

CAPE GIRARDEAU COUNTY FOOD RULES AND REGULATIONS

I. INTRODUCTION

These Rules and Regulations are used in conjunction with the Cape Girardeau County Food Code adopted by the Cape Girardeau County Commission on Month, Day, 2007. These Rules and Regulations shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

II. DEFINITIONS

- A) **Board:** The Cape Girardeau County Public Health Center Board of Trustees
- B) **Commissary:** An inspected and approved kitchen facility separate from one's personal kitchen in which all food to be used in a mobile food stand operation is stored and prepared.
- C) **Critical Violation:** A violation of a provision of this regulation, which, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental hazard.
- D) **Distressed Food:** Any food or food item that has been subjected to possible adulteration, whether through mishandling or involvement in a disaster or accident.
- E) **Food Item:** Any utensil, single service item, or linen that may be used in food preparation or service.
- F) **Food Establishment:** An operation that stores, prepares, packages, serves, vends, or otherwise provides food to residents, members, or to the general public. This includes unpackaged, non-potentially hazardous foods.
- i. Food establishments include, but are not limited to :
 1. Restaurants, schools, taverns, correctional facilities, grocery stores, food stands, summer feed programs, hospital cafeterias, bakeries, convenience stores, caterers, senior centers, retail food facilities, delis, institutions, rehabilitation centers, group homes, retirement centers,

long-term care facilities, lodging facilities, fraternal orders, cafeterias, camp kitchens, shelters, concession stands, reception halls with kitchen facilities, convention centers, special event centers, warehouses and distribution centers, and produce stands that offer cut fruits and vegetables.

ii. Food establishments do not include:

1. An establishment that offers only pre-packaged foods that are not potentially hazardous, unless establishment is a manufacturer or distributor;
2. A produce stand that offers only whole, uncut fresh fruits and vegetables;
3. 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 religious or charitable 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 inspected by the Regulatory Authority.
4. A kitchen in a private home, such as a small family daycare provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guests served does not exceed twelve (12) the number of bedrooms does not exceed four (4), breakfast is the only meal served, and the consumer is informed by statements contained in published advertisements that the food is prepared in a kitchen that is not regulated and inspected by the Regulatory Authority;
5. A private gathering such as a family reunion, party, wedding, potluck, etc. that does not offer or present food to

the public. However, caterers used for such events are subject to inspection at their preparation facility.

6. A private home that receives catered or home-delivered food;
7. A private home that prepares jams, jellies, or honey, if a) the preparer sells directly to the consumer, and b) the annual income from the process does not exceed \$30,000.
8. An institution in which the kitchen/food service is currently inspected under sanitation guidelines by a governmental regulatory agency, such as a nursing home, group home, or retirement community.

G) Mobile Food Stand: A food stand that a) transports and/or sells from a motor vehicle, b) is dismantled and moved to various locations, or c) does not qualify as a permanent, temporary or special food stand. Mobile food stand must have an inspected and approved commissary.

H) Regulatory Authority: The Director of the Cape Girardeau County Public Health Center or an authorized representative.

I) Limited-Use Temporary Food Stand: A temporary food stand that operates no more than three (3) times a year for a period not to exceed two (2) consecutive days in a single location, not in conjunction with a single event or celebration.

J) Temporary Food Stand: A food service establishment which operates at a fixed location for a temporary period of time, not to exceed fourteen (14) consecutive days in connection with a single event or celebration.

Any words or phrases not defined herein shall have their common ordinary meaning. Any words or phrases defined in the Missouri Department of Health and Senior Services regulations relating to food service and retail food operations, presently know as the *1999 Missouri Food Code* and any amendment, revision, edition, compilation or consolidation thereto shall have the meaning contained therein.

