

ORDINANCE NO

AN ORDINANCE AMENDING AND MODIFYING ORDINANCE NUMBER 5-30-19 AND ORDINANCE NUMBER 1-14-21-01 REQUIRING THE SUBMISSION OF PLANS AND SPECIFICATIONS FOR REVIEW OF FOOD ESTABLISHMENTS; REQUIRING PERMITS TO OPERATE A FOOD ESTABLISHMENT AND THE ISSUANCE OF CERTIFICATES FOR FOOD HANDLERS.

Be It Ordained by the Camden County Commission, as follows:

Section 1. Definitions.

A. **"APPROVED"** means acceptable to the regulatory authority based on a determination of conformity with principles, practices and generally recognized standards that protect public health.

B. **"COMMISSARY"** means a permitted base of operation for a mobile FOOD ESTABLISHMENT where food is stored or prepared. A COMMISSARY is not a private home, church, or other facility that does not hold a valid permit. The COMMISSARY is to comply with all provisions applicable to FOOD ESTABLISHMENTS. Mobile units must report to COMMISSARY at least once every 24 hours to be cleaned, serviced, and restocked.

C. **"CONSUMER"** means a PERSON who is a member of the public, takes possession of FOOD, is not functioning in the capacity of an operator of a FOOD ESTABLISHMENT and does not offer the FOOD for resale.

D. **"EMPLOYEE"** means the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

E. **"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.

F. "FOOD ESTABLISHMENT"

(1) "Food Establishment" means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption:

(a) 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

(b) 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.

(2) "Food Establishment" includes:

(a) 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* satellite catered feeding location, a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(b) 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.

F. "**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:

(1) The number of potential injuries, and

(2) The nature, severity, and duration of the anticipated injury.

G. "**LAW**" means applicable local, state and federal statutes, regulations and ordinances.

H. "**MOBILE FOOD ESTABLISHMENT**" means a food service establishment that operates no more than 4 days per week from a moveable vehicle that is self-contained and properly enclosed and is associated with a permitted COMMISSARY.

I. "**PERMIT**" means the document issued by the REGULATORY AUTHORITY that authorizes a PERSON to operate a FOOD ESTABLISHMENT.

J. "**PERMIT HOLDER**" means the entity that:

(1) Is legally responsible for the operation of the FOOD ESTABLISHMENT such as the owner, the owner's agent, or other PERSON; and

(2) Possesses a valid PERMIT to operate a FOOD ESTABLISHMENT.

K. "**PERSON**" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

L. "**REGULATORY AUTHORITY**" means the local, state or federal enforcement body or authorized representative having jurisdiction over the FOOD ESTABLISHMENT.

M. "**TEMPORARY FOOD ESTABLISHMENT**" is a FOOD ESTABLISHMENT that operates for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

Section 2. Facility and Operating Plans.

A. When Plans Are Required. A PERMIT applicant shall submit to the REGULATORY AUTHORITY properly prepared plans and specifications for review and approval before:

- (1) The construction of a FOOD ESTABLISHMENT;
- (2) The conversion of an existing structure for use as a FOOD ESTABLISHMENT, or
- (3) The remodeling of a FOOD ESTABLISHMENT or a change of type of FOOD ESTABLISHMENT or FOOD operation if the REGULATORY AUTHORITY determines that plans and specifications are necessary.

B. Contents of the Plans and Specifications: The plans and specifications for a FOOD ESTABLISHMENT, shall include, as required by the REGULATORY AUTHORITY based on the type of operation, type of FOOD preparation, and FOODS prepared, the following information to demonstrate conformance with the most current editions of the Missouri Food Code provisions and the Missouri Environmental Operations Guidelines:

- (1) Intended menu;
- (2) Anticipated volume of FOOD to be stored, prepared, and sold or served;
- (3) Proposed layouts, construction materials, and finish schedules;
- (4) Proposed EQUIPMENT
- (5) Other information that may be required by the REGULATORY AUTHORITY for the proper review of the proposed construction, conversion or modification, and procedures for operating a FOOD ESTABLISHMENT.

C. Other Required Documentation: Provide documentation to verify that the FOOD ESTABLISHMENT is in compliance with any and all applicable local fire, planning and zoning, and building codes.

D. Preoperational Inspections. The REGULATORY AUTHORITY shall conduct one or more preoperational inspections to verify that the FOOD ESTABLISHMENT is constructed and equipped in accordance with the APPROVED plans and APPROVED modifications of those plans and is in compliance with the LAW.

Section 3. Permit to Operate.

A. Prerequisite for Operation. A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY.

B. Notification An applicant shall notify the REGULATORY AUTHORITY at least 30 calendar days before the date planned for opening a FOOD ESTABLISHMENT. An application for PERMIT must be submitted upon first routine inspection.

