

**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 **Certified Kitchen:** Kitchen facilities that provided for the public or private organizational use such as bingo halls, community buildings, and club kitchens (Lions Club, Shriners etc.) and are non-profit. ¹
- 3.03 **Food Service Establishment:** An operation that stores, prepares, packages, serves vends, or otherwise provides food for human consumption.
- 3.04 **Food Service Training:** Based on risks of food-borne illness inherent to the food operation management/supervisory staff shall demonstrate to the regulatory authority knowledge of food born disease prevention, application of the Hazard Analysis Critical Control Point principles and requirements of the Barry County Food Service Sanitation Ordinance. (For management/supervisory staff who have

¹ Non-profit organizations are not required to apply for a food service permit because they are not personally making money from sales. Due to the fact that they are serving food to the public they pose a possible risk. As incentive for non-profit organizations to work with the health department in keeping the public safe a certified kitchen permit would allow some food safety education and ensure the facilities are properly equipped without singling out any single group that uses the facilities. These permits will cost one dollar to cover the cost of the permit.

not completed an accredited program, completion of a Food Training Workshop by the Barry County Health Department will meet requirements.)

- 3.05 Food Service Priority and Risk Assessment: The Barry 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 FOOD SERVICE PRIORITY AND RISK ASSESSMENT FORM.
- 3.06 Food Transportation: The act of moving any substance from the facility to another serving point, which is or will be processed/served for human consumption. This is not to include agricultural products or live animals in transport to a processing facility or shipping facility.
- 3.07 Mobile Food Establishment: A food establishment that is readily moveable, is a motorized wheeled vehicle or towed wheeled vehicle, and operates multiple times a year at no fixed location for more than 14 days.²
- 3.08 Permit: A written authorization issued by the Barry County Health Department, which authorizes a person or corporation to operate a food establishment.
- 3.09 Potable Water: Drinking water that meets the criteria described by the 40 CFR 141 National Primary Drinking Water Regulations.³
- 3.10 Regulatory Authority. The Administrator of the Barry County Health Department or an authorized representative.
- 3.11 Stressed Food: Food substances that are being stored or transported in a facility or vehicle that is involved in any type of accident, collision, fire or weather related disturbance which may adulterate the food or cause it to experience temperature stress or in any way cause the food to be of questionable quality for human consumption.
- 3.12 Temporary Food Establishments: A food establishment that operates at a fixed location for a period of time, no more than 14 days, in conjunction with a single event or celebration.
- 3.13 The Code: The current recommendations of the Missouri Department of Health and Senior Services to food service

² The old definition simply stated that a mobile food establishment was one that operated in various locations, and was typically a motorized vehicle. The new definition more clearly defines that a mobile food establishment is always a wheeled motorized or towed vehicle. This definition also defines that they may not remain in any one location for more than 14days.

³ This is a new definition to clarify what potable water mobile and temporary food service must use.

- 3.14 All other definitions as listed in the Food Code of the Missouri Department of Health and Senior Services and the United States Food and Drug Administrations most recently adopted by the Barry County Health Department and the Barry County Board of Trustees.

SECTION 4. PERMIT COMPLIANCE PROCEDURES

- 4.01 No person shall operate a food service establishment, temporary food establishment, or mobile food 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 permitted food service establishment, temporary food establishment, or mobile food establishment.

- 4.02 Any person desiring to operate a food service establishment, temporary food establishment, or mobile 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 the type of proposed food service establishment, the signature of each applicant, and pay an established fee. If the fee for permanent food establishments is not received by May 1st, a late fee will be assessed. Annual/Mobile permits shall be valid for one year from date of issuance.

Renewable Annual Fee for permanent food establishments:

High Rated establishments	\$150.00
Medium Rated establishments	\$100.00
Low Rated establishments	\$50.00
Certified Kitchen	\$1.00
Late Fee Assessment/Week	\$20.00
Temporary Food service- single event (For Profit)	\$20.00
Temporary Food service- single event (Non-Profit) ⁴	\$1.00
Annual/Mobile permit	\$40.00

- 4.03 Prior to approval of an application for a permit, the regulatory authority, upon showing proper identification, shall inspect the proposed food service establishment, temporary food establishment, or mobile food establishment to determine compliance with the requirements of this ordinance.

⁴ Both profit and non-profit temporary food establishments will fill out the same paperwork, be held to the same standards, and receive the same permit. The only difference will be that non-profit temporary organizations will only pay a dollar fee to cover the cost of the permit.

