



# HICKORY COUNTY HEALTH DEPARTMENT



Public health makes life better

P.O. Box 21  
201 Cedar  
Hermitage,  
MO, 65668

417-745-2138 phone  
417-745-2400 fax  
[www.hickorycounty.net](http://www.hickorycounty.net)

## Hickory County Food Ordinance

### **AN ORDINANCE GOVERNING THE CONSTRUCTION, RENOVATION, AND OPERATION OF FOOD SERVICE ESTABLISHMENTS WITHIN THE COUNTY, REQUIRING CERTAIN PERMITS 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 Hickory County Food Ordinance shall be deposited in the Hickory County Health Department account to be used for environmental health services in Hickory 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 Hickory 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. This ordinance will automatically update to the most recent version of the State of Missouri's Food Code as changes are made to the Food Code. A copy shall be maintained on file in the office of the County Clerk, and shall be adopted by reference in whole.



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## 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 until a more recent Food Code goes into effect. <http://www.dhss.mo.gov/FoodCode/>

**4.2 Food Establishment** means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for public human consumption.

**4.3 Regulatory Authority** is the Hickory County Health Department, Board of Trustees, and authorized representative(s).

**4.4 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.

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

**4.6 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.

**4.7 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 Hickory County without a valid permit issued by the regulatory authority.



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**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 and visible to the public.

**5.3** Permits shall be renewed annually and shall be valid from May 1 to April 30. Permit applications and fees must be submitted and approved before a permit is issued. Failure to renew a permit by May 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 Hickory County Health Department. Application forms are available at the Hickory County Health Department.

**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/rebuilding purposes, a pre-opening inspection 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 April 30. Failure to obtain a permit before opening shall result in the levy of an additional \$100.00 payment fee.

**5.6** Religious, charitable, educational, and non-profit organizations offering meal events at their facilities shall be allowed to waive fees. 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 invoices of the establishment to obtain information pertaining to food and supplies purchased, received, or used.



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**(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) and availability of regulatory authority personnel. Additional inspections may be performed as necessary for the enforcement of this ordinance. Priority assessment shall be reviewed for each establishment annually.

**(C)** Temporary food establishments shall have inspections conducted at the discretion of the regulatory authority. Factors that would influence the decision of the regulatory authority to inspect temporary food establishments are, but not limited to the following: availability of regulatory authority personnel during operation of the temporary food establishment, date of the most recent inspection, past inspection history, and types of food prepared and served to the public by the establishment.

**(D)** Restaurant inspections (observations, details, forms, etc.) may be published by the Hickory County Health Department. 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(s) 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 this second follow up. Failure to correct the specified



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violations upon a second follow up shall result in revocation of the food establishment's operating permit.

### 6.3 Prevention of food-borne disease transmission

(A) The regulatory authority shall act when it has reasonable cause to believe that food born 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 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 a 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.



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(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 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 of up to one year in the county jail, or by both by 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. FEES/ANNUAL OPERATING PERMIT

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

High Priority.....	\$150
Medium Priority.....	\$100
Low Priority .....	\$50
Plan Review and Pre-Opening Inspection for New Establishments.....	\$100
Distressed Food.....	\$50/Hour
(per hour of assessment until incident is concluded)	



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## SECTION 9. GREIVANCE PROCESS

Upon notice of denial or revocation of permit or closure, the permit holder may file a written request to the regulatory authority with 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 10. 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 11. AMENDMENTS

This ordinance may be amended at anytime pursuant to RSMo 192.300.

## BE IT ORDAINED AS FOLLOWS:

**SECTION 1:** The Hickory County Board of Health hereby promulgates and adopts the Hickory County Food Ordinance.

**SECTION 2:** The Hickory County Board of Health has hereby provided printed copies of the Food Ordinance to the County Clerk to make available in his/her office for distribution to the public. Copies of the Food Ordinance are also available at the Hickory County Health Department for 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 after the adoption of this Ordinance.



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

**PASSED THIS   2   DAY OF   November  , 2009  .**

\_\_\_\_\_  
**HEALTH BOARD OF TRUSTEES CHAIRMAN**

\_\_\_\_\_  
**Board of Trustees Vice-Chairman**

\_\_\_\_\_  
**Board of Trustees**

\_\_\_\_\_  
**Board of Trustees Treasurer**

\_\_\_\_\_  
**Board of Trustees**

**ATTESTED TO:**

\_\_\_\_\_  
**County Clerk**