

330.010 Ordinance Repealing Ordinance #001-95 and Providing for the Regulation of Food Service Establishments and Retail Food Establishments, Providing for the Inspection of Food Establishments and the Issuance, Suspension and Revocation of Permits to Operate Food Establishments; Providing for the Establishment of Certain Fees; Providing for the Registration of Food Handlers; Providing for the Posting of Inspection Reports; Providing for Plan Review for Future Construction of Food Establishments and Establishing Penalties for Violation of the Provisions of This Ordinance

The Platte County Commission does hereby order as follows:

It shall be the duty of the Platte County Health Department to provide for the public's health in Platte County and for the County Health Officer to enforce this ordinance providing for the regulation of food service establishments and retail food establishments and the rules and regulations hereby adopted.

Section 1. Rules and Regulations Regarding Food Establishments

1. This ordinance provides for the inspection of food establishments; the issuance, suspension and revocation of permits to operate food establishments; the establishment of certain fees; the registration of food handlers; the posting of inspection reports; the establishment of penalties for failure to comply with the provisions of this ordinance; and provides for plan review for future construction of food establishments.
2. The provisions of the Missouri Code of State Regulations promulgated by the Missouri Department of Health concerning the management and personnel, employee restriction, food operations, equipment and facilities, and health and sanitation of food establishments, 19 CSR 20-1.025, including any revisions, modifications and amendments to the rule, any readoption of the rule, and the adoption of any successor rule or rules, which may be enacted after the adoption of this ordinance, shall apply to the enforcement of this ordinance and are incorporated in this ordinance by reference as though fully set forth herein, subject to the additions, modifications and substitutions specifically set forth in this ordinance. Three copies of the state regulation shall be maintained on file in the office of the County Clerk.

Section 2. Definitions

As used in this ordinance, the following words and phrases have the following meaning:

1. **Administrator** means the Administrator of the Platte County Health Center.

2. **Adulterated** has the meaning stated in the Federal Food, Drug, and Cosmetic Act.
3. **Critical violation** means a provision of the rules and regulations promulgated by the Missouri Department of Health relating to health and sanitation of food establishments, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.
4. **Food** means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
5. **Food employee** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.
6. **Food establishment.**
 - (a) "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:
 - (i) 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
 - (ii) 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:
 - (i) 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 regulatory authority; or
 - (ii) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
 - (c) "Food establishment" does not include:

- (i) An establishment that offers only prepackaged foods that are not potentially hazardous;
- (ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (iii) A food processing plant;
- (iv) 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 nonprofit 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 regulatory authority;
- (v) An area where food that is prepared as specified in Subparagraph (c)(iv) of this definition is sold or offered for human consumption;
- (vi) A kitchen in a private home, such as a small family day-care 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 regulatory authority; or
- (vii) A private home that receives catered or home-delivered food.

7. **Food processing plant.**

- (a) "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a Consumer.
- (b) "Food processing plant" does not include a food establishment as defined above.

8. **Health authority** means the Administrator of the Platte County Health Center, who is the County Health Officer pursuant to §205.100 RSMo. (2000), or his or her designated representatives.

9. **Imminent health hazard** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

- (a) The number of potential injuries, and

- (b) The nature, severity, and duration of the anticipated injury.
10. **Misbranded** has the meaning stated in the Federal Food, Drug, and Cosmetic Act.
 11. **Mobile food unit** means a wheeled vehicle that is moved from place to place upon the public ways and from which food or drink is served.
 12. **Nonprofit organization.**
 - (a) "Nonprofit organization" means a corporation that is organized exclusively for charitable, religious, educational, and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.
 - (b)"Nonprofit organization" includes nonprofit old age homes, parent-teacher associations, alumni associations, schools, chapters of the Red Cross or Salvation Army, boys' clubs, girls' clubs, churches, charitable hospitals, or other charitable organizations.
 13. **Operator** means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person.
 14. **Person** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.
 15. **Person in charge** means the individual present at a food establishment who is responsible for the operation at the time of inspection.
 16. **Potentially hazardous food.**
 - (a) "Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:
 - (i) The rapid and progressive growth of infectious or toxigenic microorganisms;
 - (ii) The growth and toxin production of *Clostridium botulinum*;
or
 - (iii) In raw shell eggs, the growth of *Salmonella enteritidis*.
 - (b)"Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-

treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition.

