

## CHAPTER 40

### SANITATION OF FOOD ESTABLISHMENTS

#### SCOPE

##### 4000. Food Service Code Adopted.

The current edition, as amended, of the Missouri Department of Health's rules governing sanitation of food establishments, 19 CSR 20-1.025, and rules governing the sanitation of frozen desserts, 19 CSR 20-1.030, and Section 3.0 of the Department of Health's guidelines, entitled "Food Protection," which together constitute the 1999 Missouri Food Code, are hereby adopted by reference and incorporated into this chapter as if fully set forth herein and shall be in full force and effect as the Food Service Sanitation Code of Jackson County, and may be cited as such. Copies of these rules and guidelines shall be filed with the office of the clerk of the county legislature and director of public works. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

##### 4001. Application.

This chapter shall apply to all Food Establishments and Temporary Food Establishments in the unincorporated area of the county. Incorporated cities, towns, and villages of less than 75,000 inhabitants may, by agreement, contract with the county to apply and enforce this chapter. The provisions of this chapter shall govern in the unincorporated county and its cities, towns, and villages under contract to the county. (Ord. 3168, Eff. 08/31/01)

#### DEFINITIONS

##### 4010. Definitions.

As used in this chapter and in the Missouri Department of Health rules governing sanitation of food establishments, the following words and phrases shall have indicated meanings, unless the context clearly indicates otherwise. In the event of a discrepancy between a definition contained in the Missouri Department of Health rules and a definition contained in this section, the definition contained in this section shall prevail. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

##### Department.

The Jackson County Department of Public Works, Environmental Services Division.

##### Director.

The Director of the Jackson County Department of Public Works or designated representative.

Food Establishment.

a. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption 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 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 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 Health Officer, satellite catered feeding location, a vending location or satellite feeding location unless the vending or feeding location is permitted by the Health Officer, and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises.

c. "Food Establishment" does not include an establishment that offers only prepackaged foods that are not potentially hazardous, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, 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 Health Officer, an area where food that is prepared as specified in subparagraph (c) (iv) of this definition is sold or offered for human consumption, a kitchen in a private home, such as a small family daycare 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 Health Authority, or a private home that receives catered or home-delivered food.

Health Officer.

The Director of Jackson County Department of Public Works or designated representative.

Seasonal Food Establishment.

Any Food Establishment which operates for a period in excess of fourteen (14) days but not longer than six (6) months.

Soft Serve Frozen Dessert Machine.

Any machine that dispenses any type of mix or ice cream mix, whipped cream mix, ice cream, milk sherbert, ice milk, fruit ice, or ice sherbet, frozen custard, frozen dietary food, diabetic or dietetic ice cream, diabetic or dietetic ice milk, ice milk mix, frozen malted milk, novelty, or other similar product designated as a frozen dessert by the Health Officer, but only if operated in connection with a Food Establishment, Temporary Food Establishment, or Seasonal Food Establishment.

Temporary Food Establishment.

Any Food Establishment which operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration. Temporary food service may be in conjunction with a fair, carnival, circus, public exhibition, or similar gathering. (Ord. 3168, Eff. 08/31/01; RD. 3889, Eff. 04/24/07)

PERMITS

4028. Food Handler, Permit Required.

No person shall prepare, handle, or dispense food for human consumption, or come into contact with food or food preparation utensils, at any Food Establishment, unless that person has applied for and obtained a food handler permit, with fifteen days of commencement of employment or operation of an establishment, from the City of Independence, Missouri, Health Department.

4028.1 Permit, Standards.

The issuance of food handler permits shall be governed by the standards imposed by the City of Independence as to fee, required training, and duration, then in effect at the time of application.

4028.2 Permit, Disposition and Display.

Each holder of a permit required under this section shall keep said permit on his or her person at all times while working in a Food Establishment.