C. Form of Submission. A PERSON desiring to operate a FOOD ESTABLISHMENT shall submit to the REGULATORY AUTHORITY a written application for a PERMIT on a form provided by the

(1) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;

(2) Pay the applicable PERMIT fees at the time the application is submitted.

REGULATORY AUTHORITY.

E. Contents of Application. The application shall include:

(1) The name, birth date, mailing address, telephone number, and signature of the PERSON applying for the PERMIT and the name, mailing address, and location of the FOOD ESTABLISHMENT;

(2) Information specifying whether the FOOD ESTABLISHMENT is owned by an association, corporation, individual, partnership, or other legal entity;

(3) A statement specifying whether the FOOD ESTABLISHMENT is mobile or stationary and temporary or permanent.

(4) The name, title, address, and telephone number of the PERSON directly responsible for the FOOD ESTABLISHMENT;

(5) A statement signed by the applicant that attests to the accuracy of the information provided in the application;

(6) An approved annual inspection report from the fire protection district having jurisdiction, where applicable.

(7) Other information required by the REGULATORY AUTHORITY.

F. New, Converted, or Remodeled Establishments. For FOOD ESTABLISHMENTS that are required to submit plans, the REGULATORY AUTHORITY shall issue a PERMIT to the applicant after:

(1) A properly completed application is submitted;

(2) The required fee is submitted;

(3) The required plans, specifications, and information are reviewed and APPROVED; and

(4) A preoperational inspection showing that the establishment is built or remodeled in accordance with the APPROVED plans and specifications.

G. Existing Establishments, Permit Renewal and Change of Ownership. The REGULATORY AUTHORITY may renew a PERMIT for an existing FOOD ESTABLISHMENT or may issue a PERMIT to a new owner of an existing FOOD ESTABLISHMENT after a properly completed application is submitted, reviewed and APPROVED, the fees are paid, and an inspection shows that the establishment is in compliance with this Code.

D. Qualifications and Responsibilities of Applicants. To qualify for a PERMIT, an applicant shall:

(1) Be an owner of the FOOD ESTABLISHMENT or an officer of the legal ownership;

(2) Pay the applicable PERMIT fees at the time the application is submitted.

H. Denial of Application for Permit, Notice. If an application for a PERMIT to operate is denied, the REGULATORY AUTHORITY shall provide the applicant with a notice that includes:

- (1) The specific reasons and Code Citations for the PERMIT denial;
- (2) The actions, if any, that the applicant must take to qualify for a PERMIT; and
- (3) Information on the right of appeal.

I. Right of Appeal. An applicant whose application for a permit to operate has been denied may appeal the denial by filing a written request for a hearing before the Camden County Commission. The request must be received by the Camden County Commission within ten (10) days of the denial of the permit. The Camden County Commission shall conduct any requested hearing in accordance with the requirements of Chapter 536 of the Revised Statutes of Missouri.

J. Responsibilities of the Regulatory Authority.

(1) At the time a PERMIT is first issued, the REGULATORY AUTHORITY shall provide to the PERMIT HOLDER a copy of the applicable code so that the PERMIT HOLDER is notified of the compliance requirements.

(2) Failure to provide the information specified in paragraph (1) of this Section does not prevent the REGULATORY AUTHORITY from taking authorized action or seeking remedies if the PERMIT HOLDER fails to comply with this Code or an order, warning or directive of the REGULATORY AUTHORITY.

K. Responsibilities of the Permit Holder. Upon acceptance of the PERMIT issued by the REGULATORY AUTHORITY, the PERMIT HOLDER in order to, retain the PERMIT shall;

- (1) Post the PERMIT in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS;
- (2) Comply with the provisions of this Code;
- (3) Immediately contact the REGULATORY AUTHORITY to report an illness of an EMPLOYEE as specified under the Missouri Food Code;
- (4) Immediately discontinue operations and notify the REGULATORY AUTHORITY if an IMMINENT HEALTH HAZARD may exist;
- (5) Allow representatives of the REGULATORY AUTHORITY access to the FOOD ESTABLISHMENT;
- (6) MOBILE FOOD ESTABLISHMENTS are required to be associated with a Permitted, Inspected and Approved COMMISSARY. Both MOBILE Unit and COMMISSARY must pass inspection, be permitted, and be in compliance with all applicable codes. All MOBILE FOOD ESTABLISHMENTS must return to their COMMISSARY at the close of business for each day

for Cleaning, Sanitizing, Servicing and Restocking purposes.

A) The entire MOBILE UNIT along with all associated equipment and signage must be removed and returned to the COMMISSARY each day when the business is closed.

