

## ARTICLE II. FOOD AND FOOD ESTABLISHMENTS\*

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**\*Cross references:** Licenses, permits and miscellaneous business regulations, ch. 70.

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### DIVISION 1. GENERALLY

Secs. 58-31--58-50. Reserved.

### DIVISION 2. RESTAURANTS

Sec. 58-51. Definitions.

*City manager* means the city manager or the city manager's designee.

***Critical item* means a provision of the Missouri Food Code, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health and is denoted in the Code with an asterisk \*.**

*Embargo* means to prohibit the shipment, sale or movement of food or food products.

***Food establishment* means an operation that stores, prepares, packages, serves or otherwise provides food for human consumption.**

***Mobile food establishment* means a food service operation that operates from a movable vehicle, portable structure, or pushcart.**

*Permit* means the document issued by the regulatory authority that authorizes a person to operate a food establishment.

*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.

*Regulatory authority* means the city is the authorized enforcement body having jurisdiction over the food establishment.

***Temporary food establishment* means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.**

(Code 1981, § 15-1; G.O. No. 5084, § 1, 5-29-2001)

**Cross references:** Definitions generally, § 1-2.

Sec. 58-52. Enforcement.

This division shall be enforced by the city manager in accordance with the 1999 Missouri Food Code ~~(as stated in 19 CSR 20-1.025 Sanitation of Food Establishments)~~. **A copy of said Missouri Food Code** which shall be kept on file at the city clerk's office and such Code is incorporated herein as if fully set out. It shall be unlawful to violate any provision of the Code and such violation shall be punished pursuant to section 1-7.  
(Code 1981, § 15-9; G.O. No. 5084, § 1, 5-29-2001; G.O. No. 5392, § 1, 7-6-2004)

Sec. 58-53. Permit required; **fees**, suspension or revocation.

(a) No person shall operate a food establishment in the city who does not possess a permit from the city manager, nor shall any person operate a food establishment after the suspension or revocation of such permit. The permit shall be posted in a conspicuous place. Only persons who comply with the requirements of this article shall be entitled to receive and retain such a permit. A person shall be required to secure a permit for the operation of a temporary food establishment. Vending machine locations are not required to obtain a permit, but may be inspected as often as deemed necessary by the regulatory authority.

(b) Upon the violation by the permit holder of any of the terms of this article any permit issued under this article may be temporarily suspended by the regulatory authority, or revoked after an opportunity for a hearing by the city manager upon serious or repeated violations.

**(c) Permit fees shall be as established by ordinance from time to time. All permits shall be for one year, beginning on January 1 and ending December 31, with the exception of temporary food establishment permits and mobile food permits or unless otherwise provided for by ordinance, and shall be renewed thereafter annually only by payment of the proper fee. New businesses or discontinued businesses making timely application for a permit after the beginning of a current permit year shall pay a prorated monthly rate, which includes the month of application, for the remainder of the permit year.**

**(d) Other fees may be set as indicated by the Director of Finance annual fee study, including but not limited to:**

- 1. New construction or major remodeling inspection fee**
- 2. Smoking exemption permit fee**
- 3. Temporary food establishment permit fee**
- 4. Mobile food permit fee**

**(e) The permit fee provisions shall not apply to school cafeterias, religious or fraternal organizations, or civic organizations.**

**(f) Permit renewals must be completed within forty-five (45) days of becoming due or the food establishment will be closed until the renewal is completed.**

(Code 1981, § 15-2; G.O. No. 5084, § 1, 5-29-2001)

Sec. 58-54. Permit for sidewalk cafe.

(a) For purposes of this section, the following terms shall be these meanings:

*Restaurant* shall mean an establishment in which food is prepared on site for sale to patrons and which produces 50 percent or more of its gross receipts from the sale of such food.

*Sidewalk cafe* shall mean an establishment located on a city sidewalk and operated as part of a restaurant; and

(b) The department of public health and welfare may issue a permit to use a city sidewalk, pursuant to section 58-53, for a sidewalk cafe, subject to the following conditions:

(1) The permittee shall, at all times, comply with ordinances of the city and laws of the state, as well as applicable rules and regulations pertaining to the handling of food and the operation of a restaurant.

(2) A permit shall be granted to the permittee only in conjunction with an existing restaurant in an area adjacent to such restaurant. A permit may be granted upon a determination that the operation of the sidewalk cafe does not prevent the reasonable use of the city sidewalks by the public and that it does not interfere with business in the area. The permittee shall limit the use of the sidewalk to those activities that have been approved.

(3) The permittee shall submit with the application a plan showing disposal procedures for litter, which shall include procedures for keeping the area clean. The permittee shall make adequate provision for the disposal of litter and shall maintain the premises used for the sidewalk cafe free of litter. Litter generated by the sidewalk cafe operation shall be the responsibility of the permittee, and the permittee shall make reasonable provision to see that such litter does not become a nuisance and is properly picked up from the public ways in and around the sidewalk cafe. The city may require a bond or cash to guarantee that the area will be cleaned up. If the permittee does not clean up the area, the city reserves the right to do the cleaning itself and to charge the permittee for the cost of the cleanup. This charge shall be a private debt against the permittee, and failure to pay shall constitute cause to revoke or not renew the permit.

