

CERTIFIED COPY OF ORDER

(R.S.Mo: 50.515; Year 2000 Statutes)

October Term, 2011

STATE OF MISSOURI

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County of MARION

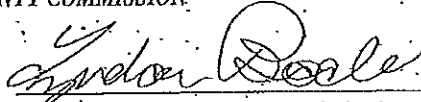
In the County Commission of said County, on the 31st day of October, 2011, the following, among other proceedings, were had, viz:

The County Commission takes up the matter of 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.

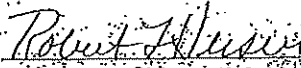
This ordinance was enacted pursuant to Section 192.300 RSMo., and is now revised following a duly required public hearing at regular meeting of the Marion County Commission on this, the thirty-first day of October, 2011. Revisions and changes are outlined in the attachments to this Order. Additions are shown in *Italics* and removals are noted in **Bold** print. For information on the original ordinance, a copy is spread upon pages 68 and 69 of the Marion County Record, Book "KK." A second revision of the ordinance was made May 21, 2001 and is recorded in the Marion County Record, Book "KK" at pages 556 and 557. Said new changes of the ordinance can be found in the County Clerk's Office in the Marion County Health Department file.

IN TESTIMONY WHEREOF, the Marion County Commissioners have hereunto set their hand, in Marion County, this 31st day of October, 2011.

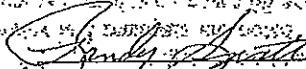
BY ORDER OF THE MARION COUNTY COMMISSION



Lyndon Bode, Presiding Commissioner



Robert Heiser, Eastern District Commissioner



Randy Spratt, Western District Commissioner

ATTEST



County Clerk

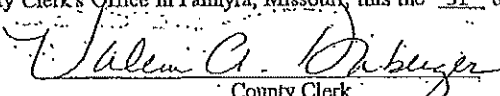
STATE OF MISSOURI

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County of MARION

I, Valerie A. Domberger, Clerk of the County Court, in and for said County, hereby certify the above and foregoing to be a true copy of the proceedings of said County Court, on the day and year above written, as the same appears of record in the County Clerk's Office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, at the County Clerk's Office in Palmyra, Missouri, this 31st day of October, 2011.



County Clerk

MARION COUNTY HEALTH DEPARTMENT
AND
HOME HEALTH AGENCY
FOOD ESTABLISHMENT SANITATION
(Revised October 31, 2011)

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 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 or dangerous diseases into such county, but orders or ordinance and rules and 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 2. APPLICABILITY. These regulations apply to all food establishments in Marion County.

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

- 3.01 Board: The Marion County Health Department and Home Health Agency Board of Trustees.
- 3.02 The Code: The current recommendations of the Missouri Department of Health relating to food establishments.
- 3.03 Person in Charge: The individual present at a food establishment who is responsible for the operation at the time of inspection.
- 3.04 Food Worker: An individual working with unpackaged food, food equipment, or utensils, or food contact surfaces.
- 3.05 Food Establishment: An operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption, as defined in the code, and any place where canned foods are provided.

SECTION 4.

PERMIT COMPLIANCE PROCEDURES

- 4.01 **Valid Permit.** No person shall operate a food establishment who does not have a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of this ordinance and the code shall be entitled to receive or retain such permit. Permits are not transferable. A valid permit shall be posted in every food establishment.
- 4.02 **Application for Permit.** Any person desiring to operate a food establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include the name and address of each applicant, the location and type of proposed food service establishment, a menu or list of foods to be served, and signature of the applicant.
- 4.03 **Approval for Permit.** 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 ordinance.
- 4.04 **Issuing of Permit.** The regulatory authority shall issue a permit to the applicant if the inspection reveals that the proposed food establishment complies with the requirements of this ordinance and they have paid the annual permit fee.
- 4.05 **Permit Suspension.** The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the holder of the permit does not comply with the requirements of this ordinance, or if the operation of the food establishment poses a hazard to public health. Suspension is effective upon service of the notice required by Section 4.06 of this ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for hearing within 20 days of receipt of a request for hearing.
- 4.06 **Opportunity for Hearing.** 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 10 days. If no written request for hearing is filed within 10 days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.
- 4.07 **Repeat Violations.** The regulatory authority 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 regulatory authority in performance of duty.