4028.3 Permit, Failure to Produce.

Failure of any person to produce a valid food handler permit upon the demand of the Health Officer shall be presumptive evidence that such person is not a permitted food handler, in violation of this section. (Ord. 3364, Eff. 05/28/03)

4029. Food Establishment Operator Not to Permit Violation.

No holder of a permit to operate a Food Establishment shall suffer or allow any person in such establishment to prepare, handle, or dispense food for human consumption, or come into contact with food or food preparation utensils, unless that person has applied for and obtained, within fifteen days of commencement of employment or operation of the establishment, a food handler permit from the City of Independence Health Department,

4029.1 Food Establishment Operator, Maintenance of Listing Required.

Each holder of a Food Establishment permit shall maintain a listing of all employees who possess food handler permits, which listing shall be updated at least once every three months. (Ord. 3364, Eff. 05/28/03)

4030. Permit Required.

No person, firm, partnership, or corporation shall operate a Food Establishment, Temporary Food Establishment, Seasonal Food Establishment, or Soft Serve Frozen Dessert Machine without a permit issued by the Health Officer. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

4031. Permit Application.

Any person, firm, partnership, or corporation desiring to operate a Food Establishment, Temporary Food Establishment, Seasonal Food Establishment, or Soft Serve Frozen Dessert Machine shall make written application for a permit.

4031.1 Forms and Fees.

All applications for permits shall be made on forms provided by the Health Officer, and shall be accompanied by the appropriate fee as set out on Schedule 1 to this chapter.

4031.2 Temporary Food Establishment.

Applications for a Temporary Food Establishment permit shall include the dates of the proposed operation. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

4031.3 Non-Profit Organizations, Temporary Events.

Applications for a non-profit organization's temporary food establishment permit shall include the dates and location of the proposed events. A non-profit organization shall submit proof of 501(c)3 exemption form or other tax-exempt letter with the application. (Ord. 4200, Eff.04/05/10)

4031.4 Authorized Events by County Employees in County Facilities.

Applications for permits for fundraising events by County or Circuit Court employees within County facilities that are open to the public and that have been authorized by the County shall include the dates and locations of the authorized events. (Ord. 4200, Eff. 04/05/10)

4032. Inspection Prior to Issuance.

On receipt of the application and payment of the appropriate fee, the Health Officer shall

inspect the establishment to determine its priority assessment. (Ord. 3168, Eff. 08/31/01)

4033. Permit Issuance.

If the Health Officer determines that the establishment complies with the provisions of this chapter, the permit shall be issued. (Ord. 3168, Eff. 08/31/01)

4034. Nontransferable.

A permit issued under this chapter is not transferable. (Ord. 3168, Eff. 08/31/01)

4035. Posting of Permit.

Each permit issued under this chapter shall be posted in a conspicuous place in the permitted establishment. (Ord. 3168, Eff. 08/31/01)

4036. Time Permit Valid.

Each permit issued under this chapter is valid for one (1) year from the date of issuance. (Ord. 3168, Eff. 08/31/01)

4037. Replacement Permit.

If a permit is lost or destroyed, a replacement permit will be issued upon receipt of a written application and the appropriate fee. (Ord. 3168, Eff. 08/31/01)

AUTHORITY OF HEALTH OFFICER

4038. Enforcement.

The Health Officer shall enforce this chapter. (Ord. 3168, Eff. 08/31/01)

4039. Suspend or Revoke Permits.

The Health Officer may suspend or revoke permits of establishments which fail to comply with this chapter. (Ord. 3168, Eff. 08/31/01)

4040. Inspection and Form.

The frequency of inspection is to be determined by the Health Officer based on a Food Establishment public health priority assessment worksheet. The Health Officer shall determine if a Food Establishment is a high, medium, or low priority. A high priority establishment shall be inspected 3 to 4 times per year; a medium priority establishment shall be inspected 2 to 3 times per year; and a low priority establishment shall be inspected 2 times per year. The Health Officer shall utilize a Food Establishment inspection report similar to that of the Missouri Division of Health Food Establishment Inspection Report E6.37 during the inspection. (Ord. 3168, Eff. 08/31/01)

4040.1 Posting of Inspection.

Each inspection report issued under this chapter shall be posted with the permit in a conspicuous place in the permitted establishment. (Ord. 3168, Eff. 08/31/01)

4040.2 Additional Inspections.

The Health Officer may also make such additional inspections and re-inspections as are reasonably necessary for the enforcement of this chapter. (Ord. 3168, Eff. 08/31/01)

4041. Access to Health Officer.

Any person, firm, partnership, or corporation operating any establishment regulated by this chapter shall grant the Health Officer, upon request, access to all parts of the establishment and shall permit an examination of all records of food and supplies purchased, received, or used, and employees. (Ord. 3168, Eff. 08/31/01)

4042. Examination of Food.

The Health Officer may examine or take samples of food as necessary to detect adulterated or misbranded food. (Ord. 3168, Eff. 08/31/01)

