

**ORDINANCE 2803**

**AN ORDINANCE AMENDING OCCGF TITLE 8 CHAPTERS 4, 12 AND 16  
PERTAINING TO FOOD SERVICE ESTABLISHMENTS**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF  
GREAT FALLS, MONTANA:**

Section 1. That OCCGF Title 8 Chapters 4, 12 and 16 pertaining to Food Service Establishments be amended as depicted in Exhibit A which removes any language indicated by a strike-out code and adds any language which is bolded.

**PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS,  
MONTANA, this 7th day of August, 2001.**

\_\_\_\_\_  
Randall H. Gray, Mayor

ATTEST:

\_\_\_\_\_  
Peggy J. Bourne, City Clerk  
(SEAL OF THE CITY)

APPROVED AS TO FORM:

\_\_\_\_\_  
David V. Gliko, City Attorney

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2803 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 7th day of August, 2001, and approved by the Mayor of said City on the 7th day of August, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 7<sup>th</sup> day of August, 2001.

\_\_\_\_\_  
Peggy J. Bourne, City Clerk  
(SEAL OF CITY)

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

Peggy J. Bourne, being first duly sworn, deposes and says: That on the 7<sup>th</sup> day of August, 2001, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 2803 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

## Ordinance 2803 - Exhibit A

### Chapter 8.04

#### DEFINITIONS

##### Sections:

8.04.010 Definitions.

**8.04.010 Definitions.** A. "Health Authority/~~Regulatory~~" means the legally designated Health Officer or designated authority.

B. "Health Department" means the legally designated **Great Falls and Cascade County City-County Health Department**. (Prior code §8-3-1).

C. "Administrative hearing" means an informal hearing before the Health Officer, ~~Director of Environmental Health~~, **Supervising Sanitarian** and Inspecting Registered Sanitarian concerning a permit suspension.

D. "Board" means the legally designated City-County Board of Health provided for in M.C.A. 50-2-106.

E. "Critical item" means a ~~four to five demerit point item on the Department of Public Health and Human Services' food service establishment inspection report form dealing with food source and protection, temperature control equipment, infectious disease control, handwashing and sanitizing equipment, water supplies, sewage disposal, insect and rodent control, and toxic substance storage that require immediate corrective action to protect the public provision of Title 37, Chapter 110, subchapter 2 and Title 16, Chapter 10, subchapter 3 of the Administrative Rules of Montana for Food Service Establishments that if violated is more likely than other violations to contribute to food contamination, illness, or environmental degradation.~~

F. "Health Officer" means a physician or *person* with a Master's Degree in Public Health, or equivalent, appointed by the Board, as provided in M.C.A. 50-2-116. (Ord. 2614 §2(Exh. B), 1991).

G. ~~"Food-processing establishment" means a commercial establishment in which food is processed or otherwise prepared and/or packaged for human consumption. This includes food-manufacturing establishments, meat markets, bakeries, frozen food plants, commercial food processors or perishable-food dealers.~~

G. "Food Manufacturing Establishment" means a commercial establishment and buildings or structures in connection with it, used to manufacture or prepare food for sale for human consumption but does not include milk producers' facilities, milk pasteurization facilities, milk product manufacturing plants, slaughterhouses or meat packing plants; a food manufacturing establishment does not provide food directly to a consumer, and does not include a food service establishment as defined in this chapter.

H. "Food Service Establishment" means an operation as defined in 50-50-102(8) M.C.A., and includes an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption in a mobile, stationary, temporary semipermanent or permanent facility or location; where consumption is on or off the premises and regardless of whether there is a charge for the food. Food service establishment does not include:

1. an establishment, vendor or vending machine that sells or serves only non-

perishable foods;

2. an establishment that offers only prepackaged foods that are not potentially hazardous;

3. a produce stand that only offers whole, uncut fresh fruits and vegetables;

4. a food manufacturing establishment;

5. a kitchen in a private home if the food is prepared for sale or service at a function such as a religious or charitable organization's bake sale;

6. a private home that receives catered or home-delivered food; or

7. a private organization serving food to only its members.

I. "Short Term Food Permit" means a permit issued by the Health Authority within the Health Department that allows for persons or organizations to serve approved food items to the public at events that do not exceed two days.

