

Audrain County Ordinance 14-1

Audrain County Food Code

This ordinance as presented by the Audrain County Health Department Board of Health has been coordinated with and agreed to in whole by the Audrain County Commission. This code will include Chapters and Sections. Chapters will coincide with most current FDA Food Code and the most current Missouri Food Code for the Food Establishments of the State of Missouri. Sections will be specific to the process required in Audrain County. Audrain County will utilize, implement, and enforce the most current FDA Food Code and the most current Missouri Food Code for the Establishments of the State of Missouri unless annotated in the Sections. Sections shall be equal to or more stringent than the FDA or Missouri Food Codes, or will be items that are unique to Audrain County and not covered elsewhere. This ordinance shall cover and apply to all incorporated and/or non-incorporated areas of Audrain County.

Counties may make additional health rules--fees may be charged, deposit in county treasury, purpose--individuals unable to pay not to be denied health services--records and publication--violation a misdemeanor.

192.300. The county commissions and the county health center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, 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, ordinances, rules or 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. The county commissions and the county health center boards of the several counties may establish reasonable fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations, however, the establishment of such fees shall not deny personal health services to those individuals who are unable to pay such fees or impede the prevention or control of communicable disease. Fees generated shall be deposited in the county treasury. All fees generated under the provisions of this section shall be used to support the public health activities for which they were generated. After the promulgation and adoption of such orders, ordinances, rules or regulations by such county commission or county health board, such commission or county health board shall make and enter an order or record declaring such orders, ordinances, rules or regulations to be printed and available for distribution to the public in the office of the county clerk, and shall require a copy of such order to be published in some newspaper in the county in three successive weeks, not later than thirty days after the entry of such order, ordinance, rule or regulation. 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 commission or county health board of any such county has full power and authority to initiate the prosecution of any action under this section. (L. 1945 p. 974 § 9748a, A.L. 1973 H.B. 627, A.L. 1987 S.B. 397, A.L. 1989 S.B. 68 merged with S.B. 112, et al.)

This ordinance will be reviewed every four (4) years and revised as necessary.

The chapters follow the U. S. Department of Health & Human Services, Food and Drug Administration regulations and Missouri Food Code relating to food service and retail food service operations.

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Chapter 1: Purpose and Definitions

1-1 Title, Intent, Scope

Title

1-101.10 Audrain County Food Code

These provisions shall be known as the Audrain County Food Code, hereinafter referred to as "this Code."

Intent

1-102.10 Food Safety, Illness Prevention, and Honest Presentation

The purpose of this Code is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

Scope

1-103.10 Statement

This Code establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, training, and permit suspension/revocation.

1-2 Definitions

Any words or phrases not defined herein shall have their common ordinary meaning. Any words or phrases defined in the U. S. Department of Health & Human Services, Food and Drug Administration regulations relating to food service and retail food service operations, presently known as the FDA Food Code and any amendments, revisions, edition, compilation or consolidation thereto, or the Missouri Food Code for the Food Establishments of the State of Missouri shall have the meaning contained therein.

ACHD: Audrain County Health Department

Board: The Audrain County Health Department Board of Health (BoH).

Clearly Identified: Food products that are held for disposition shall be clearly identified by marking the item "hold", "recalled" or "not for sale". Food items that are *not* in their original container shall be clearly identified by marking the container with the common name of the product held in the container and the date, as well as "hold" or "not for sale".

Core Item(s): A non-critical violation of a provision of this regulation, which, that, if in noncompliance, is likely to lead to conditions favorable for food contamination, illness or environmental health hazard.

DHSS/'Department': Missouri Department of Health and Senior Services

Food Establishment: Refer to the FDA Food Code and the Missouri Food Code; with the exception of paragraph (3).

Priority Item(s): A critical violation of a provision of this regulation, which, that, if in noncompliance, is more likely than other violation to contribute to food contamination, illness or environmental health hazard.

