

NEWTON COUNTY HEALTH DEPARTMENT FOOD SERVICE SANITATION ORDINANCE

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

SECTION 1. AUTHORITY. This ordinance is enacted pursuant to Section 192.300, RSMo 1986, which provides, in part as follows: The county commissions and the county health board 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, communicable or dangerous diseases into such county, but orders or ordinances and rules and regulations shall not be in conflict with any rules or regulations authorized and made by the Missouri Department of Health and Senior Services in accordance with this chapter.

SECTION 2. APPLICABILITY. These regulations apply to all food service establishments in Newton County, that operate in cooperation with the Missouri Department of Health and Senior Services.

SECTION 3. DEFINITIONS. The following words and phrases shall have the following meanings:

- 3.01 The Code: The FDA Food Code that is currently adopted by the State of Missouri and becomes titled Missouri Food Code or the interpretation of that code and the recommendations of the Missouri Department of Health and Senior Services.
- 3.02 Core Item: a provision in the FDA food code that is not designated as a priority item or a priority foundation item. Includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.
- 3.03 Department: The Newton County Health Department.
- 3.04 Food service establishment: The definition from the most current adopted version of the FDA FOOD CODE will take precedence. The current FDA FOOD CODE (2017) definition states: an operation that: (a) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides FOOD for human consumption such as a

restaurant; satellite or 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; conveyance used to transport people; institution; or FOOD bank; and (b) 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. (2) "Food establishment" includes: (a) 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; and (b) 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.

- 3.05 Food service Priority and Risk Assessment: The Newton County Health Department shall establish and review each Food service establishment Priority or food handling Risk level with an assessment procedure form. Priority level shall be established as LOW, MEDIUM, OR HIGH depending on inspection history, potentially hazardous foods served, number of meals per time period served, and population served as indicated on the FOODSERVICE PRIORITY AND RISK ASSESSMENT form.
- 3.06 Imminent health hazard: means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (1) The number of potential injuries, and (2) The nature, severity, and duration of the anticipated injury.
- 3.07 Priority item: means a provision in the FDA Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. Includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing.
- 3.08 Regulatory authority: The Administrator of the Newton County Health Department or an authorized representative.

SECTION 4. PERMIT COMPLIANCE PROCEDURES.

- 4.01 No person shall operate a food service establishment who does not have a valid permit issued by the Department. Only a person who complies with the requirements of this ordinance and the code shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be clearly posted in every food service establishment.
- 4.02 **FEES:** Any new food service establishment and/or person desiring to operate a food service establishment shall contact the Department requesting a pre-opening inspection. Upon approval they must then pay an annual fee in order to receive a permit. **See attachment A.** All fees may be waived for Non-profit institutions and/or Government institutions as determined by the Department. For permit fees determined to be delinquent and/or late in payment beyond 30 days, a late fee of \$40 will be added to the cost of the annual permit fee. Any permits not paid within 90 days of delinquency will result in enforcement action.
- 4.03 The Department shall issue a permit to the applicant and/or existing establishment if its inspection reveals that the proposed food service establishment and the staff education comply with the requirements of this ordinance. Permits will be mailed to the establishment's most recent mailing address obtained from the application and/or inspection.
- 4.04 The Department 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, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by section 4.05 of this ordinance. When a permit is suspended, the holder has 10 days to submit a written request for a hearing.
- 4.05 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

Department within 10 business days. If no request is filed, suspension is sustained. The Department may end the suspension at any time if reasons for suspension no longer exist.

