

**FOOD SERVICE REGULATION  
MARSHALL COUNTY BOARD OF HEALTH  
REGULATION NO. 100**

**Section 1.     Intent and Scope**

The Marshall County Board of Health hereby finds and declares that county-wide food service regulations are needed to regulate food service workers and managers within Marshall County

WHEREAS, it is the duty of the Marshall County Health Department, pursuant to KRS Chapter 212, to establish policies, plans and programs to safeguard the health of the citizens of Marshall County, KY, and

WHEREAS, it is the duty of the Marshall County Health Department, pursuant to KRS Chapter 212, to investigate and abate nuisances sources of filth and causes of sickness and illness, and

WHEREAS, food service workers and managers that fail to follow procedures that will assure safe, clean, sanitary conditions and standards may promote a cause of sickness or an illness.

NOW, THEREFORE, pursuant to the authority granted to the Marshall County Health Department under the provisions of KRS Chapter 212 et seq., the following regulation is adopted.

**Section 2.     Rules for Administration and Enforcement**

The Health Director of the Marshall County Health Department or his/her designee is responsible for the enforcement of this regulation. The Health Director is hereby authorized to make and adopt such rules as he/she may deem necessary for the administration and enforcement of this regulation which rules shall not be in conflict with or an enlargement of any of the provisions of this regulation.

**Section 3.     Definitions**

For the purpose of this regulation:

- (a). "Manager" means individuals having supervisory, training, or management responsibilities as well as any other person working in a food service establishment who may be in charge of food preparation or service with authority and responsibility to direct or control such activities.
- (b). "Food Worker" means individuals whose work brings them in contact with the production, processing, or handling of food, utensils and equipment.

- (c). "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for sale, in whole or in part, for human consumption as provided by the Hotel and Food Service Establishment Act of 1972 (KRS 219.011(3)).
- (d). "Potentially hazardous food" means any food which consists in whole or in part of milk or milk products, eggs or egg products, meat or meat products, poultry or poultry products, fish or fish products, shellfish (oysters, clams, mussels and edible crustacea) or shellfish products, cooked rice, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less, nor does it include air cooled hard-boiled eggs with shell intact or foods in unopened hermetically sealed containers which have been commercially processed to achieve and maintain commercial sterility under conditions of non refrigerated storage.

**Establishment types according to KRS 217.015 & 902 KAR 45:005**

- (e). "Food Service Establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes;-grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption.
- (f). "Retail Food Store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries or food processing establishments.
- (g). "Retail Food Establishment" means any food service establishment, retail food store or a combination of both within the same establishment.

- h). "Seasonal Restricted Food Concessions" means any food service establishment which operates for no longer than eight (8) consecutive months in one (1) year; and shall prepare and serve only non-potentially hazardous foods, except that plain frankfurters with bread and nachos with cheese sauce may be served. It shall not include concessions or establishments which serve only prepackaged, snack type non-potentially hazardous foods.
- (i). "Mobile Food Unit" means a vehicle-mounted food service establishment designed to be readily movable.
- (j). Temporary Food Service Establishment means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days.

**MARSHALL COUNTY ORDINANCE PERTAINING TO  
FOOD WORKER/MANAGER REGULATIONS**

Section 4      (a) **FOOD SAFETY CERTIFICATION REQUIRED**

**EVERY PERSON CONNECTED WITH A FOOD SERVICE ESTABLISHMENT, OR RETAIL FOOD ESTABLISHMENT WHOSE WORK BRINGS THEM IN CONTACT WITH THE PRODUCTION, PROCESSING, OR HANDLING OF FOOD, OR WITH THE CONTAINERS OR EQUIPMENT/ UTENSILS REQUIRED THEREFORE, SHALL AT THE \*COMMENCEMENT OF EMPLOYMENT, AND THEREAFTER EVERY THREE (3) YEARS, BE REQUIRED TO ATTEND A FOOD SAFETY TRAINING COURSE AND PASS AN EXAMINATION AS DETERMINED BY THE MARSHALL COUNTY HEALTH DEPARTMENT PERTAINING TO KNOWLEDGE OF BASIC FOOD HANDLING PROCEDURES RELEVANT TO THE PREVENTION OF FOODBORNE DISEASE.**

**\* Commencement of employment – person shall enroll in a Marshall County Health Department Certification Course or provide valid proof of enrollment and/or certification in an approved certified course within ten (10) days of employment. If Certification training is required, satisfactory completion must be within sixty (60) days.**