III. COMPLIANCE PROCEDURES FOR PERMITS AND CERTIFICATES

A) General Requirements

- i. No person shall operate a food establishment that does not possess a valid County Food and Beverage Permit (hereafter, “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 non-transferable. A valid permit shall be posted in a publicly accessible part of every food establishment. Permits shall be renewed on an annual basis, generally on January 1.
- ii. Any person or business entity found to be operating a food establishment without a valid permit shall cease operation immediately until such time that a valid permit can be obtained from the Regulatory Authority.
- iii. Any person that desires to operate a food establishment shall make written application for a permit on forms provided by the Regulatory Authority. The application shall include the name, address, and telephone number of the applicant, owner, manager, district manager and corporate office, where applicable; the location and type of proposed food service establishment; and the signature of each applicant. Applications for itinerant restaurants shall include the dates of proposed operation. A renewable annual permit fee shall be paid prior to the issuance of a permit.

B) Training Requirements

- i. No person shall manage a food establishment unless such person possesses a valid Food Management Certificate of Approval (hereafter, “certificate”). To obtain a certificate, the person shall have attended a food service class offered or approved by the Regulatory Authority and provide evidence of successful completion prior to the issuance of a certificate or its equivalent. In the case of a newly opened food establishment, operation may

continue until the first date available for food service training. If training is not completed at the next available training, the person may not continue to manage food operations until such training has been completed.

- ii. A certificate or its equivalent shall be valid for five (5) years from its date of issuance. An approved refresher training course shall be completed prior to expiration of the certificate. Failure to attend the refresher training shall be a violation of these rules and regulations.
- iii. Except as provided in IIIB(vii-ix), all food establishment personnel involved in the preparation of food must possess a Basic Sanitation Certificate (hereafter, "BSC"). To obtain a BSC, the food establishment personnel must have attended a basic sanitation course proved by the Regulatory Authority or an equivalent training course approved by the Regulatory Authority and provide evidence of satisfactory completion prior to the issuance of a Basic Sanitation Certificate. The Basic Sanitation Certificate shall be valid for (3) years.
- iv. New employees must obtain a BSC within 45 days from date of employment.
- v. Certificates and BSCs for all employees must be readily available for inspection by the Regulatory Authority.
- vi. Existing food establishments must have all personnel trained within two (2) years of the date of this rule.
- vii. Temporary food service establishments shall provide a person who has attended a Basic sanitation course offered or approved by the Regulatory Authority and possesses a basic Sanitation Certificate.
- viii. Food establishments serving only prepackaged items and self-service drinks shall be exempt from the requirement of a Certificate and/or BSC.

- ix. Employees in drinking establishments may be exempt from possessing a Certificate or BSC, provided the establishment offers only prepackaged, non-potentially hazardous foods
- x. The Regulatory Authority may require the employees from an exempt establishment to obtain training if there exists a general lack of knowledge as evidenced by continued repeat violations.

C) Inspection Requirements

- i. Prior to approval of an application for a permit, the Regulatory Authority shall inspect the proposed food establishment to determine compliance with the requirements of these Rules and Regulations. A satisfactory inspection must have been conducted within the 12 months prior to the renewal date. The most recent inspection will be used to determine compliance.
- ii. The Regulatory Authority shall issue a permit to the applicant provided the inspection determines the proposed food establishment complies with all applicable rules and regulations concerning food service, and all fees have been paid.
- iii. An inspection of a food establishment shall be performed at least annually. Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of the Cape Girardeau County Food Code.
- iv. Representatives of the Regulatory Authority shall be permitted to enter any food establishment at any reasonable time for the purpose of making inspections to determine compliance. The representative shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.
- v. Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report. The inspection report form shall summarize any noncompliance with local regulations regarding food service. 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 inspection report form is a public document available for review by the general public.

1. An inspection report may not be immediately available to the public if there is an ongoing investigation; or if the Regulatory Authority is involved in or preparing for legal actions regarding the inspection. The inspection will become a public document at the conclusion of the investigation/legal proceedings.
2. A copy of the inspection report must be posted in a location convenient to all employees.