- 4.06 The Department may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of this ordinance or for interference with the Department in the performance of duty.
- 4.07 Prior to revocation, the Department shall notify, in writing, the holder of the permit, or the person in charge, of the specific reason(s) for which the permit is to be revoked at the end of the 10 days following service of such notice unless a written request for hearing is filed with the Department by the holder of the permit within such 10-day period. If no request for hearing is filed within the 10-day period, the revocation of the permit becomes final.
- 4.08 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 certified mail to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Department.
- 4.09 The hearings provided for in this ordinance shall be conducted by the Department at the time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The Department shall make a final finding based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. The Department shall furnish a written report of the hearing decision to the holder of the permit. Any and all costs will be paid by the holder of the permit unless rescinded by the Department.
- 4.10 Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.
- 4.11 An inspection of a food service establishment shall be performed at least once every 12 months or as called for by Risk or Priority Assessment. Low Priority establishments once every 12 months. Medium Priority twice every 12 months. High Priority four times every 12 months. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this ordinance and/or the investigation of food-related complaints.

- 4.12 Representatives of the Department, 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 representatives shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used. The manager of the facility shall have available records of all staff food service training at all times.
- 4.13 Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on the inspection report. Inspection remarks shall be written to reference the type of violation and shall state the correction to be made. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available as a public document according to law.
- 4.14 The completed inspection report 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 following provisions:
- A. If an imminent health hazard exists as stated in the current Missouri Food Code, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the department.
 - B. All violations of a priority nature shall be corrected as soon as possible, but no later than 72 hours following inspection. A follow-up inspection shall be conducted to confirm correction.
 - C. All core violations shall be corrected as soon as possible, no later than the time of the next routine inspection. If the core violations are found on three (3) consecutive inspections, it becomes a priority violation.
 - D. Any food establishment that has at least six (6) priority violations marked on the inspection, if not corrected during the inspection may be subject to immediately cease operations until such time as the priority violations are determined to be corrected. Re-inspections will be done within twenty-four (24) hours of notification and during the normal business hours of the Department to ensure all priority violations are corrected.

- E. In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the Department.
 - F. 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 finding or the time limitations or both will be provided if a written request is filed with The Department within 10 days following cessation of operations. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.
 - G. Whenever a food service establishment is required under the provisions of section 4.14 to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.
- 4.15 When a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Department for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. When designed and available, blueprint plans shall be submitted to the Department. The Department shall approve the plans and specifications if they meet the requirements of this ordinance. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Department.
- 4.16 Whenever plans and specifications are required by section 4.15 of this ordinance to be submitted to the Department, the Department shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this ordinance.
- 4.17 When the Department 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 Department may require any or all of the following measures:

- A. The immediate exclusion of the employee from employment in food service establishments.
- B. The immediate closing of the food service establishment of concern until, in the opinion of the Department, no further danger of a disease outbreak exists.
- C. Restriction of the employee's service to some areas of the establishment where there would be no danger of transmitting disease.
- D. Clearance from a doctor.

4.18 Food from food service establishments outside the jurisdiction of the Department may be sold within the county if such food service establishments conform to the provisions of this ordinance and can demonstrate that they are in compliance with other Health Authorities having jurisdiction in their respective county of operation.

4.19 All high, medium, and low priority rated food establishments shall have on staff a minimum of one person who has attended and accredited with a food service course approved by the Department at all times of operation. The Manager and/or owner shall also have attended and be accredited with a food service course approved by the Department.

SECTION 5. PENALTIES.

5.01 Any person and/or representative who violates a provision of this ordinance and any person and/or representative who is the holder of a permit, or who otherwise operates a food service establishment that does not comply with the requirements of this ordinance, shall be guilty of a misdemeanor and a conviction thereof at time of hearing shall be fined not more than \$1,000 for each violation. Each day in which any such violation continues shall be deemed a separate offense. The Department may seek to enjoin violations of this ordinance.

SECTION 6. SEVERABILITY.

6.01 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 Department.

FOOD ESTABLISHMENT FEE SCHEDULE- July1-June30

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| High Priority Food Establishment (Annual Fee) | \$250.00 |
| Medium Priority Food Establishment (Annual Fee) | \$175.00 |
| Low Priority Food Establishment (Annual Fee) | \$100.00 |
| Mobile Food Unit | \$100.00 |
| Temporary Event Food Stand (Fee per Event) | \$20.00/event |