J. "Farmer's Market Short Term Food Permit" means a permit issued by the Health Authority within the Health Department allowing persons or organizations to serve approved food items to the public for the duration of the designated Farmer's Market season. (Ord. 2803, 2001; Ord. 2728, 1997; Prior code §8-1-1).

## Chapter 8.12

### FOOD SERVICE

#### Sections:

- 8.12.020 State rule adopted.
- 8.12.030 Permit--Required.
- 8.12.040 Permit--Suspension.
- 8.12.050 Permit--Suspended--Reinstatement.
- 8.12.060 Permit--Revocation.
- 8.12.070 Hearings.
- 8.12.080 Inspection of food service establishments.
- 8.12.090 Knowledge of food protection practices.
- 8.12.100 Short Term Food Function Certificate.
- 8.12.110 Farmer's Market Short Term Food Permit.**

**8.12.020 State rule adopted.** The *City* adopts, by reference, the Montana Department of Public Health and Human Services requirements, dated ~~June 27, 1986~~ **November 23, 2000**, for compliance with Chapter 110, Subchapter 2, Food Service Establishments of Title ~~16~~ **37**, Administrative Rules and Montana, and its definition of food service establishments, ~~except 16.10.239(4)(c), which is hereby modified to read as follows: "When the rating score of the establishment is less than seventy-five, the establishment shall initiate corrective action on all identified violations within five days."~~ A copy of the regulation *shall* be filed with the City Clerk as the official food service code. (Ord. 2728, 1997; Ord. 2614 §2(Exh. B), 1991).

**8.12.030 Permit--Required.** Each *person*, new *owner*, or operator of a food service establishment *shall* make an application for a City-County *Health Department Food*

**Establishment** permit prior to operation of such an establishment. This application *shall* be made in writing and signed by the *owner*, manager, or authorized agent of the establishment. The *Health Officer* or his/her authorized representative *shall* approve the permit provided that the establishment meets the minimum requirements of *State* and local health laws and regulations, and requirements of this City Code. No food service establishment will be allowed to operate without a valid City-County *Health Department Food Establishment* permit. (Ord. 2614 §2(Exh. B), 1991).

**8.12.040 Permit--Suspension.** A. Permits *may* be suspended temporarily by the *Health Authority* for failure of the holder to comply with the requirements of this chapter. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this chapter, the permit holder or operator *shall* be notified in writing of the specified violations causing the suspension, that the permit is, upon service of the notice, immediately suspended, and that an opportunity for an *Administrative hearing* will be provided if a written request for such is filed with the **Health** Department by the permit holder.

B. Justifications for permit suspension are as follows:

1. Whenever the *Health Authority* finds unsanitary or other conditions in the operation of the food service establishment which, in their judgment, constitute a substantial hazard to the public health, the *Health Authority* *may* temporarily suspend the permit.

2. Whenever, upon written notice to the *owner*, manager, or authorized agent of a food service establishment, an inspection reveals unsanitary conditions and health-related problems exist within the establishment, and the subsequent inspection of the establishment reveals that the problems and conditions still exist, the *Health Authority Officer* *may* temporarily suspend the permit.

3. Continued violation of *critical item(s)*, as outlined in red on the official Montana Department of Public Health and Human Services food service establishment inspection report form. (Ord. 2614 §2(Exh. B), 1991).

**8.12.050 Permit--Suspended--Reinstatement.** Any *person* whose permit has been suspended *may*, at any time, make application to the **Health** Department for a reinspection for the purpose of reinstatement of the permit. Within ten days following the receipt of a written request, including a statement signed by the applicant that, in the applicant's opinion, the conditions causing suspension of the permit have been corrected, the *Health Authority* *shall* make a reinspection. If the applicant is found to be in compliance with the requirements of this chapter, the permit *shall* be reinstated. (Ord. 2614 §2(Exh. B), 1991).

**8.12.060 Permit--Revocation.** For serious or repeated violation of any of the requirements of this chapter, or for interference with the *Health Authority* in the performance of their duties, the permit *may* be permanently revoked after an opportunity for a hearing has been provided by the **Board of Health Department**. Prior to such action, the **Health** Department *shall* notify the permit holder, in writing, stating the reasons for which the permit is subject to revocation, and advising that the permit *shall* be permanently revoked at the end of five days following service of such notice unless the permit holder files within five days a request for a hearing before the Board. A permit *may* be suspended for cause pending its revocation or a hearing relative thereto. (Ord. 2614 §2(Exh. B), 1991).