- (c) "Potentially hazardous food" does not include:
- (i) An air-cooled hard-boiled egg with shell intact;
 - (ii) A food with a water activity value of 0.85 or less;
 - (iii) A food with a pH level of 4.6 or below when measured at 24° C (75° F);
 - (iv) A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
 - (v) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, such as a food that has a water activity value and a pH that are above the levels specified under Subparagraphs (c)(ii) and (iii) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
 - (vi) A food that does not support the growth of microorganisms as specified under Subparagraph (a) of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

17. **Temporary food establishment** means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

Section 3. **Jurisdiction**

1. This ordinance shall apply to all food establishments in unincorporated Platte County, Missouri and to all food establishments in incorporated cities in Platte County that have less than seventy-five thousand (75,000) population.
2. This ordinance shall not apply to cities which have a population of seventy-five thousand (75,000) or over which are maintaining an organized health department.

Section 4. **Plan Review for Future Construction**

1. Properly prepared plans and specifications for the construction, remodeling or alteration of any food establishment and any applicable fees shall be submitted to the county health department for review and approval before work is begun.
2. The plans shall conform to Missouri Code of State Regulations promulgated by the Missouri Department of Health concerning the management and personnel, employee restriction, food operations, equipment and facilities, and health and sanitation of food establishments, 19 CSR 20-1.025, including any revisions, modifications and amendments to the rule, any readoption of the rule, and the adoption of any successor rule or rules (whether assigned the same number or different section numbers), which may be enacted after the adoption of this ordinance. The plans shall include an illustration showing the location of dishwashing facilities, food preparation sinks, hand washing sinks, utility sinks, floor drains, food preparation tables, cooking equipment, hot-holding equipment, ventilation hoods, food storage areas, employee break areas, ice machines, refrigerators, freezers, service counters, wait stations, dining areas, closets, doors and exits. Also, the plans shall include equipment specifications and construction materials in food preparation and storage areas and any additional information requested by the health authority.

Section 5. **Permits Required**

1. No person shall operate a food establishment in the county without a valid permit issued by the health authority. No person shall operate a food establishment in the county with a permit that has been suspended or revoked pursuant to this ordinance.
2. Any person desiring to operate a food establishment shall make a written application for a permit on forms provided by the health authority.
3. Upon receipt of the application and any applicable fees the health authority shall inspect the establishment to determine compliance with this ordinance, the regulations promulgated by the Board of Trustees of the Platte County Health Center, and the regulations adopted by the Missouri Department of Health. If the establishment complies, the health authority shall issue the permit.
4. The permit shall be posted in a conspicuous place in the licensed establishment.
5. Permits are not transferable from one person to another or from one place of business to another. Upon change of ownership, a new application made in conformity with this ordinance shall be submitted.
6. Permits are valid until the end of the calendar year in which they were issued.

7. The health authority may waive the requirement for permits for temporary food establishments at its discretion for specific functions.

Section 6. **Certificates of Registration of Food Handlers**

1. All food establishments except for temporary food establishments and mobile food units shall employ and have present on the premises at all times that potentially hazardous food is being prepared or served, one person for every five persons on duty who holds a health authority certificate of registration in food handling and sanitation. Registration shall be achieved by successfully completing a health authority approved course and monitored examination offered by a health authority approved provider and payment of any applicable fees. Each certificate shall expire five years from the date that the individual successfully completes the examination.
2. Failure to comply with Paragraph 1 of this Section shall constitute a critical violation.
3. Every certificate of registration of food handlers shall be posted conspicuously in that part of the establishment to which the public has access.
4. A certificate of registration may be suspended or revoked by the health authority upon the second suspension of a food establishment's license within a 12-month period if the certificate holder was in charge of the preparation or service of potentially hazardous food at the time of both suspensions.

Section 7. **Fees**

1. The following "Plan Review and Pre-opening Inspection Fees" Schedule shall be established, except that food establishments operating prior to the date on which this ordinance is in full force and effect shall be exempt from "Plan Review and Pre-opening Inspection Fees"; provided however that a change of ownership or the extensive remodeling of a food establishment shall warrant a plan review and pre-opening inspection and applicable fees shall be assessed.

Plan Review and Pre-opening Inspection Fees Schedule

TYPE OF FACILITY	FEE
Restaurant	\$150
Tavern (if the operation provides potentially hazardous food (phf))	\$150
Tavern (if the operation does not provide phf)	\$100
School Cafeteria	\$0
Grocery Store	\$150
Coffee Shoppe (if the operation provides phf)	\$150
Coffee Shoppe (if the operation does not provide phf)	\$100
Convenience Store (if the operation provides phf)	\$150
Convenience Store (if the operation does not provide phf)	\$100
Candy Shoppe	\$100
Ice Cream Shoppe	\$100
Bakery	\$150
Delicatessen	\$150
Meat-Cutting Operation	\$150
Catering Operation	\$150
Vending Operation (if the operation provides phf)	\$100
Institution (Jail, Shelter, etc.)	\$0
USDA Summer Feeding Sites	\$0
Senior Citizen Nutrition Sites	\$0
Food Bank	\$0
Temporary Food Establishment	\$0
Mobile Food Units	\$0

NOTE: Establishments located in a grocery store owned by the same entity shall not be assessed a fee if the grocery store has already been assessed. Also, a catering operation located in a restaurant owned by the same entity shall not be assessed a fee if the restaurant has already been assessed.