B) **To assure safety of the food products:**

1) MOBILE ESTABLISHMENTS at the option of the owner, the Mobile Establishment may be fitted with REGULATORY AUTHORITY approved GPS devices that allow REGULATORY AUTHORITY to confirm daily location and return to the COMMISSARY.

If an approved GPS device is installed, the Mobile Establishment may remain at one physical address/location for no more than four (4) consecutive days and no more than four (4) total days of any seven (7) day period from Monday through Sunday at any one physical address/location, subject to daily return to the Commissary. The costs of such GPS device shall be paid by the operator of the Mobile Establishment and the operator will give the REGULATORY AUTHORITY full access to view the GPS location information and history.

2) If the ESTABLISHMENT does not wish to install a GPS device, the aforesaid four (4) consecutive day permission at one location does not apply and the MOBILE ESTABLISHMENT will be required to show proof of **returning to a COMMISSARY at least once in each 24-hour period and moving to a new physical address/location daily.**

(7) Comply with directives of the REGULATORY AUTHORITY including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the REGULATORY AUTHORITY in regard to the PERMIT HOLDER'S FOOD ESTABLISHMENT or in response to community emergencies;

(8) Accept notices issued and served by the REGULATORY AUTHORITY according to LAW; and

(8) Be subject to the administrative, civil, injunctive and criminal remedies authorized by LAW for failure to comply with this Code or a directive of the REGULATORY AUTHORITY, including time frames for corrective actions specified in inspection reports, notices, orders, warnings and other directives.

L. Permits Not Transferable. A PERMIT may not be transferred from one PERSON to another PERSON, from one FOOD ESTABLISHMENT to another, or from one type of operation to another if the FOOD operation changes from the type of operation specified in the application and the change in operation is not APPROVED.

M. Food Service Worker Certificates.

(1) Food Manager's Certificate. A food manager's certificate is required for all individuals employed by a FOOD ESTABLISHMENT in a management or person in charge capacity. The certificate must be obtained by the individual no later than sixty (60) days from employment as a manager or person in charge. A food manager's certificate shall be awarded to an individual only after successful completion of an accredited program or a course of instruction approved by the REGULATORY AUTHORITY. A food manager's certificate shall be valid for five (5) years from the date of issuance.

(2) Food handler's or food manager's certificate will not be transferable from person to person, but shall be valid for the person to whom issued in any food service establishment within the county.

(3) Responsibility of owner, operator. It shall be unlawful for any person engaged in owning, operating, or managing a FOOD ESTABLISHMENT to utilize the services of any employee who is required to possess but does not possess a valid food manager's certificate.

(4) Custody of certificates. The food manager's certificate of each person in the employ of a FOOD ESTABLISHMENT shall be deposited with the management of the establishment during the tenure of that person's employment, and shall be returned to the person to whom issued upon termination of employment. Food manager's certificates suspended or revoked as hereinafter provided, shall be remanded to the custody of the REGULATORY AUTHORITY. Management shall maintain a file of the food manager's certificates of its personnel in a manner which will provide convenient access for REGULATORY AUTHORITY inspectors for inspection.

(5) Revocation of certificate. A food manager's certificate may be revoked by the REGULATORY AUTHORITY, for repeated or continuing violations of accepted procedures and practices in the preparation, service or storage of FOOD or beverage offered for public consumption, or upon demonstration of the presence of a communicable disease in the infectious stage, or an infectious condition of potential hazard to the public or to the person's co-workers, or for falsification of information required for issuance of the certificate. A food manager's certificate shall be revoked only after the certificate holder has been given written notice of the reasons for a proposed revocation and has been afforded the opportunity for a hearing before the Camden County Commission. The certificate holder must give written notice of a request for a hearing to the Camden County Commission within ten (10) days of receipt of the notice of proposed revocation. A food manager's certificate may be suspended pending a hearing in accordance with the requirements of Chapter 536 of the Revised Statutes of Missouri. An appeal from a decision of the Camden County Commission may be made to the Circuit Court of Camden County, Missouri, in accordance with Chapter 536 of the Revised Statutes of Missouri.

N. Suspension.

(1) A PERMIT to operate shall be suspended if:

- (a) conditions considered to be an imminent health hazard exists and the operator has not voluntarily discontinued operations; or
- (b) the operator refuses access to the REGULATORY AUTHORITY for inspection; or
- (c) an inspection reveals violations which meet or exceed the following:
 - 1. ten (10) critical (priority) violations, or
 - 2. twenty-five (25) non-critical (core) violations, or
 - 3. any combination of critical (priority) and non-critical (core) violations totaling thirty (30) or more violations.

(2) A PERMIT to operate may be suspended if:

- (a) upon re-inspection, violations are not corrected within the time frame specified by the REGULATORY AUTHORITY.

O. Notice. Upon suspension of a PERMIT, a notice must be posted on the door of the establishment stating the facility has ceased food service operations. This notice must remain posted until removed by the REGULATORY AUTHORITY.