(4) The permittee shall, at all times, maintain insurance to protect the city from any liability which might arise from the activities in the area, in an amount and form to be determined by the law department of the city. The permittee shall submit copies of the insurance to the finance department for approval prior to commencing the operation of the sidewalk cafe.

(5) Before any work is performed on the sidewalk or other city property, the applicant shall submit a written plan describing the work. No work shall be performed on city property until the director of public works has authorized the work and a permit is issued by the city to do the work. In no event shall the work exceed that which is described in the permit as approved by the city.

(6) The permittee shall remove all chairs and tables at the end of each working day, as well as all other appurtenances, unless permission is otherwise granted in the license.

(7) The permittee shall agree to indemnify and hold harmless the city with respect to any claims that might be made arising out of the operation of the sidewalk cafe. The permittee shall accept the permit subject to his own determination concerning the authority of the city to grant the permit, and all risk with respect to whether or not the city has the authority is upon the permittee. The city makes no affirmative representations concerning its authority to grant the permit.

(8) If the permittee violates any of the conditions of this division or conditions which are a part of the permit, the director of public health and welfare shall have the authority to suspend or revoke the permit or the license to operate a restaurant, pursuant to procedures set forth in this division. The permittee shall thereafter terminate the use of that area described in the permit unless the city gives the permittee an opportunity to correct the violation. This permit may be

terminated by either party upon 15 days' notice. Any person who violates this section or the conditions of the permit shall also be subject to the penalties set forth in section 1-7.

(9) The permittee agrees to comply with all laws of the state and ordinances of the city in the operation of the sidewalk cafe.

(10) The city shall cause a permit to be prepared, in accordance with the conditions set forth in this division and conditions established by the director of public health and welfare, which permit and conditions shall be accepted by the permittee.

(c) Section 78-4 shall not apply to areas that are licensed as to sidewalk cafes pursuant to this section.

(Code 1981, § 15-2.1; G.O. No. 5084, § 1, 5-29-2001; G.O. No. 5162, § 1, 2-25-2002)

Sec. 58-55. Reinstatement of permit after suspension.

Any food establishment or temporary food establishment, the permit of which has been suspended, may at any time make application for the reinstatement of the permit. Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision of this article has been conformed with, the regulatory authority shall make a reinspection, and thereafter as many additional reinspections as may be deemed necessary to assure that the applicant is again complying with the requirements of this article and in case the findings indicate compliance shall reinstate the permit.

(Code 1981, § 15-3; G.O. No. 5084, § 1, 5-29-2001)

Sec. 58-56. Authority to take samples for analysis; condemnation of unwholesome, adulterated or misbranded food or drink.

Samples of food, drink and other substances may be taken at food establishments and examined by the regulatory authority as often as may be necessary for the detection of unwholesomeness or adulteration. The city manager may embargo, condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome, adulterated or misbranded.

(Code 1981, § 15-4; G.O. No. 5084, § 1, 5-29-2001)

Sec. 58-57. Inspections.

(a) **Frequency of inspection will be determined by public health priority, which is calculated by the Missouri Department of Health and Senior Service's "Food Establishment Public Health Priority Assessment Worksheet". Food establishments in the high-priority category will be inspected on a more frequent basis than medium-priority establishments, which in turn, will be inspected on a more frequent basis than low-priority establishments. At least twice per year, the regulatory authority shall inspect every food establishment located within the city.** In case the regulatory authority discovers the violation of any **critical** item of sanitation, a second inspection shall be made after the lapse of such time as deemed necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the requirements of this article. Any violation of the same **critical** item on such second inspection shall be cause for immediate suspension of the permit **for a minimum of twenty-four (24) hours. The suspension will continue from day to day until the violation is corrected.**

(b) One copy of the inspection report shall be posted by the regulatory authority upon an inside wall of the food establishment, and such inspection report shall not be defaced or removed by

any person except the regulatory authority. Another copy of the inspection report shall be filed with the records of the department of public health and welfare.

(c) The person operating the food establishment shall, upon the request of the regulatory authority, permit access to all parts of the establishment and shall permit copying or reviewing of any or all records related to food safety or sanitation.

(Code 1981, § 15-5; G.O. No. 5084, § 1, 5-29-2001; G.O. No. 5392, § 2, 7-6-2004)

Secs. 58-58--58-82. Reserved.

Sec. 58-83. Authority to close establishments constituting menace to public health.

The city manager shall close any food establishment when such place shall, in the judgment of the city manager constitutes a public health hazard or jeopardizes public health by reason of food that is unsafe, adulterated or not honestly presented.

(Code 1981, § 15-19; G.O. No. 5084, § 1, 5-29-2001)

Sec. 58-84. Food processing and food manufacturing plants.

Rules and regulations governing the operation of food processing and food manufacturing plants shall be in accordance with the statutes, regulations and administrative guidelines of the state pertaining to the manufacturing, sale and distribution of food. **Such plants are not defined as a food establishment, and therefore are not required to obtain a permit under this Article.**

(Code 1981, § 15-12; G.O. No. 5084, § 1, 5-29-2001)

Sec. 58-85. Embargoes.

The city manager may embargo food or drink which is suspect of being unwholesome, adulterated or misbranded until such time as appropriate analyses, tests or examinations can be conducted.

(Code 1981, § 15-13; G.O. No. 5084, § 1, 5-29-2001)

Secs. 58-86--58-210. Reserved.