

**BARRY COUNTY  
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 THEREOFF.

**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 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 Department of Health in accordance with this chapter of by the Department of Social Services under Chapter 198 RSMO.

**SECTION 2. APPLICABILITY.** These regulations apply to all food service establishments in Barry County.

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

- 3.01 **Board:** The Barry County Health Department Board of Trustees.
- 3.02 **The Code:** The current recommendations of the Missouri Department of Health to food service.
- 3.03 **Food Service Establishment:** An operation that stores, prepares, packages, serves vends, or otherwise provides food for human consumption.
- 3.04 **Regulatory Authority.** The Administrator of the Barry 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 to him/her 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 a permit. **Permits are not**

**transferable.** A valid permit shall be posted in every food service establishment.

- 4.02 Any person desiring to operate a food service 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 the type of proposed food service establishment, the signature of each applicant, and pay a **renewable annual fee**. If the fee is not received by May 1<sup>st</sup>, a late fee will be assessed. Temporary food stands for a specific event and **less than 14 days per year shall also pay a fee**.

**Renewable Annual Fee:**

High/Medium Rated Facilities	\$40.00
Low Rated Facilities	20.00
Temporary Food Stands	10.00
Late Fee Assessment/Week	20.00

- 4.03 Prior to approval of an application for a permit, the regulatory authority shall inspect the proposed food service establishment to determine compliance with the requirements of this ordinance.
- 4.04 The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this ordinance.
- 4.05 The regulatory authority may, without warning, notice, or hearing 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 4.06 of this ordinance. When a permit is suspended, food service 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 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 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 the performance of duty.
- 4.08 Prior to revocation, the regulatory authority 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 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 a 10 day period, the revocation of the permit becomes final.
- 4.09 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 The hearings provided for in this ordinance shall be conducted by the regulatory authority at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer 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. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.
- 4.11 Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.
- 4.12 An inspection of a food service establishment shall be performed based on the Barry County Health Department priority assessment worksheet. The priority assessment will rate food service establishments as being "high", "medium", or "low" priority. Food service establishments with a rating of "high" or "medium" will be inspected at least **two times per year**. "Low" priority establishments will be inspected **at least once per year**. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this ordinance.
- 4.13 Representatives of the regulatory authority, 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.

- 4.14 Whenever an inspection of a food establishment or commissary is made, the findings shall be recorded on the inspection report. The inspection report form shall summarize the requirements of this ordinance and shall set forth for each requirement in the critical and non-critical areas. Inspection remarks shall be written to reference, by section number, the section violated 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 for public document according to law.
- 4.15 Correction of violations. 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 following provisions.
- a.) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup in the establishment, the establishment, shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
  - b.) All violations of critical items shall be corrected as soon as possible, but in any event, within 3 days following inspection. Within 15 days after the inspection, the holder of the permit shall submit a written report to the regulatory authority stating that the critical violations have been corrected. A follow-up inspection shall be conducted to confirm correction.
  - c.) All non-critical items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.
  - d.) When the rating of one or more critical items, the establishment shall initiate corrective action on all identified violations within **seventy-two (72) hours**. One or more reinspections will be conducted at reasonable time intervals to assure correction.
  - e.) In 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 regulatory authority.

- f.) The inspection report shall state that the failure to comply with any 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 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.
- g.) Whenever a food service establishment is required under the provisions of section 4.15 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.

#### 4.16 Review of plans.

- a.) Whenever 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 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 the construction materials or work areas, and the type 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 service 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 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 Procedure when infection is suspected.

- a.) When the regulatory authority 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 food service establishments;
  - (2) The immediate closing of the food service 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 other employees and of his and their body discharges.

4.18 Enforcement Interpretation.

- (a) This ordinance shall be enforced by the health authority in accordance with the interpretations thereof contained in the current edition of the "United States Department of Health, Education, and Welfare Food Service Sanitation Manual" As recommended by the Missouri Department of Health.

4.19 Food service establishments outside jurisdiction.

- (a) Food from service establishments outside the jurisdiction of the Barry County health authority may be sold within the County of Barry if such food service establishments conform to the provisions of this ordinance or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the regulatory authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

**SECTION 5. PENALTIES**

5.01 Any person ( or responsible officer of that person) who violates a provision of this ordinance and 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. The regulatory authority 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 regulatory authority.

**BARRY COUNTY  
FOOD SERVICE SANITATION ORDINANCE**

This ordinance shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

An ordinance adopting regulations regarding the administration of food service establishment standards by the Barry County Health Department Board of Trustees.

Be it ordained as follows:

- (1) The Commission hereby promulgates and adopts regulations regarding the administration of food service establishment standards as recommended and requested by the Barry County Health Department Board of Trustees. A copy of said regulations are attached hereto and made a part hereof by reference.
- (2) The County Clerk is hereby ordered to have the attached regulations printed and available in their office for distribution to the public.
- (3) A copy of this order shall be published in a newspaper in this county on three successive weeks, with the first publication occurring not later than thirty (30) days after the passage of this order.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996

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PRESIDING COMMISSIONER

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NORTHERN COMMISSIONER

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SOUTHERN COMMISSIONER

ATTEST:

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COUNTY CLERK