4043. Condemnation of Food.

The Health Officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food which is adulterated or misbranded. (Ord. 3168, Eff. 08/31/01)

4044. Review Future Construction.

Each person, firm, partnership, or corporation seeking to construct, remodel, or alter a Food Establishment subject to regulation under this chapter shall submit properly prepared plans and specifications for such construction, remodeling, or alteration to the Health Officer for review and approval prior to the commencement of work. (Ord. 3168, Eff. 08/31/01)

4044.1 Plans Required.

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. All equipment and utensils must meet the standards set forth in Department of Health rule governing sanitation of food establishments. The Health Officer shall approve the plans and specifications if they meet the requirements of this chapter. (Ord. 3168, Eff. 08/31/01)

4044.2 Building Permits.

The director of public works shall not issue a building permit for a Food Establishment under chapter 54 of this code unless the plans have been approved by the Health Officer. (Ord. 3168, Eff. 08/31/01)

4045. Temporary Food Establishment.

The following apply to Temporary Food Establishments. (Ord. 3168, Eff. 08/31/01)

4045.1 Modification of Physical Facility Requirements.

The Health Officer may modify specific requirements of physical facilities when, in his judgment, no imminent health hazard will result. (Ord. 3168, Eff. 08/31/01)

4045.2 Prohibit Sale of Hazardous Food.

The Health Officer may prohibit sale of potentially hazardous food. (Ord. 3168, Eff. 08/31/01)

PROCEDURE

4046. Notice.

When the Health Officer discovers a violation of this chapter, the Health Officer shall notify the permit holder or the operator of the establishment of the violation by means of an inspection report form or other written notice.

4046.1 Inspection/Enforcement Procedures.

Inspection and enforcement activities shall be conducted in accordance with the current edition of Section 3.0 of Missouri Department of Health operational guidelines, as modified by this section.

4046.2 Temporary Food Establishment Inspection Violations.

In the case of a Temporary Food Establishment, all critical violations shall be corrected immediately and all other violations shall be corrected within twenty-four (24) hours. If violations are not corrected within the time period set out in this subsection, the establishment shall immediately cease food service operations until authorized to resume by the Health Officer.

4046.3 Imminent Health Hazard.

If an imminent health hazard exists, such as complete lack of refrigeration, sewage backup into the establishment, fire, misuse of poisonous or toxic materials, gross unsanitary occurrence or conditions, or other circumstances that may endanger public health, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Health Officer. (Ord. 3168, Eff. 08/31/01; Ord. 3889, Eff. 04/24/07)

4047. Content of Violation Notification.

The notice of violation shall include the following. (Ord. 3168, Eff. 08/31/01)

4047.1 Violation.

The notice shall include the specific violation(s) found. (Ord. 3168, Eff. 08/31/01)

4047.2 Time to Correct.

The notice shall include a specific and reasonable period of time for the correction of the violations. (Ord. 3168, Eff. 08/31/01)

4047.3 Effect of Noncompliance.

The notice shall include a statement that failure to comply with the notice within the time period specified may result in the immediate closure of the Food Establishment

and suspension of the permit. (Ord. 3168, Eff. 08/31/01)

4047.4 Appeal.

The notice of violation shall include a statement that an opportunity for an appeal from the order/notice or inspection findings will be provided on written request to the Director within the period of time established in the notice for correction. (Ord. 3168, Eff. 08/31/01)

4048. Service of Notice.

Proper service of a notice of violation shall be by personal delivery to the permit holder or to the person in charge of the establishment, or by certified mail, return receipt requested, to the last known address of the permit holder. (Ord. 3168, Eff. 08/31/01)

4049. Failure to Comply.

When a permit holder fails to comply with a notice of violation issued by the Health Officer, the permit holder shall be notified of the following:

4049.1 Immediate Suspension and Closure of the Food Establishment.

The current permit is immediately suspended and the food establishment is closed effective on service of notice. (Ord. 3168, Eff. 08/31/01)

4049.2 Hearing.

On written request to the Director, a hearing shall be afforded as soon as possible. (Ord. 3168, Eff. 08/31/01)

4050. Disease Control.

No person who is infected with any disease in a communicable form, or who is a carrier of such disease, or who is afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a Food Establishment or Temporary Food Establishment in any capacity where there is a likelihood that the person may contaminate food or food-contact surfaces or transmit disease to other individuals. (Ord. 3168, Eff. 08/31/01)

