



Polk County Food 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 (1995), which provides in part as follows:

The county commissions and the county health boards of the several counties may make and promulgate orders and ordinances or rules and regulations, respectively, as will tend to enhance the public health and prevent the entrance of infectious, contagious, 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. All money collected under the Polk County Food Ordinance shall be deposited in the Polk County Health Center account to be used for environmental health services in Polk County.

SECTION 2. APPLICABILITY

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

SECTION 3. REGULATIONS

The inspection of food establishments and operations and the enforcement of this ordinance shall be regulated with 19 CSR 20-1.025 Sanitation of Food Establishments, including any revisions, modifications, amendments to the rule, any re-adoption of the rule, and the adoption of any successor rule or rules, which may be enacted after the adoption of this ordinance. 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 means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for public human consumption.

4.3 Temporary Food Establishment is defined as any establishment that does not hold a current Polk County Food permit and is operational three (3) or less times during a calendar year.

4.4 Regulatory Authority is the Polk County Health Center and authorized representative(s).

4.5 Required Plans means plans that must be submitted as part of the permit approval process for new construction and remodeled facilities regulated under this ordinance. 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.

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

4.7 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.

4.8 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.

SECTION 5. PERMIT APPLICATION

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

5.2 Only a person who complies with the requirements of this ordinance 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 and shall be valid from January 1 to December 31. Permit applications and fees must be submitted and approved before a permit is issued. Failure to renew a permit by January 1 will result in the levy of an additional \$100.00 late payment fee.

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

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 31 of that year. Failure to obtain a permit before opening shall result in the levy of an additional \$250.00 payment fee.

5.6 Religious, charitable, educational, and non-profit organizations offering meal events at their facilities shall be allowed to waive permit fees, but will receive education from the Polk County Health Center. These establishments are expected to follow the rules and laws contained in the Food Code and may be inspected as determined by the regulatory authority. These entities must submit documentation of tax-exempt status.

5.7 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 revocation or 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 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.

(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. Assessment may be reevaluated for additional inspections when an establishment is levied a fine due to repeat priority violations. Frequency of inspections shall be determined annually based upon the previous calendar years' inspections and fines. Each establishment requiring additional inspections will be given a performance improvement plan to help remediate all priority violations. Priority assessments shall be reviewed for each establishment annually.

(C) A Temporary Food establishment is defined as any establishment that does not hold a current Polk County Food permit and is operational three (3) or less times during a calendar year. Temporary food establishments shall have an inspection conducted by the regulatory authority. All

temporary food establishments shall register with the Polk County Health Center 30 calendar days prior to the event. Temporary food permits shall be issued for each individual event at the time of inspection. All temporary food permit shall be valid only for the duration of the event. Event organizers must submit an initial comprehensive list of all food vendors that will be operational during event time at least 30 calendar days prior to the start of the event. Updates to this list shall be submitted up to the beginning of the event. Failure to comply with this ordinance will result in a \$100.00 fine levied against event organizer.

(D) Restaurant inspections (observations, details, forms, etc.) shall be published on the Polk County Health Center Healthspace affiliate website. 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 shall 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. If non-critical item yet exist during next routine inspection, item will be noted as a critical item.

(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 shall cease operations 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 fee shall be levied upon the establishment for a third subsequent violation. Failure to correct the specified violations upon a fourth subsequent violation shall result in an additional \$100 fee. Revocation of the food establishment operating permit will occur upon on the fifth subsequent violation.

(F) Any fine levied for the third or fourth subsequent violation may be waived if food safety training is received by the manager, two supervisory staff, and a minimum of two other employees within 30 days of inspection.

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 investigations, including securing a confidential medical history.
- 2) Requiring appropriate medical examinations, 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 Disasters

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 reconditioning of food or food equipment as determined by the regulatory authority. The regulatory authority, for monitoring time of the distressed foods, shall bill transportation firms or food establishments as outlined in Section 9 of this ordinance.

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. VIOLATIONS/PENALTIES

Any person who violates any provision of this ordinance 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 days, 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 continued, such person or persons is guilty of separate offenses for each day and shall be punished therefore as provided.

SECTION 8. FOOD SAFETY CERTIFICATION

All management and supervisory staff and a minimum of two other employees on duty at all times, of high, medium, and low 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 two 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 9. FEES

Permit Fee Charge Schedule. Determined by Public Health Priority Assessment.

High Priority-----	\$250
Medium Priority-----	\$200
Low Priority-----	\$150
Plan Review and Pre-Opening Inspection for New and Remodeled Establishments-----	\$150
Distressed Food-----	\$50
(per hour of assessment until incident is concluded)	

*New food establishments that request an operating permit from July 1 – December 31, of any calendar year, shall pay 50% of the permit fee based on the schedule listed above.

SECTION 10. 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 11. SAVING CLAUSE

If any part of this ordinance 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 12. AMENDMENTS

This ordinance 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 Polk County Food Ordinance as recommended and requested by the Polk County Board of Health.

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

SECTION 3: A copy of this Ordinance shall be published in some newspaper in this county in three successive weeks, with the first publication occurring not later than thirty (30) days

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

PASSED THIS 11th DAY OF October, 2023

Shannon Hamrick
Presiding Commissioner

Bryan Allison
Health Board of Trustees Chairman

Melinda Robertson
Southern District Commissioner

Paul H. Palmer
Board of Trustees Vice-Chairman

Kyle Logan
Northern District Commissioner

Alvin Meyer
Board of Trustees Treasurer

ATTESTED TO:

Rachel Lightfoot
County Clerk