

**ANDREW COUNTY
FOOD SERVICE SANITATION
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 I. AUTHORITY:

This ordinance is enacted pursuant to Section 192.300, RSMo, 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 any 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 and Senior Services in accordance with this chapter or by the Department of Social Services under Chapter 198 RSMo. Any person, firm, corporation or association which violates any of the orders or ordinances adopted, promulgated and published by such county commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law. The county health board of any such county has full power and authority to initiate the prosecution of any action under this section.

SECTION 2. APPLICABILITY:

These regulations apply to all food service establishments in Andrew County. Restaurants; Catering Operations; Mobile Food Service; Meat Markets; Retail Grocery; Senior Citizens Centers; School Cafeterias; Congregate Dining; Taverns; Summer Feeding (Preparation & Service sites); Bakeries; Delicatessens; *Temporary Events; Food Pantries and Food Processors

*Temporary events must be included in inventory of food establishments and are included in our work plan to be inspected on the basis of risk prioritization.

SECTION 3. DEFINITIONS:

The following words and phrases shall have the following meanings:

- 3.01 Board: The Andrew County Health Department Board of Trustees.
- 3.02 The Code: The current recommendations of the Missouri Department of Health and Senior Services relating to food service.

- 3.03 Food service establishment: An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption as stated in Section 196.190, RSMO.
- 3.04 Temporary Food Event: A food service establishment that operates for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration, such as fairs and festivals or similar celebrations, as well as dinners or other events sponsored by organizations, serving food and open to the public.
- 3.05 Andrew County Health Department: The Administrator of the Andrew County Health Department or an authorized representative.
- 3.06 Permit: The document issued by the Andrew County Health Department that authorizes a person to operate a food establishment and/or temporary food event.
- 3.07 MO DHSS: The Missouri Department of Health and Senior Services

SECTION 4. PERMIT COMPLIANCE PROCEDURES:

- 4.01 No person shall operate a food service establishment / temporary food event that do not have a valid permit issued to him or her by the Andrew County Health Department. Only a person who complies with the requirements of this ordinance and the code shall be entitled to receive or retain such a permit. A valid permit shall be posted in every food service establishment. The permit shall summarize the requirements of this ordinance.
- 4.02 Any person desiring to operate a food service establishment / temporary food event shall make written application for a permit on forms provided by the Andrew County Health Department and submit a menu. A permit may not be transferred from one person to another or from one type of operation to another. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, the signature of each applicant, and payment of a renewable annual fee. The permits are valid for one calendar year starting the date the permit was received. A new permit application must be completed each year.

4.03 Prior to approval of an application for a permit, the Andrew County Health Department shall inspect the proposed food service establishment to determine compliance with the requirements of this ordinance. The proposed food service establishment shall give the Andrew County Health Department 14 working days notice of when the inspection is needed.

4.04 The Andrew County Health Department shall issue a permit to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this ordinance. The food service establishment shall receive a priority rating of high, medium or low according to the Food Establishment Public Health Priority Assessment guidelines as stated by the Missouri Department of Health and Senior Services in the Environmental Health Operational Guidelines. Establishments with a priority rating of high or medium shall have at least one in every three employees on duty during all hours of operation that has successfully completed the ServSafe exam or has a Food Handlers Card.

4.05 The frequency of inspection for a food service establishment shall be performed based on the priority status of the establishment (refer to MO DHSS Food Establishment Public Health Priority Assessment worksheet). The priority schedule is as follows:

High Priority.....Inspection every four (4) months
Medium Priority.....Inspection every six (6) months
Low Priority.....Inspection every twelve (12) months

Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this ordinance. Seasonal establishments that operate nine (9) months or less each year shall be inspected based on the length of time opened and the priority listing, which shall include but are not limited to Christmas church dinners, bake sales and festivals.

4.06 Temporary food events:

- a) Each food vendor participating in a temporary food event will be required to obtain a permit for the event which will be good for the duration of the event. The fee will cover the cost of the permit and initial inspection.
- b) Temporary food vendors may choose to obtain an annual permit good for each time they are set up within the county during the permit year. If the temporary food vendor

chooses this option, he/she must give a calendar of when and where the establishment shall be set up in Andrew County. If this is not obtainable, the vendor must give the Andrew County Health Department 14 working days notice before they may serve food in Andrew County. Vendors who have obtained an annual permit will not be required to obtain a permit for participation in a temporary food event.

- 4.07 Representatives of the Andrew County Health Department, 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.
- 4.08 Whenever an inspection of a food service establishment is made, the findings shall be recorded on the inspection report. The Andrew County Health Department will use the current inspection forms provided. 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, most recent inspection report form is a public document that shall be made visible to the public at all time.
- 4.09 Food from food service establishments outside the jurisdiction of the Andrew County health authority may be sold within the County of Andrew if such food service establishment conforms to the provisions of this ordinance or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Andrew County Health Department may accept a report from responsible authorities in other jurisdictions where such food service establishments are located.

SECTION 5. FEES:

The Andrew County Health Department Board of Trustees will establish reasonable fees to pay for any costs incurred in the performance of the duties described in this ordinance. The money generated from the permitting, re-inspection, training and/or enforcement action shall be deposited into an Andrew County Health Department fund to be used for implementing the above standards.