2. "Plan Review and Pre-opening Inspection Fees" shall be paid to the Platte County Health Center in the form of United States currency, a personal check, or a cashier's check and shall be paid at the time of application for a permit for a new food establishment.
3. A fee of ten dollars (\$10) shall be established for certificates of registration of food handlers.

(Section 7 was updated on March 25, 2004 – County Commission Order #21-04)

Section 8. Vaccinations

1. The health authority may require vaccination of food employees for certain foodborne diseases for which vaccine is available, such as *Hepatitis A*, if one or more of the following conditions are met:
 - (a) the disease is endemic in Platte County;
 - (b) the food establishment has been implicated in an outbreak of the disease within the past twelve months; or
 - (c) the food establishment has a history of nonconformance with the health authority's rules and regulations regarding food handling and hygiene.
2. The Platte County Health Center may offer to administer the vaccine to food employees at a reduced cost.
3. A food employee may decline to be vaccinated pursuant to this section. However, if a food employee declines to be vaccinated pursuant to Paragraph 1 of this Section, he/she shall be restricted from working with exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

Section 9. Inspections

1. Except as specified in Paragraphs 2, 3, and 4 of this Section, the health authority shall inspect a food establishment at least once every six months.
2. The health authority may increase the interval between inspections beyond 6 months if:
 - (a) The food establishment is assigned a less frequent inspection frequency based on a risk-based inspection schedule that is formally adopted by the Platte County Health Center Board of Trustees. The risk-based inspection schedule must be uniformly applied throughout the health authority's jurisdiction and at least every 6 months the establishment must

be contacted by telephone or other means by the health authority to assure that the establishment manager and the nature of the food operation are not changed; or

- (b) The food establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous such as carbonated beverages and snack foods such as chips, nuts, popcorn, and pretzels.
3. The health authority may conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this ordinance and the food establishment's potential as a vector of food-borne illness by evaluating:
- (a) Past performance, for nonconformance with the health authority's rules and regulations that are critical;
 - (b) Past performance, for numerous or repeat violations of the health authority's rules and regulations that are noncritical;
 - (c) The hazards associated with the particular foods that are prepared, stored, or served;
 - (d) The type of operation including the methods and extent of food storage, preparation, and service; and
 - (e) The number of people served.
4. The health authority may conduct as many reinspections as are reasonably necessary for the enforcement of this ordinance.
5. Any person operating an establishment regulated by this ordinance shall, upon request, grant the health authority 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.

Section 10. Inspection Reports and Notices

- 1. When the health authority discovers any violations of this ordinance, the person in charge shall be notified of such violations by means of an inspection report or other written notice.
- 2. The notice shall include:
 - (a) The specific violation found;

- (b) Designation of the violation as a critical violation or a non-critical violation;
 - (c) A specific and reasonable period of time for the correction of the violation; and
 - (d) A statement that the failure to comply with the notice may result in the immediate suspension of the permit.
3. Inspection reports shall be posted upon an inside wall of the establishment in an area that is visible to all customers. Inspection reports may be posted in local newspapers, on local television stations or other local media outlets, and/or on the Internet on the Platte County Health Center's worldwide web site.
 4. Violations in temporary food establishments shall be corrected within a specified period of time not to exceed twenty-four hours. Failure to comply with the notice of violations shall result in the immediate suspension of the permit, or if at a non-permitted function immediate closure.
 5. Proper service of notices of violations is by personal delivery to the person in charge of the establishment or by certified mail, return receipt requested, to the last known address of the operator.

Section 11. Suspensions of Permits

1. The health authority may suspend or revoke permits of establishments and/or may issue citations for failing to comply with this ordinance and the regulations promulgated by the health authority.

Examples of failure to comply include but are not limited to:

- (a) Three or more critical violations on any inspection;
- (b) Two or more identical, repeat, critical violations on two (2) consecutive inspections;
- (c) Failure to correct a critical violation in the time allotted in a notice of violation;
- (d) Ten or more non-critical violations on two (2) consecutive inspections; or
- (e) Imminent health hazards, which result in immediate suspension.

All critical violations are listed on the inspection report used during inspection.