- 4.08 **Prior to Revocation.** Prior to revocation, the regulatory authority shall notify, in writing, the holder of the permit or the person in charge, of the specific reasons(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the 10 days following service of such notice unless a written request for hearing is filed with the regulatory authority 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.
- 4.09 **Serving of Notice.** 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 filed in the records of the regulatory authority.
- 4.10 **Hearing.** The hearing provided for in this ordinance shall be conducted by the regulatory authority at a time and place designed by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provision for sufficient copies of this transcript. The regulatory authority shall make a final finding based upon the complete hearing and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.
- 4.11 **Final Revocation.** Whenever a revocation of a permit has become final, the holder of the revoked permit shall submit a written application for a new permit.
- 4.12 **Frequency of Inspection.** An inspection of a food establishment shall be performed annually. Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of this ordinance. Exceptions include: 1) Temporary food establishments will be inspected at the discretion of the regulatory authority. 2) Food establishments routinely inspected by federal or other state regulatory authorities will be inspected at the discretion of the regulatory authority.
- 4.13 **Right of Entry.** Representatives of the regulatory authority, 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 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.

- 4.14 **Inspection Report.** Whenever an inspection of a food establishment or commissary is made, the findings shall be recorded on the inspection report. The inspection report shall summarize the requirements of this ordinance. Inspection remarks shall be written to reference the section number of the section violated. A copy of the completed inspection report shall be furnished to the person in charge of the establishment. The completed inspection report is a public document that shall be made available to the public according to law.
- 4.15 **Correction of Violations.** The completed inspection report shall specify a reasonable period 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, such as lack of refrigeration, sewage backup into the establishment, insect or rodent infestation, or no hot water the establishment shall immediately cease food operations. Operations shall not resume until authorized by the regulatory authority.
 - (b) All critical items shall be corrected as soon as possible, within 10 working days following an inspection, or as specified by the regulatory authority. A follow-up inspection shall be conducted to confirm correction.
 - (c) All non-critical items shall be corrected as soon as possible or by the next routine inspection.
 - (d) In the case of temporary food establishments, all critical violations shall be corrected within 24 hours. If critical violations are not corrected within 24 hours, the establishment shall immediately cease food service operation until authorized to resume by the regulatory authority.
 - (e) The inspection report shall state the failure to comply with any time given for corrections may result in cessation of food 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 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.
 - (f) Whenever a food establishment is required under the provisions of Section 4.15 to cease operations, it shall not resume operations until it is shown on a reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for the reinspection shall be offered within a reasonable time.

4.16 Review of Plans

- (a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling, or conversion shall be submitted to the regulatory authority 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 types and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this ordinance. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.
- (b) Whenever plans and specifications are required by Section 4.16 (a) of this ordinance to be submitted to the regulatory authority, the regulatory authority shall inspect the food establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with requirements of this ordinance.

4.17 Procedure When Infection is Suspected

- (a) When the regulatory authority has reasonable cause to suspect possible disease transmission by an employee of a food establishment, it may secure a morbidity history of the suspect employee or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all the following measures:
 - (1) The immediate exclusion of the employee from employment in food establishments;
 - (2) The immediate closing of the food establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exist;
 - (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 and of his and their body discharges.

- (b) Any person (or responsible officer of that person) 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 on conviction thereof shall be fined not more than \$1,000 for each violation. Each day in which any such violation does continue shall be deemed a separate offense.
- (c) The regulatory authority may seek to enjoin violation of these ordinances.
- (d) If any article, chapter, sections, 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 portion 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.
- (e) Enforcement Interpretation: This ordinance shall be enforced by the regulatory authority.
- (f) Food establishments outside this jurisdiction: Food from establishments outside the jurisdiction of the Marion County Health Department and Home Health Agency authority may be sold within the County of Marion if such food establishments conform to the provisions of this ordinance or to equivalent provisions. To determine compliance with such provisions, the regulatory authority may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

SECTION 5. TRAINING OF FOOD WORKERS

- 5.01 "Persons in charge" or a designee shall be required to receive certification of completion of a food safety course approved by the regulatory authority or have been certified by an accredited program. Procedures and requirements for approval of courses can be obtained from the regulatory authority.
- 5.02 "Food workers" shall be required to receive certification of completion of food safety training approved by the regulatory authority. Procedures and requirements for approval of training can be obtained from the regulatory authority. Exceptions to this are "persons in charge" and "food workers" of temporary food stands when approved by the regulatory authority.

SECTION 6.

PROMULGATION OF POLICIES AND PROCEDURES

- 6.01 The Board of Trustees of Marion County Health Department and Home Health Agency and/or the County Commission may promulgate policies and procedures to implement the provisions of the Ordinance and violations thereof shall be a misdemeanor pursuant to Section 192.300 RSMo.