any event, by the next routine inspection; there will be no charge for this follow-up inspection however if the establishment continues to have core violation(s) and a second follow-up inspection is required, the establishment will be charged an additional inspection fee for each subsequent inspection.
 - d) The inspection report shall state that failure to comply with 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.

- e) Whenever a food establishment is required under provision of these Rules and Regulations to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist.
- f) Violations in temporary food establishments shall be corrected within a specified period of time not to exceed twenty-four hours. Failure to comply with the notice of violations shall result in the immediate suspension of the permit, or if at a non-permitted function immediate closure.

8.2 The regulatory authority shall adopt policies and create operational procedures, operational standards and marking guides for the placard program. Food establishments eligible for the placard program shall be determined by the regulatory authority. Upon completion of a routine inspection or re-inspection, the regulatory authority shall determine the appropriate placard to post at the food establishment, shall notify the operator of the facility of the intended posting of the placard, and shall provide the operator an opportunity to respond at that point. After the opportunity to respond, the regulatory authority shall post the appropriate placard at every food establishment within the placarding program. The placard shall be posted so as to be clearly visible to the general public and to patrons entering the food establishment. "Clearly visible to the general public and to patrons" shall mean:

- (a) Posted in the front window of the food establishment; or
- (b) Posted in a location approved by the regulatory authority to ensure proper notice to the general public and to patrons.

The regulatory authority shall reinspect all food establishment at which a Good or Okay placard is posted within seventy-two (72) hours of the posting of the placard. Upon reinspection, the appropriate placard shall be posted.

- 1) The placard shall not be altered, defaced, marred, camouflaged, hidden, or removed. It shall be unlawful to operate a food establishment unless the placard is posted in accordance with this regulation. Failure to comply with this section may result in the suspension or revocation of the food establishment permit.
- 2) In addition to the placard, the inspection report shall be maintained at the food establishment and shall be available to the general public and to patrons for review upon request. The food establishment shall keep the inspection report until such time as the regulatory authority completes the next routine inspection or reinspection and issues a new inspection report.
- 3) A food establishment operator or owner may challenge the posting of a placard by filing a written notice to request a hearing before the board. An opportunity for hearing on the posting of a placard or inspection findings will be provided if a written request is filed with the regulatory authority within ten (10) days following the inspection. If a request for hearing is received, a hearing shall be held within ten (10) days of receipt of the request.
- 4) A placard shall remain valid from the time of issuance until a new placard is issued at time of routine inspection, reinspection or change of ownership.

5) Failure to comply with any subsection of the regulation may result in the suspension or revocation of the food permit.

Section 9: PROCEDURE WHEN INFECTION IS PRESENTED

9.1 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 any food service establishments as defined by the Missouri Food Code;
- 2) The immediate closing of the food 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 employee's body discharges.

9.2 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.

9.3 The Pulaski County Health Center may offer to administer the vaccine to food employees at a reduced cost.

9.4 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 10: ADOPTION OF LOCAL EXCEPTION TO THE MISSOURI FOOD CODE

The Pulaski County Health Center Board of Trustees specifically adopts the local exception to the Missouri Food Code as set forth in 19 CSR 20-1.025.5 and that provision is incorporated into these regulations by specific reference thereto.

Section 11: REVIEW OF CONSTRUCTION DESIGN

11.1 Whenever a food establishment is constructed, converted or exclusively remodeled and

whenever an existing structure is converted to use as a food 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/plumbing plans and the construction materials of work area. This provision is in addition to any County and/or City building codes.

11.2 The EPHS shall conduct a pre-opening inspection of the establishment prior to the start of operations to determine compliance with the approved plans and requirements of this regulation.

Section 12: SEVERABILITY

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 13: ENFORCEMENT INTERPRETATION:

This regulation 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.

All provisions of this regulation regulating food service and retail food establishments; Regulation No 13-5; and any Rules and Regulations connected therewith, be printed and available for distribution to the public in the office of the County Clerk, and this regulation shall be published in the newspaper for three consecutive weeks, not later than thirty (30) days after date of said Regulation.

Adopted on _____ by: The Pulaski County Board of Trustees

Chair

Vice-Chair

Member

Member

Attest: _____
Secretary/Treasurer

Consumer Food Safety Regulation Fees:

Payable to the Pulaski County Health Center

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| High Priority Est..... | \$150.00 |
| Medium Priority Est..... | \$100.00 |
| Low Priority Est..... | \$ 75.00 |
| School Cafeteria..... | \$ 65.00 |
| Temporary Food Events..... (Events with five or more vendors) | \$ 10.00 |
| Plan Review..... | \$150.00 |
| Complaint inspections-Justified | \$100.00 |
| 2 nd Re-inspections..... | \$150.00 |
| Emergency Response Incidents..... | \$ 50.00/hr. |
| Removal of Placard..... | \$100.00 |
| Replacement Placard..... | \$ 25.00 |

Permits are valid from January 1st through December 31st and must be renewed each year. The permit is not transferrable from one person or another or from one type of operation to another. If permits are not renewed by December 31st, a late fee of \$5.00 per day will be applied to the permit fee up to the end of January after which the establishment will be issued a close order on February 1st.

Each permit includes one routine inspection, one priority re-inspection and one core re-inspection. If a second priority/core re-inspection is required a fee of \$150.00 will apply for each subsequent re-inspection.

On-line Food Handler Training and Manager's Training and Certification for Pulaski County Health Center is available via the website www.StateFoodSafety.com. Training includes a printable food certificate and card.

Public Health: Better Health. Better Missouri.

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