D) Procedures for Correction of Violations

The inspection report form shall specify a reasonable period of time for the correction of the violations and in accordance with the following provisions:

- i. If an imminent health hazard exists, the Regulatory Authority may, without notice, warning, or hearing suspend a permit until such time as the imminent health hazard no longer exists. Food service operations shall not be resumed until authorized by the Regulatory Authority. Examples include: a lack of refrigeration, sewage backup into the establishment, failing onsite septic system, loss of potable water supply, or extended power outage.
- ii. Critical violations shall be corrected in the period of time specified in the inspection report. The Regulatory Authority will conduct a re-inspection to confirm compliance. The method of re-inspection shall be determined by the Regulatory Authority.
- iii. All non-critical violations shall be corrected as soon as possible, and not later than the date of the next routine inspection.
- iv. If it becomes necessary to conduct additional re-inspections due to continued non-compliance, the Regulatory Authority may schedule

additional visit(s) and charge a fee to cover the cost of any extra re-inspection(s).

- v. All outstanding fees must be paid prior to renewal of the permit.
- vi. In the case of temporary food establishments all critical and non-critical violations shall be corrected at the time of the inspection. If violations are not corrected, the establishment shall immediately cease food service operations until authorized to resume by the Regulatory Authority.
- vii. An opportunity for a hearing regarding the inspection report or the time limitations shall be provided if a written request is filed with the Regulatory Authority within ten (10) calendar days following delivery of the inspection report to the establishment. If a written request for hearing is made, a hearing shall be held within twenty (20) calendar days of receipt of the request.

IV. SUSPENSION AND REVOCATION OF PERMIT

A) Suspension of Permit

- i. The Regulatory Authority may, without warning, notice, or hearing, close any establishment or suspend any permit to operate a food establishment if the holder the permit is not in compliance with the Cape Girardeau County Food Code and if the operation of the food establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by these Rules and Regulations. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within twenty (20) calendar days of receipt of a written request for a hearing.
- ii. Whenever a permit is suspended, the holder of the permit or the person then in charge of the food establishment shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for hearing shall be provided if a written request for hearing is filed with the Regulatory Authority

within ten (10) calendar days. If no written request for hearing is filed within ten (10) calendar days, then no hearing shall be held and the suspension is final.

- iii. When a permit is suspended, food establishment operations shall immediately cease. The Regulatory Authority may rescind the suspension at any time if the reason(s) for the suspension no longer exist.

B) Revocation of Permit

- i. The Regulatory Authority may, after providing an opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of the Cape Girardeau County Food Code or for interference with the Regulatory Authority in the performance of duty.
- ii. Prior to revocation, the Regulatory Authority shall provide written notice to the holder of the permit, or the person then in charge of the food establishment, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the expiration of ten (10) days following service of the notice. Unless a written request for a hearing is filed with the Regulatory Authority by the holder of the permit or certificate within the ten (10) day period, the revocation of the permit is final.
- iii. A notice provided for in these Rules and Regulations is properly served when it is delivered to the holder of the permit or the person in charge of the food establishment, or it is mailed by certified mail to the last known address of the holder of the permit or when the notice is posted on the entrance to the establishment. A copy of the notice shall be filed in the records of the Regulatory Authority.
- iv. The hearings provided for in these Rules and Regulations shall be conducted by the Regulatory authority at a time and place designated by it. Oral testimony shall be recorded verbatim. The Regulatory Authority shall make a decision based upon the

complete hearing record and shall sustain, modify or rescind any notice or order at issue in the hearing. A written report of the decision shall be furnished to the holder of the permit by the Regulatory Authority via mailing the decision certified US Mail, return receipt requested.

- v. The hearing board shall consist of the Director of the Cape Girardeau County Public Health Center, the Assistant Director of the Cape Girardeau County Public Health Center, a quorum of the Cape Girardeau County Public Health Center Board of Trustees, the owner/manager of a comparable food establishment, a citizen of Cape Girardeau County, and an Environmental Public Health Specialist.
- vi. Whenever revocation of a permit is final, the holder of the permit or certificate may make written application for a new permit following correction of violations.