Regulatory Authority: The Administrator, Audrain County Health Department, or an authorized representative.

Seasonal Food Establishment: Is a permanent food establishment with applicable permits and is operational only during specific times of the year.

Chapter 2: Management and Personnel - Refer to the FDA Food Code and Missouri Food Code

2-201.10: Replace 'Department' with 'Department and/or Regulatory Authority'

Chapter 3: Food - Refer to the FDA Food Code and Missouri Food Code

3-301.12 Preventing Contamination When Tasting: Employees shall not taste or consume food in preparation areas.

3-302.12 Food Storage Containers, Identified with Common Name of Food: This pertains to all food products.

3-304.11 Food Contact with Equipment and Utensils. Food contact surfaces shall include but not limited to the inside of ovens, microwave ovens, inside of freezers, and inside all cooling units.

3-501.17 Ready-to-Eat, Potentially Hazardous Food, Date Marking:

- (A) Refrigerated, ready-to-eat, potentially hazardous food, prepared and held in a food establishment shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of forty-one degrees Fahrenheit (41°F) or less for a maximum of seven (7) days or when held at a temperature of forty-five degrees Fahrenheit (45°F) or less for a maximum of four (4) days.

3-501.19 Time as a Public Health Control. In certain food operations or processes at the direction of the regulatory authority, temperature controls may be deemed necessary that otherwise may not be required.

3-901.10 Change of Menu: Any time a change of menu that includes a potentially hazardous food is accomplished by the food establishment; written notice shall be given to the regulatory authority.

Chapter 4: Equipment, Utensils, and Linens - Refer to the FDA Food Code and Missouri Food Code

4-202.15 Can Openers: Ensure the can opener(s) are clean and sanitary before each use. The can opener blade shall be sharp as to not produce metal shavings or fragments due to having a dull blade. The can opener(s) shall be clean and sanitary using the wash/rinse/sanitizing method after each use and/or as necessary to eliminate cross-contamination.

4-202.18 Ventilation Hood Systems, Filters: Shall be inspected by the food establishment and/or professional service, and cleaned/maintained on a schedule to ensure cleanliness, sanitation, and functionality.

4-203.11 Temperature Measuring Devices, Food: Food temperature measuring devices shall measure the internal temperature of the food product(s). As a minimum, food establishments shall have food temperature measuring devices that are able to be calibrated, such as dial stem thermometers; and it is recommended that all food temperature measuring devices be able to be calibrated to ensure accuracy standards. Food temperature measuring devices that measure only the surface or ambient area of the food item(s) such as infrared shall not be used for internal food temperature compliance. Sanitation of such food temperature measuring devices shall be maintained at all times and between each use.

4-501.12 Cutting Surfaces: Ensure the cutting surface(s) are clean and sanitary before each use. The cutting surface(s) shall be clean and sanitary using the wash/rinse/sanitizing method after each use and/or as necessary to eliminate cross-contamination.

Chapter 5: Water, Plumbing and Waste - Refer to the FDA Food Code and Missouri Food Code

5-102.17 Boil Orders, Boil Advisories and Limit Use Orders: In most occurrence's, it is recommended by the regulatory authority that due to the various limitations placed upon the food establishment regarding water usage that the food establishment consider

temporary closure of activities until the problem(s) are resolved. Coordination with the regulatory authority is required. Food establishments are required to notify the regulatory authority verbally within twelve (12) hours of any notice of boil order, boil advisory, or limit use order affecting the food establishment.

5-402.12 Grease Trap: With the exception of the City of Mexico, grease traps are not required in food establishments within Audrain County. It is recommended that grease traps be utilized whenever possible, however grease traps in food establishments are only required in the City of Mexico per City of Mexico Rules and Regulations (unless noted otherwise by the City of Mexico). Grease traps in the City of Mexico shall be inspected on a routine and regular basis.