**(b) FOOD SAFETY CERTIFIED MANAGER REQUIRED**

**ALL FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD ESTABLISHMENTS IN MARSHALL COUNTY SHALL BE OPERATED BY A CERTIFIED MANAGER WHO MUST BE ON THE PREMISES DURING ALL HOURS THE ESTABLISHMENT IS OPEN FOR BUSINESS. MANAGERS MAY OBTAIN CERTIFIED STATUS BY ATTENDING FOOD MANAGER CERTIFICATION ADMINISTERED BY THE MARSHALL COUNTY HEALTH DEPARTMENT OR OTHER CERTIFIED COURSES WITH HEALTH DEPARTMENT APPROVAL. REASONABLE FEES MAY BE CHARGED FOR THE APPLICATION TO THE FOOD MANAGERS/WORKER'S CERTIFICATION COURSE. FOR RENEWAL OF CERTIFICATION AND FOR APPLICATION FOR CERTIFICATION RE-EXAMINATION/FOOD MANAGER CERTIFICATION FEE IS THIRTY (30.00) DOLLARS AND FOOD WORKERS CERTIFICATION FEE IS FIFTEEN (15.00) DOLLARS. CERTIFICATION FOR BOTH CLASSIFICATIONS WILL BE VALID FOR A PERIOD OF THREE (3) YEARS. THE EXAMINATION GIVEN AT THE END OF THE CLASS MAY RANGE FROM 10 TO 50 MULTIPLE CHOICE QUESTIONS, DEPENDING ON CLASSIFICATION REQUIRED. A SCORE OF 70% OR ABOVE IS CONSIDERED A PASSING GRADE. A CERTIFICATE AND ALSO A WALLET CARD WILL BE ISSUED AFTER SUCCESSFUL COMPLETION OF THE CLASS.**

**(c) COMPLIANCE REQUIRED FOR CERTIFICATION**

**IT SHALL BE THE RESPONSIBILITY OF THE PERMIT HOLDER TO INSURE COMPLIANCE WITH THE PROVISIONS OF THIS REGULATION. ESTABLISHMENTS FAILING TO COMPLY WITH THE PROVISIONS OF THIS REGULATION SHALL BE ISSUED BY THE DEPARTMENT, A WRITTEN NOTICE OR ORDER WHICH SHALL ALLOW A REASONABLE TIME FOR CORRECTION, NOT TO EXCEED TEN (10) WORKING DAYS. (ENROLLMENT IN A MARSHALL COUNTY HEALTH DEPARTMENT CERTIFICATION COURSE OR VALID PROOF OF ENROLLMENT IN AN \*APPROVED CERTIFIED COURSE WITHIN 10 DAYS WITH SATISFACTORY COMPLETION OF COURSE WITHIN SIXTY (60) DAYS SHALL BE CONSIDERED COMPLIANCE).**

**(d) APPLICATION FOR CERTIFICATION**

**ALL FOOD SERVICE WORKERS AND MANAGERS SHALL MAKE APPLICATION FOR CERTIFICATION TO THE MARSHALL COUNTY HEALTH DEPARTMENT. APPLICANTS SHALL COMPLETE THE MARSHALL COUNTY HEALTH DEPARTMENT CERTIFICATION COURSE OR PROVIDE SUFFICIENT DOCUMENTATION NECESSARY FOR THE DEPARTMENT TO EVALUATE THE COURSE FOR APPROVAL. A REASONABLE FEE OF TEN DOLLARS (10.00) WILL BE CHARGED FOR PROCESSING AND REGERISTERING PERSONS WITH APPROVED CERTIFICATION COURSES.**

**(e) INFECTION**

NO PERSON WHILE INFECTED WITH A DISEASE IN A COMMUNICABLE FORM THAT CAN BE TRANSMITTED BY FOODS OR WHO IS A CARRIER OF ORGANISMS THAT CAUSE SUCH A DISEASE, OR WHILE AFFLICTED WITH A BOIL OR INFECTED WOUND, OR AN ACUTE RESPIRATORY INFECTION, SHALL WORK IN A FOOD SERVICE ESTABLISHMENT, EXCEPT AS NOTED IN SECTION 39 OF THE KENTUCKY FOOD SERVICE CODE.