V. PLAN REVIEW

- A)** Before a food establishment is constructed or extensively remodeled or whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Regulatory Authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed floor plan, equipment arrangement, mechanical plans, and construction materials of facility, and the type and the model of proposed fixed equipment and facilities. The regulatory Authority shall approve the plans and specifications provided they are in compliance with the requirements of the Cape Girardeau County Food Code. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with the plans and specifications approved by the Regulatory Authority.
- B)** The Regulatory Authority shall inspect the food establishment prior to the start of operations to determine compliance with the submitted plans and

specifications and with the requirements of the Cape Girardeau County Food Code.

VI. LANGUAGE REQUIREMENT

A) There shall be at least one person on duty during an inspection who can readily communicate with both the Regulatory Authority and facility personnel.

VII. INTEGRATIVE PEST MANAGEMENT SYSTEM

A) An Integrative Pest Management System may be required when current method of pest control is ineffective.

VIII. RECORD KEEPING

- A) The Regulatory Authority may require and verify record keeping if an establishment has repeat violations in any such area.
- B) Failure to maintain at least 50% of Basic Sanitation Certificates on file at any time shall constitute a violation of these Rules and Regulations.

IX. PROCEDURE WHEN INFECTION IS SUSPECTED

- A) When the Regulatory Authority has reasonable cause to suspect possible disease transmission by an employee of a food establishment, it may secure a morbidity history of the suspected employee or make any other investigations as indicated and shall take appropriate action. The Regulatory Authority may require any or all of the following measures:
 - i. immediate exclusion of the employee from employment in the food establishment;
 - ii. immediate closing of the food establishment until, in the opinion of the Regulatory Authority, no further danger of disease outbreak exists;
 - iii. restriction of the employee's duties to an area of the establishment where there is no danger of disease transmission; and
 - iv. appropriate medical and laboratory examination of the exposed employee and the exposed employee's bodily discharges as approved by the Cape Girardeau County Public Health Center.

X. FOOD ESTABLISHMENTS OUTSIDE JURISDICTION

A) Food from food establishments outside the jurisdiction of the Regulatory Authority may be sold within the county of Cape Girardeau if such food establishments conform to the provisions of the Missouri Food Code or to substantially equivalent provisions. To determine the extent of compliance with such provisions. To determine the extent of compliance with such provisions the Regulatory Authority may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

XI. FOOD STAND REQUIREMENTS

A) Food stand operations shall comply with all regulations pertaining to a permanent food establishment with the following exceptions:

- i. Limited-Use and Temporary food stands may use portable/temporary handwashing facilities and ware washing facilities.
- ii. Mobile food stands shall have hot and cold water under pressure for handwashing and ware washing.
- iii. All wastewater from a food stand must be disposed of in a DNR-regulated facility approved for the disposal of wastewater.
- iv. All water used in the stand for handwashing, ware washing, and drinking (including ice) must be potable.
- v. The temporary food permit fee for a mobile food stand at a special event may be waived provided the food stand has a current mobile stand permit and continues to meet the requirements of the mobile food stand permit. An inspection will be conducted to determine compliance.
- vi. Holding tanks used for water and sewage must meet minimum requirements as outline in the current Missouri Food Code.

B) A Limited-Use Temporary Food Stand must:

- i. Inform Regulatory Authority of operating schedule.
- ii. Set up each time with all required equipment and procedures.

1. Any stand found to be operating outside of its approved operating schedule shall forfeit a later approved date, and may be subject to revocation of the permit.
 2. Any stand found to be set up outside the initial approved design will be subject to closure and/or forfeiture of the permit.
- C) All food stands must obtain the proper permit prior to offering any food product to the public. Any stand failing to obtain a permit prior to opening may be denied a permit for a specified period of time, not to exceed 24 hours and may be subject to a monetary fine.

XII. COMPLAINT PROCEDURES

- A) All complaints against food establishments will be investigated within a reasonable timeframe. Complaints received against facilities that are not “food establishments”, but that offer food to the public will be investigated in a timely manner or referred to the appropriate jurisdiction. If a non-food establishment is found to have contaminated, misbranded, filthy, putrid, rotten, or otherwise adulterated or distressed food, the product will immediately be embargoed and evaluated for release/condemnation.