Chapter 6: Physical Facilities - For all other guidelines in this chapter refer to the FDA Food Code and Missouri Food Code

6-301.14 Hand Washing Signage: Hand washing signage shall be provided in all restroom facilities located for use by the food establishment.

6-404.11 Segregation and Location: The area(s) where such food items held shall be clearly identified.

6-501.111 Controlling Pests: Food establishments shall implement a pest management plan. This pest management plan shall be available for review at any time.

Chapter 7: Poisonous or Toxic Materials - Refer to the FDA Food Code and Missouri Food Code

Chapter 8: Compliance and Enforcement - Refer to the FDA Food Code and the Missouri Food Code

8-103.10 Modifications and Waivers: The regulatory authority may modify or waive the requirements of this Ordinance, through an approved special process, if in the opinion of the regulatory authority a health hazard or nuisance will not result. If a special process is approved, the regulatory authority shall retain the information specified under § 8-103.11 in its records for the food establishment.

8-103.11 Documentation of Proposed Special Process and Justification: Before the regulatory authority waives or modifies a requirement of this Ordinance, the information that shall be provided by the person requesting approval for a special process includes:

- (A) A written statement of the proposed modification or waiver of the Ordinance requirement citing relevant Ordinance section numbers;
- (B) A written statement as to why the special process is necessary;
- (C) Written procedures for how the modification or waiver will be implemented;

(D) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Ordinance sections will be alternatively addressed by the proposal; and

(E) A HACCP plan (if required by food establishment or regulatory authority) that includes the information specified under § 8-201.14 and/or § 8-103.12 as it is relevant to the request.

8-103.13 If Conditions or Provisions Change: If conditions change or provisions, upon which a special process is approved, are not followed, the regulatory authority may revoke the approval and the operator shall be required to meet the provisions of this Ordinance.

8-301.11 Prerequisite for Operation - Permanent

(A) A person may not begin operation of a new food establishment without obtaining written approval to open issued by the regulatory authority.

(B) No person shall operate a food establishment that does not possess a valid Audrain County Permit to Operate a Food Service Establishment (hereinafter, “permit”) issued by the regulatory authority. Only a person who complies with the requirements of these rules and regulations shall be entitled to receive or retain a permit. Permits are nontransferable. A valid permit shall be posted in a publicly accessible part of every food establishment.

(C) The operator of a food establishment must obtain written approval from the regulatory authority before beginning an extensive renovation of an existing food establishment or a change of operator of the food establishment.

8-302.11 Submission 30 Calendar Days before Proposed Opening: An applicant shall submit an application for approval to open at least thirty (30) calendar days before the date planned for opening a food establishment or at least thirty (30) calendar days before beginning an extensive renovation.

8-302.12 Forms of Submission: A person desiring to operate a food establishment shall submit to the regulatory authority a completed form, EPHS Form 01F-14, Application for Food Establishment.

8-302.13 Qualifications and Responsibilities of Applicants: To qualify for review and approval to open, an applicant shall:

(A) Provide to the regulatory authority a completed EPHS Form 01F-14, Application for Food Establishment;

(B) Be an owner of the food establishment or an officer of the legal ownership;

(C) Comply with the requirements of this Ordinance;

(D) Obtain local jurisdictional business license (as applicable);

(E) Obtain or begin process of liquor license (as applicable);

(F) Review grease trap requirements (as applicable); and

(G) Agree to allow access to the food establishment, to allow the use of multi-media, and to provide required information to regulatory authority.

8-302.20 Preoperational Inspections: The regulatory authority shall conduct one (1) or more preoperational inspections. These preoperational inspections will be completed during the timeframe identified in 8-302.11, or as otherwise necessary. Preoperational inspections should be completed and approved at least five (5) business days prior to the food establishment official opening. Preoperational inspections shall be required for new establishments, change of ownership, major renovations/remodeling, and as deemed necessary by the regulatory authority. Regulatory authority shall have the opportunity to review any and all construction, remodel, renovation, etc. plans. Coordination with all other proper and/or necessary regulatory authorities (i.e.; City Inspectors, Liquor License, etc.) shall be accomplished. Preoperational inspections are implemented in order to verify that the food establishment is constructed and equipped as specified in law and in accordance with the provisions of applicable rules and regulations under the purview of the regulatory authority.