2. When an operator fails to comply with a notice of violation issued by the health authority, the health authority shall notify the operator that the permit is

immediately suspended upon service of the notice. The health authority shall promptly notify the Platte County Sheriff's Department or other appropriate law enforcement agency of the suspension, and the Sheriff's Department or other appropriate law enforcement agency shall enforce the cessation of all affected operations.

3. A "notice of closure" sign may be conspicuously placed upon that part of the food establishment to which the public has access. It shall be unlawful for any person to remove a "notice of closure" sign unless authorized to do so by the health authority.
4. An operator whose permit has been suspended may at any time apply for restoration of the permit. After the regulatory authority receives such application, accompanied by a statement signed by the operator that the provisions previously violated have been complied with, the health authority shall reinspect the food establishment to assure that the operator is complying with the requirements of this ordinance within 48 hours, excluding legal holidays; provided however that applications received between the hours of 3 p.m. on Friday and 8 a.m. on Monday shall be reinspected as soon as possible, but in no event later than 72 hours after the time application for restoration is made, excluding legal holidays. When the reinspection indicates full compliance, the permit shall be restored.
5. The health authority can petition the Circuit Court of Platte County for an injunction to compel the cessation of all affected operations if a permit is suspended or revoked. This remedy shall be in addition to all other remedies provided by this ordinance.

Section 12. **Imminent Health Hazard-Ceasing Operations and Reporting**

1. If the health authority discovers conditions in the operation of a food establishment to be an imminent health hazard, a written notice of violation may be issued and, if necessary, the permit may be immediately suspended. Any operator shall immediately comply with the notice of violation and permit suspension.
2. An operator shall immediately discontinue operations and notify the health authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water services, sewage backup, misuse of poisonous or toxic materials, or an apparent food-borne illness outbreak, unsanitary occurrence or condition, or other circumstance that may endanger public health.
3. Upon written notice to the operator, the health authority may place a "Held for Inspection" order on any equipment that the health authority determines or has

probable cause to believe that the use of such equipment creates an imminent health hazard.

4. If operations are discontinued as specified under this Section, or otherwise according to law, the operator shall obtain approval from the health authority before resuming operations.

Section 13. Examination and Condemnation of Food

1. The health authority may examine or take samples of food as necessary to detect adulterated, unsafe, contaminated or misbranded food. The health authority may condemn and forbid the sale of, or cause to be removed or destroyed, any food that is adulterated, unsafe, contaminated or misbranded.

Section 14. Administrative Hearings

1. After the operator receives a notice of violation from the health authority, as evidenced by the inspection report, but before the allotted time for compliance has elapsed, the operator may request a preliminary hearing at the offices of the health authority to file exceptions to and contest the findings of the inspection report or he/she may request the Administrator to extend the time allowed for compliance. In any case, the request must be filed with the Administrator within 24 hours of receipt of the notice of violation, excluding Saturdays, Sundays, and legal holidays. Upon receipt of a request for a hearing, the Administrator shall conduct the preliminary hearing within 48 hours of the operator's request for a hearing, excluding Saturdays, Sundays, and legal holidays.
2. Unless the Administrator finds that there is no probable cause to believe that the violation exists or a time extension is granted by the Administrator, the Administrator may immediately suspend the permit issued to the operator of the food establishment upon the operator's failure to correct the violations within the time allotted in the notice of violation; provided that the Administrator shall immediately suspend the permit if any of the violations found not to be corrected are critical.
3. Nothing in this Section shall prevent the Administrator from immediately suspending a permit pursuant to Section 10 of this ordinance or seeking an enforcement action pursuant to Section 11 of this ordinance

Section 15. Penalties

1. Any person who violates any provision of this ordinance shall be fined not less than \$1.00 or more than \$500.00 or sentenced to jail in the county jail for a period not to exceed 90 days, or by both such fine and sentence. Each day that a violation of this ordinance exists shall be deemed a separate and distinct offense.

Section 16. **Severability**

1. If any portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct and independent provision and that holding shall not affect the validity of the remaining portion of this ordinance.

Section 17. **Repeal Of Ordinance #001-95**

1. Platte County Commission ordinance number 001-95 is hereby repealed in its entirety.

Section 18. **Publication**

1. As provided by §192.300 RSMo. (2000), this ordinance shall be published in a newspaper in Platte County for three consecutive weeks, with the first publication occurring not later than thirty (30) days after the adoption of this Ordinance.
2. The County Clerk is hereby ordered to have this ordinance and a copy of 19 CSR 20-1.025 printed and available in his/her office for distribution to the public.

(Adopted by County Commission Order #01-02 on January 10, 2002.)