XIII. VIOLATIONS AND PENALTIES

- A) Any person (or responsible officer or employer of that person) who violates a provision of the Cape Girardeau County Food Code and any person (or responsible officer or employer of that person) who is the holder of a permit or certificate or who otherwise operates a food establishment that does not comply with the requirements of Cape Girardeau County Food Code, or who fails to comply with any of its requirements (including violation and conditions and safeguards established in connection with grants and variances or special exceptions) shall be guilty of a misdemeanor punishable as provided in 196.235 and 196.265, RSMo., and upon proper complaint shall be prosecuted. Any person who violates the Cape Girardeau County Food Code or fails to comply with any of its requirements shall, upon conviction in a court of

record, be fined and/or imprisoned as provided by law and shall pay costs and expenses involved in the case, including expenses of prosecution. Each day in which any such violation exists shall be deemed a separate offense. Nothing herein contained shall prevent the County of Cape Girardeau or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation. The Regulatory Authority may seek to enjoin violations of the Cape Girardeau County Food Code.

XIV. ENFORCEMENT INTERPRETATION

A) These Rules and Regulations shall be enforced by the Regulatory Authority in accordance with interpretations thereof contained in the current edition of the *Recommendations of the United States Public Health Service Food and Drug Administration* as adopted by the Missouri Department of Health and Senior Services, relating to food operations, three copies of which are on file and available for inspection in the Cape Girardeau County Public Health Center, Cape Girardeau, Missouri.

XV. UNCONSTITUTIONALITY CLAUSE OR INVALIDITY CLAUSE

A) Should any section, paragraph, sentence, clause, or phrase of these Rules and Regulations be declared unconstitutional or invalid for any reason, the remainder of said Rules and Regulations shall not be affected thereby.

XVI. CHANGES OR AMENDMENTS

A) Any changes or amendments to this document must be approved by the Cape Girardeau County Public Health Center Board of Trustees and the Cape Girardeau County Commission.

XVII. ANNEX 1- FEE SCHEDULE

ESTABLISHMENT TYPE	Establishment	Establishment	Establishment	Other
	Priority	Priority	Priority	
	HIGH	MEDIUM	LOW	
Restaurant	\$165.00	\$110.00	\$75.00	
Bakery	\$165.00	\$110.00	\$75.00	
Caterer	\$165.00	\$110.00	\$75.00	
Convenience Store	\$165.00	\$110.00	\$75.00	
Processor/Distributor	\$165.00	\$110.00	\$75.00	
Tavern	\$165.00	\$110.00	\$75.00	
Vending Machines	\$165.00	\$110.00	\$75.00	
Temporary Food Stands (FP)	\$30.00	\$30.00	\$30.00	
Temporary Food Stands (NFP) **	No Charge	No Charge	No Charge	
Mobile Food Stand	\$90.00	\$90.00	\$90.00	
Limited Temporary Food Stand	\$60.00	\$60.00	\$60.00	
Senior Centers	No Charge	No Charge	No Charge	
Churches (per request)	No Charge	No Charge	No Charge	
Hospitals-For Profit	\$165.00	N/A	N/A	
Hospitals- Non Profit **	No Charge	No Charge	No Charge	
Schools-For Profit	\$165.00	N/A	N/A	
Schools- Non Profit **	No Charge	No Charge	No Charge	
Nursing Home - For Profit	\$165.00	N/A	N/A	
Nursing Home - Not For Profit	No Charge	No Charge	No Charge	
Grocery Stores (regardless of priority)	\$120.00	\$ 120.00	\$120.00	
Add Per Department:				
Deli				\$ 30.00
Bakery				\$ 30.00
Meat				\$ 30.00
Produce				\$ 30.00
Seafood				\$ 30.00
Plan Reviews				\$ 55.00
Food Schools (Manager)				??
Food Schools (Food Worker				\$ 10.00
Card for 3 years)				
Additional Re-inspection ***				??

**** Must Provide Documentation of 501C Exemption Status**

***** Fee amount will escalate with each reinspection**