**8.12.070 Hearings.** The hearings provided for in this section *shall* be conducted by the Board at a time and place designated by the board chair. Based upon the record of such hearing, the Board *shall* make a finding and *shall* sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the Board's decision *shall* be furnished to the permit holder by the **Health Officer Department**. (Ord. 2614 §2(Exh. B), 1991).

**8.12.080 Inspection of food service establishments.** A. At least once every *year*, the *Health Authority shall* inspect each food service establishment located in the City of Great Falls and *shall* make any additional inspections and re-inspections as are necessary for the enforcement of this Chapter. The *Health Authority shall* have the power to enter and inspect anyplace where meat, game, poultry, fish, milk, groceries, or any other food products are prepared, handled, stored for public use and to inspect any vehicle transporting such products. Any *person* who in any manner interferes or attempts to interfere with the *Health Authority* in the discharge of duties, or any *person* being *owner*, agent, or manager or any place food is prepared, handled, or stored, who refuses to permit the *Health Authority* to have full access to the premises, or any food products that the *Health Authority* desires to inspect, is guilty of a violation of this Chapter.

B. The *Health Authority shall* be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received, or used, an persons employed, during operation hours, or at any other time when food preparation is being conducted.

C. A written record of any inspections will be provided to the *owner*, agent, or manager of each establishment. (Ord. 2728, 1997; Ord. 2614 §2(Exh. B), 1991).

**8.12.090 Knowledge of food protection practices.** The *owner*, operator, manager and employees of any food service establishment *may*, at any time, be required by the **Health Authority of the City/County Health Department** to show sufficient knowledge of food protection practices, sanitation practices and regulation requirements necessary to protect the public from food borne illness. At the option of the *Health Authority*, owners, operators, managers, and key food preparation personnel, *may* be **required to participate in a food safety training course and/or may be** tested on their knowledge of food protection practices prior to the opening of any new food establishment or at any time there is a change of ownership/management of an existing food establishment **or if there is a pattern of critical item violations within an existing establishment.** (Ord. 2728, 1997; Ord. 2614 §2(Exh. B), 1991).

**8.12.100 Short Term Food Function Certificate Permit.** All persons or organizations serving or selling food to the public that do not fall under the provisions of this chapter (i.e., **private church dinners, private organizations fund raising dinners serving members only, food stand peddlers selling food products from vehicles or stands**) *shall* obtain a short-term function certificate **food permit** from the City-County *Health Department*. **Only 5 short term food permits will be issued per organization per year. Organizations wishing to operate more than 5 times per year shall be required to obtain a State of Montana, Department of Public Health and Human Services Food Purveyors License.** (Ord. 2728, 1997; Ord. 2614 §2(Exh. B), 1991).

**8.12.110 Farmer's Market Short Term Food Permit.** **All persons or organizations**

**servicing or selling food to the public at farmer's market locations shall obtain a Farmer's Market short term food permit unless exempt pursuant to MCA 50.50.103.**

Chapter 8.16

**FOOD-PROCESSING MANUFACTURING ESTABLISHMENTS**

**Sections:**

- 8.16.020 State rule adopted.
- 8.16.030 Permit--Required.
- 8.16.040 Permit--Suspension.
- 8.16.050 Permit--Suspended--Reinstatement.
- 8.16.060 Permit--Revocation.
- 8.16.070 Hearings.
- 8.16.080 Inspection of food-processing **manufacturing** establishments.
- 8.16.090 Knowledge of Food Protection Practices.

**8.16.020 State rule adopted.** The *City* adopts by reference the Montana Department of Public Health and Human Services Sanitary Rule for Food Manufacturing Establishments, Title 16, Chapter 10, Subchapter 3, dated November 11, 1994. A copy of the regulation *shall* be filed with the City Clerk as the official food-processing **manufacturing** code. (Ord. 2728, 1997; Prior code §8-1-2).

**8.16.030 Permit--Required.** Each *person*, new *owner* or operator of an establishment *shall* make an application for a *Health Department* Permit prior to operation of such an establishment. This application *shall* be made in writing and signed by the *owner*, manager or authorized agent of the establishment. The *Health Officer* or authorized representative *shall* approve the permit provided that the establishment meets the minimum requirements of *State* and local health laws and regulations and requirements of this Code. No *Food-processing manufacturing establishment* will be allowed to operate without a valid **Cascade County City-County Health Department** Permit. (Prior code §8-1-3).