8-303.10 Issuance of Approval to Open: The regulatory authority shall issue a written approval to open and operate to the applicant after:

- (A) All necessary forms and documentation is received by the regulatory authority;
- (B) The preoperational inspection has been completed and approved;
- (C) Evidence that standard procedures and staff training are in place; and
- (D) Any or all official operating licenses have been issued.

Permits are nontransferable. A valid permit shall be posted in a publicly accessible part of every food establishment. Permits are valid for the time that the food establishment is under the same ownership and open to the public, unless otherwise noted by the regulatory authority. Transfer of ownership must obtain a new permit through the normal application process. Permits to open/operate shall be posted in the same manner as paragraph 9-101.04 herein.

8-303.20 Denial of Approval to Open, Notice: If an application for approval to open is denied, the regulatory authority shall provide the applicant with a written notice that includes:

- (A) The specific reasons and citations for the denial; and
- (B) The actions, if any, that the applicant must take to qualify for approval to open.

8-303.25 Agreement to Comply: Circumstances may dictate that written agreements are in place between the food establishment and the regulatory authority when compliance issues regarding non-critical/core items cannot be fully met at a certain time and any such agreement shall be limited in scope and time in order to obtain full compliance.

8-303.30 Failure to Obtain Approval to Open: Any food establishment found to be operating without the required approval to open may be issued a closing order by the regulatory authority. This closing order shall be an official order and coordinated with the following authorities as necessary: Regulatory authority Board of Health, Audrain County Commission, local governing body (i.e.; City Council/Mayor, etc.), and Audrain County Prosecuting Attorney. If so issued, the food establishment shall and will cease operation immediately upon receipt of notice, will remain closed until the food

establishment has met the provisions as documented and presented, and an approval to operate has been issued by the regulatory authority.

8-404.12 Resumption of Operations: If operations are discontinued as specified under §§ 8-404.11 or 8-404.13 or otherwise according to law, the food establishment shall obtain written approval from the regulatory authority before resuming operations.

8-404.13 Closing Establishment with Imminent Health Hazard: A food establishment found to have an imminent health hazard who fails to immediately cease operations as specified herein will be issued a closing order by the regulatory authority. The food establishment shall and will cease operation and remain closed until such time as the imminent health hazard is abated. This closing order shall be an official order and coordinated with the following authorities as necessary: Regulatory authority Board of Health, Audrain County Commission, local governing body (i.e.; City Council/Mayor, etc.), and Audrain County Prosecuting Attorney. If so issued, the food establishment shall and will cease operation immediately upon receipt of notice, will remain closed until the food establishment has met the provisions as documented and presented, and an approval to operate has been issued by the regulatory authority.

Chapter 9: Audrain County Specific

9-101.01 All food establishments within Audrain County, unless otherwise noted and regardless of priority, shall be inspected at least two (2) times a year. Exceptions may include those identified as seasonal, which would require at least one (1) inspection per year.

9-101.02 Scoring System

The scoring system shall be on a scale of zero (0) to one hundred (100). Priority/Critical Findings shall be worth -3 points each occurrence. Core/Non-Critical Findings shall be worth -1 point each occurrence. A food establishment inspection score of less than (<) eighty-seven (87) points shall require an automatic and complete re-inspection from the regulatory authority with a re-score assigned. A food establishment inspection score of eighty-seven (87) or greater (\geq) may require a follow-up inspection as deemed necessary by the regulatory authority, and no re-score will be assigned until the next regularly scheduled food establishment inspection conducted by the regulatory authority.