P. Reinstatement. Any PERSON whose PERMIT has been suspended may, at any time, make application for the purpose of reinstatement of the PERMIT. Within three (3) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the PERMIT have been corrected, the REGULATORY AUTHORITY shall make a re-inspection. If the applicant is complying with the requirements of this article, the PERMIT shall be reinstated.

Q. Notice and Appeal.

(1) When a PERMIT to operate has been suspended, the REGULATORY AUTHORITY shall provide the PERMIT HOLDER written notice of the suspension and a brief statement of the grounds for the suspension. The notice shall contain information on the right to appeal and on the requirements for reinstatement. The notice shall be hand-delivered to the PERMIT HOLDER or an agent of the PERMIT HOLDER or shall be mailed to the address shown on the PERMIT HOLDER'S application or to the last known address of the PERMIT HOLDER

(2) A PERMIT HOLDER whose PERMIT to operate has been suspended may appeal the suspension by filing a written request for a hearing before the Camden County Commission. The request must be received by the Camden County Commission within ten (10) days of the suspension. The Camden County Commission shall conduct any requested hearing in accordance with the requirements of Chapter 536 of the Revised Statutes of Missouri. An appeal from the decision of the Camden County Commission may be made to the Circuit Court of Camden County, Missouri, in accordance with Chapter 536 of the Revised Statutes of Missouri.

R. Revocation.

(1) A PERMIT to operate may be revoked for serious or repeated violations of any of the requirements of this Code. A PERMIT to operate shall be revoked only after the PERMIT HOLDER has been given written notice for a proposed revocation and has been afforded the opportunity for a hearing before the Camden County Commission. The notice shall be hand delivered to the PERMIT HOLDER or an agent of the PERMIT HOLDER or shall be mailed to the address shown on the PERMIT HOLDER'S application or to the last known address of the PERMIT HOLDER.

(2) A PERMIT HOLDER whose PERMIT to operate is proposed to be revoked and who desires a hearing must be given written notice of a request for hearing to the Camden County Commission within ten (10) days of the receipt of the notice of proposed revocation. A PERMIT to operate may be suspended pending a hearing on the proposed revocation. The Camden County Commission shall conduct any requested hearing in accordance with the requirements of Chapter 536 of the Revised Statutes of Missouri. An appeal from the decision of the Camden County Commission may be made to the Camden County Circuit Court in accordance with Chapter 536 of the Revised Statutes of Missouri.

Section 4. Fees

(1) FOOD ESTABLISHMENTS shall pay an annual inspection/permit fee based on public health priority according to the following schedule:

(a) High priority	\$150.00
(b) Medium priority	\$100.00
(c) Low priority	\$50.00

Facilities operating more than one food service establishment must obtain an operating permit for each establishment.

(2) The annual fee shall be paid to the PERMIT administrator when the application for operating permit is submitted or the PERMIT is renewed.

(3) FOOD ESTABLISHMENTS shall pay an administrative service fee per inspection for the second and subsequent re-inspections required to correct violations noted during the inspection process. The fees shall be as follows: 2nd re-inspection is \$100.00, 3rd re-inspection is \$200.00, 4th re-inspection is \$400.00. The fee will double accordingly. The administrative service fee shall be paid to the PERMIT administrator prior to reissuance of any operating permit.

(4) Persons conducting a temporary food event (an event lasting less than fifteen (15) days) shall pay a permit fee of Twenty Five (\$25.00) Dollars. Non-profit organizations shall not be charged a fee for temporary food events. The fee shall be paid to the PERMIT administrator prior to receipt of the operating permit.

(5) Business owners will be allowed one (1) non-permitted "Customer Appreciation Day" event annually. The owner must be in compliance with applicable regulations and post appropriate signage stating the food has not been inspected by the REGULATORY AUTHORITY.

Section 5. Penalty.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred (\$500.00) Dollars or by imprisonment (not exceeding three (3) months) or by both such fine and imprisonment. Each day that a violation continues is a separate offense.

Section 6. Effective Date: Severability

This Ordinance shall be in full force and effect from and after its passage and approval. The provisions of the Ordinance are severable as provided in Section 1.140 RSMo.

Section 7. Repeal

All ordinances or parts of ordinances currently in effect that are in conflict with this Ordinance are hereby repealed upon the adoption of this Ordinance.

**PASSED, APPROVED AND ADOPTED by the Camden County Commission of Camden County,
Missouri, on the 28th day of JANUARY, 2021**

Greg Hasty
Presiding Commissioner

James Gohagan
1st District Commissioner

Don Williams
2nd District Commissioner

Rowland Todd
County Clerk

APPROVED AS TO FORM:

Charles E. McElyea, County Attorney