- 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, temporary food establishment, or mobile food 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, temporary food establishment, or mobile food 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" will be inspected at least three times a year, "medium" will be inspected at least two times per year. ⁵"Low" priority establishments will be inspected at least once per year. Two inspections without critical violations may reduce the priority rating. 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, temporary food establishment, or mobile 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 Whenever an inspection of a food establishment, commissary, or mobile food establishment 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 access according to law.⁶
- 4.15 Whenever an inspection of a temporary food establishment is conducted, the findings will be recorded on a temporary food service inspection form. If there are any violations then a follow up will be scheduled for later that day. The temporary food establishment must receive no violations on an inspection before a permit will be issued. If the establishment is unable to pass the inspection by

⁵ The number of inspections for a High priority rated establishment will be three times a year due to the fact that they pose more risk to the public.

⁶ The sentence had a typed error that has been corrected. It used to say "inspections would be made available for public document according to law."

the third follow-up no permit shall be issued and thus the establishment shall not be allowed to operate. ⁷

4.16 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. 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.) The establishment shall initiate corrective action on all identified critical violations within seventy-two (72) hours⁸. 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 upon the agreed upon follow up time⁹. If violations are not corrected, 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

⁷ Due to the fact that there are several things in the code that you never encounter with a temporary food establishment (i.e. a mop sink) a separate form for temporary food inspections was created. The form checks to see that the temporary food establishment avoids the main ways diseases can spread.

⁸ Clarification of the sentence, used to say, “When the rating of one or more critical items...”

⁹ Temporary establishments are more often than not a one to two day event. To ensure that all violations are corrected and to protect the public, a 24 hour window to fix violations would allow the vendor operate all day without fixing violations. By requiring that violations are corrected by an agreed upon follow up later that day this will ensure the publics’ safety, but allow the temporary establishment enough time to correct violations.

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, temporary food establishment, or mobile food 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.

4.17 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, temporary food establishment, or mobile food establishment prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this ordinance.

4.18 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.

4.19 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 and Senior Services.

4.20 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, temporary food establishment, or mobile food establishment 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.

4.21 The permit holder shall be the person in charge or shall designate such a person or persons and shall assure that the person in charge or designated person in charge, is present at the food establishment during all hours of operation. The person in charge must attend food handler's training annually or have been certified by an accredited program.

4.22 Mobile Establishment Requirements.

- (a) Shall be held to the 1999 Food Code requirements with the exceptions below.
- (b) Cannot provide seating for customers
- (c) Cannot operate at a fixed location for more than 14 days
- (d) Must provide only single-service articles for use by consumers

- (e) Any mobile that is in an open-air environment must protect the food from weather and environmental contamination such as rain dust, insects, birds, and rodents
- (f) All water used must be potable (drinking water)
- (g) Potable water tanks must be constructed of food grade material and enclosed from the filling inlet to the discharge outlet, and sloped to a drain outlet. Hoses used to fill water tanks must be considered of food grade material, must have a smooth interior surface and must be clearly and durably identified as to its use for only that purpose. A cap and keeper chain must be provided for a potable water inlet, and outlet and hose. Water tanks, pumps and hoses must be flushed and sanitized before being placed in service, after repair, modifications, and periods of non-use. A person must operate a water tank, pump, and hose so that backflow or other contamination of the water supply is prevented.
- (h) All water and waste lines shall have a back flow prevention device to prevent contamination of the potable water supply
- (i) Liquid waste holding tanks must have a holding capacity 15% larger than the potable water supply tank, be sloped to a drain that is at least 25.3 mm (1 inch) in diameter, and be equipped with a shut-off-valve. Liquid waste must be emptied into an approved waste servicing facility or by a sewage transport vehicle without creating a public health hazard or nuisance.¹⁰

4.23 Temporary Establishment Requirements.

- (a) Shall be held to the 1999 Food Code requirements with the exceptions below.
- (b) Any temporary establishment that is in an open-air environment must protect the food from weather and environmental contamination such as rain dust, insects, birds, and rodents
- (c) Provide a method for washing used pots, pans, and utensils, such as three tubs for washing, rinsing, and sanitizing.
- (d) Have an approved method for hand washing located in a convenient and accessible place for all employees.
- (e) All solid and liquid waste shall be disposed of in an appropriate method. (i.e. Liquid in an approved septic or sewer system or solids in an appropriate trash receptacles)¹¹

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 , temporary

¹⁰ Previously there was nothing that defined the requirements for a mobile food establishment. This addition is to more clearly define requirements for a safe mobile facility and the standards they will be held to when inspected.

¹¹ Previously there was nothing that defined the requirements for a temporary food establishment. This addition is to more clearly define requirements for a safe temporary facility and the standards they will be held to when inspected.

food establishment, or mobile food 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.

APPROVED THIS 18 DAY OF NOVEMBER, 2010

Barry County Health Department Board of Trustee Chairperson

Barry County Health Department Board of Trustee Vice-Chairperson

Barry County Health Department Board of Trustee Secretary

Barry County Health Department Board of Trustee Treasurer

Barry County Health Department Board of Trustee Member at Large