**Section 5 RENEWAL OF CERTIFICATION**

A HOLDER OF A FOOD PROTECTION CERTIFICATION CERTIFICATE SHALL RENEW HIS/HER CERTIFICATE EVERY THREE YEARS IN ACCORDANCE WITH REQUIREMENTS SPECIFIED BY THE HEALTH AUTHORITY INCLUDING PAYMENT OF ANY APPLICABLE FEES.

**Section 6 PROOF OF CERTIFICATION**

EACH CERTIFIED FOOD SERVICE MANAGER SHALL DISPLAY HIS/HER CERTIFICATE, ALONG WITH ALL EMPLOYEE'S CERTIFICATES IN A PROMINENT LOCATION IN THE ESTABLISHMENT OR OTHERWISE MAKE THEM AVAILABLE FOR INSPECTION BY THE HEALTH AUTHORITY UPON REQUEST.

**Section 7 CERTIFICATE NOT TRANSFERABLE**

A FOOD PROTECTION CERTIFICATION IS NOT TRANSFERABLE FROM ONE PERSON TO ANOTHER.

**Section 8 ENFORCEMENT**

**(a) REQUEST FOR CONFERENCE**

ANY PERSON OR ESTABLISHMENT ISSUED A NOTICE WILL BE AFFORDED AN OPPORTUNITY FOR A CONFERENCE, IF A WRITTEN REQUEST FOR SUCH IS FILED WITH THE MARSHALL COUNTY HEALTH DEPARTMENT WITHIN TEN (10) WORKING DAYS OF THEIR RECEIVING THE OFFICIAL NOTICE OR ORDER. THE CONFERENCE PROVIDED FOR IN THIS REGULATION SHALL BE CONDUCTED BY THE DEPARTMENT AT A TIME AND PLACE DESIGNATED BY THE DEPARTMENT.

**(b) APPEALS - pursuant to KRS 212.230(e)**

THE MARSHALL COUNTY BOARD OF HEALTH SHALL HEAR AND DECIDE APPEALS FROM RULINGS, DECISIONS, AND ACTIONS OF THE LOCAL HEALTH DEPARTMENT OR HEALTH OFFICER, WHERE THE AGGRIEVED PARTY MAKES WRITTEN REQUEST THEREFOR TO THE BOARD WITHIN THIRTY (30) DAYS AFTER THE RULING, DECISION, OR ACTION COMPLAINED OF.

**Section 9 EXEMPTIONS**

FOOD ESTABLISHMENTS THAT SERVE, SELL OR DISTRIBUTE ONLY PREPACKAGED FOODS AND BEVERAGES (RETAIL FOOD STORES) ARE EXEMPT FROM THE PROVISIONS OF THIS SECTION. TEMPORARY FOOD SERVICE ESTABLISHMENTS, SEASONAL RESTRICTED ESTABLISHMENTS AND MOBILE UNITS MAY BE EXEMPTED BY THE HEALTH AUTHORITY.

**Section 10 FEE EXEMPTIONS**

PRIVATE, PAROCHIAL, AND PUBLIC SCHOOL CAFETERIAS OR LUNCHROOM FACILITIES THROUGH THE TWELFTH (12) GRADE AND ALL FACILITIES OPERATED BY THE CABINET FOR HEALTH SERVICES OR CORRECTIONS CABINET AND ALL FACILITIES THAT MEET THE DEFINITION OF "CHARITABLE FOOD KITCHEN" AS DEFINED BY HB 22 SHALL BE EXEMPT FROM THE PAYMENT OF FEES, BUT SHALL COMPLY WITH ALL OTHER PROVISIONS OF THIS REGULATION.

**Section 11 PENALTIES**

ANY PERSON, FIRM, CORPORATION, OR PERMIT HOLDER FOUND TO BE IN VIOLATION OF THIS ARTICLE SHALL BE ORDERED TO COMPLY WITH THIS REGULATION. IF ANY PERSON, FIRM, CORPORATION, OR PERMIT HOLDER DOES NOT COMPLY WITH THE ORDER OF THE MARSHALL COUNTY HEALTH DEPARTMENT, THEN PURSUANT TO KRS 212.715 AND KRS 212.990(2), THE OWNER OR OPERATOR OF THE FOOD ESTABLISHMENT SHALL BE SUBJECT TO A FINE OF NOT LESS THAN \$10.00 NOR MORE THAN \$100.00 FOR EACH DAY THAT THE ORDER OF THE MARSHALL COUNTY HEALTH DEPARTMENT IS NOT COMPLIED WITH.