9-101.03 Types of Food Establishment Inspections may include, but not be limited to: Pre-Opening, Initial, Routine, Follow-Up, and Special/Complaint.

9-101.04 Food establishments shall physically post the Food Establishment Inspection Report Form with applicable score visible to the consumer in the food establishment and readily available for review by the regulatory authority at all times. Areas of posting may include around the cash register, at the entrance of the food establishment, waiting areas for customers, or other areas deemed appropriate. This must remain posted until the rating is changed through official ACHD food establishment inspection. Failure to post or maintain the Food Establishment Inspection Report Form with applicable score as

designated herein shall constitute failure to comply and may be subject to penalties as deemed necessary as identified herein.

9-101.05 ACHD shall provide the results of all Audrain County Food Establishment inspections to the local media on a monthly basis, as applicable. All results shall be posted to the ACHD website quarterly, as applicable. All results shall be posted and referenced as necessary by ACHD in annual reports and other applicable documentation

9-101.06 All food establishment employees shall be trained in accordance with 2-103.11 at least annually by the food establishment and this shall be documented and readily available for review by the regulatory authority. Additional employee training may be required as needed and/or directed.

9-102.01 Food establishments may request, in writing, training from ACHD. ACHD reserves the right to conduct this training as needed and as resources are available.

9-102.02 Training may be formal or informal. Hands-on training and practical training is highly encouraged. Food establishment workers may obtain formal training from authorized, recognized, and/or accredited sources, and obtain food handler cards indicating such training. ACHD reserves the right to provide such training as applicable and available.

9-102.03 Any penalties for non-compliance related to this ordinance shall be referred to the Audrain County Prosecuting Attorney's office for assessment of appropriate penalties in accordance with the following referenced statutes. Reference RSMo 192.300, 558.011, and 560.016.

9-103.01 Recalls: Officially received recalls related to food products, drugs, and/or cosmetics shall be handled in the latest methodology approved and implemented by ACHD.

9-104.01 Emergency Food: Aspects of emergency food are covered in other applicable guidelines, rules, regulations, etc. under the purview of the regulatory authority such as, but not limited to wrecks and disasters.

9-105.01 Boil Advisory/Order and/or Power Outage: All food establishments shall be required to review and sign the "Notice: Food Service and Retail Food Establishments Guidelines During a Power Outage". This form shall be provided to ACHD and filed in the food establishment official file. All other aspects of boil advisories/orders shall be in accordance with applicable guidelines, rules, regulations, etc. under the purview of the regulatory authority.

9-106.01 Temporary Food: Refer to the most current ACHD policies and issue of the rules and regulations in the Temporary Food Permitting. Copies are available upon request at the Audrain County Health Department.

9-107.01 Farmers Market: Refer to the most current ACHD policies and issue of the rules and regulations in the Farmers Markets Guidelines. Copies are available upon request at the Audrain County Health Department.

REFERENCES:

FDA Food Code

MO Food Code

MO DHSS EHO

Applicable RSMo's

FORMS:

EPHS Form 01F-14; Application for Food Establishment

EPHS Form 02F-14; Application for Temporary Food Permit

EPHS Form 03F-14; Inspection Priority Assessment

EPHS Form 04F-14; Agreement to Comply with Violations

EPHS Form 05F-14; Transfer of Catered Foods

EPHS Form 06F-14; Opening Checklist

EPHS Form 07F-14; Liquor by the Drink

EPHS Form 08FA-14; Inspection Form

EPHS Form 08FB-14; Inspection Form

EPHS Form 09F-14; Power Outage and Boil Water Guidelines

EPHS Form 10F-14; Permit to Operate a Food Establishment

NOTE: Numbering: i.e.; "Program Abbreviation", Form, "2-digit # and Capital Initial for Program Specific", hyphen, "last two digits of current year"

This ordinance is officially effective as of January 1, 2015