4050.1 Communicable Disease Suspected by Food Service Operator.

If the operator of an establishment suspects that any employee has contracted a communicable disease or has become a carrier of such a disease, he shall immediately notify the Health Officer. (Ord. 3168, Eff. 08/31/01)

4051. Penalty Provision.

Any person, firm, partnership, or corporation who violates any provision of this chapter shall, on conviction, be fined not more than one thousand dollars (\$1,000.00) or sentenced to not more than one (1) year in the county jail, or both. (Ord. 3168, Eff. 08/31/01)

4051.1 Separate Offense.

Each day that a violation of this chapter exists shall constitute a separate offense. (Ord. 3168, Eff. 08/31/01)

4052. Payment of Property Taxes.

Notwithstanding anything contained in this chapter to the contrary, the issuance of a permit under this chapter to any applicant may be withheld and any permit previously issued under this chapter to any applicant may be suspended or revoked, if property tax due to the county on any Applicant Property (defined below) is or becomes delinquent. As used herein, the term "Applicant Property" shall mean any personal property that is owned by such applicant or that is used in the activity for which the permit is required and owned by any party related to such applicant or owned by any entity owned or controlled by or under common ownership or control with such applicant. (Ord. 4327, Eff. 08/09/11)

## CHAPTER 40

### SCHEDULE I

#### FOOD SERVICE ESTABLISHMENTS

##### Permit Fees.

The following annual permit fees shall be charged.

##### Fees, Food Establishment Permits.

The following annual fees apply to Food Establishments. Note that Food Establishments that engage in both food service and retail business in the same location are subject to fees based on low, medium, or high priority classification, as defined in the Missouri Department of Health Rules.

##### Low Priority Establishment.

An annual fee of one hundred dollars (\$100) shall be charged of each Low Priority Food Establishment.

##### Medium Priority Establishment.

An annual fee of two hundred fifty dollars (\$250) shall be charged of each Medium Priority Food Establishment.

##### High Priority Establishment.

An annual fee of seven hundred sixty dollars (\$760) shall be charged of each High Priority Food Establishment.

##### Fee, Temporary Food Establishment Permit.

A fee of fifty dollars (\$50) shall be charged of each Temporary Food Establishment for a permit not to exceed fourteen (14) days. A separate permit is required for each event in which a Temporary Food Establishment participates.

##### Fee, Seasonal Food Establishment Permit.

A fee of one hundred dollars (\$100) shall be charged of each Seasonal Food Establishment.

##### Fee, Non-Profit Organization.

A flat fee of two hundred dollars (\$200) shall be charged for any one-day fundraising event sponsored by a non profit organization(s) that has more than four (4) vendors or food providers participating so long as all profits from the proceeds of the event must benefit a non-profit organization. (Ord. 4200, Eff. 04/05/10)

Fee, Authorized Events by County Employees in County Facilities.

The fee shall be waived for any approved one-day fundraising event that is sponsored by the County or Circuit Court within County facilities and open to the public for a nonprofit/charitable cause. (Ord. 4200, Eff. 04/05/10)

School Cafeteria.

An annual permit of fifty dollars (\$50) shall be charged of each school cafeteria.

Late Fee.

A late fee of twenty-five dollars (\$25) will be charged for any annual Food Establishment permit issued after December 31<sup>st</sup> of any year.

Re-inspection Fee.

A re-inspection fee of fifty dollars (\$50) will be charged for a critical violation when a re-inspection is required, with the exception of school cafeterias and Temporary Food Establishments.

Soft Serve Frozen Dessert Machine Fee.

A soft serve frozen dessert machine annual permit fee of fifty dollars (\$50) shall be charged for each soft serve frozen dessert machine within a Food Establishment, Temporary Food Establishment, or Seasonal Food Establishment.

Plan Review/ Pre-Opening Inspection Fee.

A fee of one hundred fifty dollars (\$150) shall be charged for the review of plans and pre-opening inspection of Food Establishments, excluding Temporary Food Establishments.

Replacement Permits.

A replacement permit will be issued upon receipt of written application. A charge of five dollars (\$5.00) shall be made for the duplicate permit.

Public Agencies

Whenever a public agency with taxing authority is the applicant for a permit, any fee authorized by this chapter may be reduced or abated by the Health Officer for the purpose of conserving public tax resources. (Ord. 3889, Eff. 04/24/07; Ord. 4200, Eff. 04/05/10)