- 5.01 Fees shall primarily be based upon priority levels and length of time being opened. Food establishments that sell items consumed by the public all year round shall receive a permit, pending approval, for the following fees:

High risk: \$75/ year
Medium Risk: \$50/ year
Low Risk: \$25/ year

- 5.02 Temporary Food Vendor may apply for a year round permit for the above fee or may purchase a permit for the length of the event for \$20. All Temporary Food Vendors must give 14 working days notice before the desired opening date. Food vendors who are set up in Andrew Count on a periodic, but not permanent basis are encouraged to apply for a year round permit, with the addition of a time schedule of when the vendor shall be set up in Andrew County.
- 5.03 For any establishment that is selling any food items as a fundraising event that is consumed by the public, i.e. bake sale or holiday meal, shall require a \$5 permit, or may apply for a year round permit. All establishments and sales must give 14 working days notice before the desired opening date.
- 5.04 Food establishments that have several areas to inspect, such as a grocery store, are highly encouraged to apply for several permits, one/ area, i.e. deli, bakery, grocers aisles, etc. By receiving several permits, the food establishment shall be broken up and each permitted location shall have a separate inspection. An example of this is a deli area would get three inspections/ year, while the bakery may only receive two. If one area in the food establishment is out of compliance, only that area would be under investigation. Any establishment that is applying for more than two permits will receive a 50% off discount on the permit fees.
- 5.05 All permits shall be visible to the public at all time, coinciding with the last inspection.

SECTION 6. SUSPENSION:

- 6.01 The Andrew County Health Department 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 by having 7 or more critical violations during a routine inspection, uncorrected critical after re-inspection would result in a suspension, until all are corrected. Suspension is effective upon service of the notice required by section 6.04 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 thirty (30) days of receipt of a request for hearing.

- 6.02 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 Andrew County Health Department 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 Andrew County Health Department may end the suspension at any time if reasons for suspension are corrected or resolved.
- 6.03 The Andrew County Health Department 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 Andrew County Health Department in the performance of duty.
- 6.04 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 Andrew County Health Department.
- 6.05 The hearing provided for in this ordinance shall be conducted by the Andrew County Health Officer at a time and place designated by that person. The Andrew County Health 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 Andrew County Health Department.
- 6.06 Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit upon correction of critical and/or non-critical violations.

SECTION 7. CORRECTION OF VIOLATIONS:

- 7.01 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 provisions of the current code.

- a) If an imminent health hazard exists, such as a complete lack of refrigeration, water, electricity, gas, ill employees or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operation shall not be resumed until authorized by the Andrew County Health Department.
- b) All critical violation(s) as described in the current Missouri Department of Health and Senior Services Food Code items shall be corrected as soon as possible, but in any event, within 72 hours following the inspection. If for some reason what needs to be repaired takes longer than 72 hours, a reasonable agreement may be made between the food establishment and the Andrew County Health Department. A follow-up inspection shall be conducted to confirm correction; there will be no charge for this follow-up inspection. However, if the establishment continues to have critical violation(s) and a second follow-up inspection is required, the establishment will be charged a non-compliance fee of \$100 for each subsequent inspection.
- c) All non-critical violation(s) as described in the current Missouri Department of Health and Senior Services Food Code items shall be corrected before the next routine inspection. If during a routine inspection more than 10 non-critical violations are found or three critical violations, a follow-up inspection shall be conducted to confirm correction of at least one-half of the non-critical violations and all of the critical violations, with the remainder to be corrected before the next routine inspection. There will be no charge for this follow-up inspection. However, if the establishment has not corrected the required number of non-critical violation(s) and a second follow-up inspection is required, the establishment will be charged a non-compliance fee of \$100 for each subsequent inspection. (Note: A High Risk Facility is inspected every four (4) months. Routine inspections and re-inspections are free. However, each re-inspection thereafter will cost \$100.00.
- d) The inspection report shall state that 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 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 thirty (30) days of receipt of the request.
- e) Whenever a food service establishment is required under provision of this Ordinance to cease

operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

SECTION 8. PROCEDURE WHEN INFECTION IS PRESENTED:

8.01 When the Andrew County Health Department 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 Andrew County Health Department 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 Andrew County Health Department, no further danger of disease outbreak exists;
- 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 bodily discharges will be at the individual or food establishments expense.

8.02 The Andrew County Health Department may require vaccination of food employees for certain food borne 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 Andrew 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 Andrew County Health Department's rules and regulations regarding food handling and hygiene.

8.03 A food employee may decline to be vaccinated pursuant to this section. However, if a food employee declines to be vaccinated, he/she shall be restricted from working with items such as, but not

limited to: exposed food, clean equipment, utensils, linen, and unwrapped single-service, and single-use articles.

SECTION 9. PENALTIES:

- a) When an operator fails to comply with a notice of violation issued by the Andrew County Health Department, the health authority shall notify the operator that permit is immediately suspended upon service of the notice. The Andrew County Health Department shall promptly notify the Andrew 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.
- b) A "notice of closure" sign and the most recent inspection shall be 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 or the food inspection unless authorized to do so by the Andrew County Health Department.
- c) 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 class A misdemeanor as stated in Section 192.320, RSMo, 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.
- d) The Andrew County Health Department may seek to enjoin violations of this ordinance.
- e) 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 Andrew County Health Department.

SECTION 10. ENFORCEMENT INTERPRETATION:

This ordinance shall be enforced by the Andrew County Health Department in accordance with the interpretations thereof contained in the current edition of the “United States Department of Health and Human Services, Public Health Services, Food and Drug Administration Food Code as adopted by the Missouri Department of Health and Senior Services, and the Department of Health and Senior Services Environmental Health Operational Guidelines (EHOG) Manual.