**8.16.040 Permit--Suspension.** A. Permits *may* be suspended temporarily by the *Health Authority* for failure of the holder to comply with the requirements of this chapter. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this chapter, the permit holder or operator *shall* be notified in writing of the specified violations causing the suspension, that the permit is, upon service of the notice, immediately suspended, and that an opportunity for hearing will be provided if a written request for a hearing is filed with the *Health Authority Officer* by the permit holder.

B. Justifications for permit suspension are as follows:

1. Whenever the *Health Authority* finds unsanitary or other conditions in the operation of the *Food-processing manufacturing establishment* which, **in their judgement**, constitute a substantial hazard to the public health, the *Health Authority Officer* *may* temporarily suspend the permit.





2. Whenever, upon written notice to the *owner*, manager, or authorized agent of a *Food-processing manufacturing establishment*, an inspection reveals unsanitary conditions and health related problems exist within the establishment and the subsequent inspection of the establishment reveals that the problems and conditions still exist, the *Health Authority may* temporarily suspend the permit. (Prior code §8-1-4).

**8.16.050 Permit--Suspended--Reinstatement.** Any *person* whose permit has been suspended *may*, at any time, make application **to the Health Department** for a reinspection for the purpose of reinstatement of the permit. Within ten days following the receipt of a written request, including a statement signed by the applicant that in **his the applicant's** opinion the conditions causing suspension of the permit have been corrected, the *Health Authority shall* make a reinspection. If the applicant is found to be in compliance with the requirements of this chapter the permit *shall* be reinstated. (Prior code §8-1-5).

**8.16.060 Permit--Revocation.** For serious or repeated violations of any of the requirements of this chapter, or for interference with the *Health Authority* in the performance of his/her duties, the permit *may* be permanently revoked after an opportunity for a hearing has been provided by the *Health Authority Department*. Prior to such action, the *Health Authority Officer shall* notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit *shall* be permanently revoked at the end of five days following service of such notice, unless the permit holder files within the five days a request for a hearing before the **Board of Health Authority**. A permit *may* be suspended for cause pending its revocation or a hearing relative thereto. (Prior code §8-1-6).

**8.16.070 Hearings.** The hearings provided for in this section *shall* be conducted by the Board **of Health** at a time and place designated by the Board Chair. Based upon the record of such hearing, the Board **of Health shall** make a finding and *shall* sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the **Board's** hearing decision *shall* be furnished to the permit holder by the **Board of Health Department**. (Prior code §8-1-7).

**8.16.080 Inspection of food-processing manufacturing establishments.** A. At least once every *year*, the *Health Authority shall* inspect each food **processing manufacturing** establishment located in the City of Great Falls and *shall* make any additional inspections and reinspections as are necessary for the enforcement of this chapter. The *Health Authority shall* have the power to enter and inspect anyplace where meat, game, poultry, fish, milk, groceries, or any other food products are prepared, handled, stored for public use and to inspect any vehicle transporting such products. Any *person* who in any manner interferes or attempts to interfere with the *Health Authority* in the discharge of duties, or any *person* being *owner*, agent, or manager or any place food is prepared, handled, or stored, who refuses to permit the *Health Authority* to have full access to the premises, or any food products that the *Health Authority* desires to inspect, is guilty of a violation of this chapter.

B. The *Health Authority shall* be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received, or used, an persons employed, during operation hours, or at any other time when food preparation is being conducted.

C. A written record of any inspections will be provided to the *owner*, agent, or manager of each establishment. (Ord. 2728, 1997; Ord. 2614 §2(Exh. B), 1991; Prior code §8-1-8)

**8.16.090 Knowledge of Food Protection Practices.** The *owner*, operator, manager, and employees of any food ~~processing~~ **manufacturing** establishment *may*, at any time, be required by the ~~Department~~ **Health Authority of Cascade County City-County Health Department** to show sufficient knowledge of food protection practices, sanitation practices, and regulation requirements necessary to protect the public from foodborne illness. At the option of the *Health Authority*, owners, operators, managers, and key food preparation personnel *may* be **required to participate in a food safety training course and/or may be tested on** their knowledge of food protection prior to the opening of any new food processing establishment or any time there is a change of ownership/management of an existing food processing establishment **or if there is a pattern of critical item violations within an existing establishment.** (Ord. 2728, 1997)