

# HENRY COUNTY HEALTH DEPARTMENT FOOD ORDINANCE

WHEREFORE, the Illinois Department of Public Health has made recommendations pertaining to permits, guidelines and inspections for the safe and healthful operation of food service establishments and retail food stores; and

WHEREFORE, the County Board of Henry County has determined that the guidelines, as established by the Illinois Department of Public Health, would best serve the public health interests of the citizens and visitors in the County of Henry.

THEREFORE BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF HENRY AND STATE OF ILLINOIS AT THEIR MEETING HELD ON THE 12TH DAY OF APRIL, 1977, AND SUBSEQUENT AMENDMENTS OR EDITIONS AS FOLLOWS:

## **SECTION I. PURPOSE**

The purpose of this ordinance is to safeguard public health and provide the consumers with food that is safe, unadulterated, and honestly presented by educating owners or operators of food establishments and the general public; and by regulating the owners or operators of food establishments regarding the reduction or elimination of the risk of transmission of microorganisms and communicable diseases in the food preparation and the operation of food establishments.

## **SECTION II. DEFINITIONS**

A ***food establishment*** shall be defined as set forth in the Illinois Department of Public Health Food Service Sanitation Code (77 Ill. Admin. Code 750) as written or subsequently amended (hereinafter referred to as "Food Code").

A ***seasonal food establishment*** shall be defined as any food establishment which routinely operates at a fixed location and for a temporary period of time not exceeding six consecutive months within a twelve (12) consecutive month time period.

A ***temporary food establishment*** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

An ***annual food establishment*** shall be defined as any food establishment which operates at a fixed location for more than six (6) consecutive months within a twelve (12) consecutive month time period.

**Commissary/Central Kitchen** shall be defined as a central, fixed non-mobile food establishment that meets the requirements of the Food Code and provides the necessary support for the mobile food establishment to operate in a safe and sanitary manner. It includes, but is not limited to, storage and preparation of food, storage of single use items, and cleaning supplies. A commissary may also serve as a servicing area for the servicing of the mobile unit and cleaning of food contact and non-food contact surfaces.

**Continuous Violation** shall be defined as a violation that is observed during a routine inspection, is documented, and persists on the next two subsequent routine inspections.

**Core Item** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Event Coordinator** shall be defined as any person or organization that is responsible for organizing and planning an event at which one or more Cottage Food Operations, Temporary Food Establishments, or Mobile Food Establishments operate.

**Event Participant or Operator** shall be defined as any person who prepares/provides food, with or without charge, at an event at which one or more Cottage Food Operations, Temporary Food Establishments, or Mobile Food Establishments operate.

**Extensive Remodel** shall be defined as any structural additions or alterations to existing food establishments and changes, modifications, and extensions of plumbing systems, excluding routine maintenance. Extensive remodeling does not include but is not limited to, redecorating, refurbishing, altering seating design, or reducing seating capacity.

**Food Establishment** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Hazard Analysis Critical Control Point (HACCP) Plan** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Health Authority** shall be defined as the Administrator or Health Officer of the Henry County Health Department or his or her designee.

**Home Base of Operation** is defined as the location where the permitted mobile food establishment will be stored when not in operation. A home base of operation may include a servicing area.

**Mobile Food Establishment shall** be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Permit** shall be defined as the document issued by the Health Authority that authorizes a person to operate a food establishment.

**Person in charge (PIC)** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Priority Foundation Item** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Priority Item** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Public Event** shall be defined as any event open to the public where food is prepared or served with or without a fee. An event that is advertised with fliers, banners, newspaper articles, radio or TV announcements, social media, or by any other means is considered a public event and is subject to regulation under this ordinance.

**Recheck Inspection** shall be defined as a food safety assessment of a food establishment conducted by the Health Authority to verify correction of a violation(s) cited in the previous inspection.

**Recurring Violation** shall be defined as a specific violation(s) that is observed during a routine inspection, is documented on two of the last three routine inspections, but need not be on consecutive routine inspections.

**Repeat Violation** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Risk** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto.

**Risk Control Plan (RCP)** shall be defined as a concisely written management plan, developed by the Person in charge with input from the Health Authority, that describes a management system for controlling specific identified and uncontrolled foodborne illness risk factors. The plan delineates necessary records, responsible personnel, the risk factors that need to be controlled, and how those factors will be controlled to ensure the risk factors do not occur again. Example includes but is not limited to, if food is improperly cooled in the establishment, a system of monitoring and record keeping outlined in an RCP can ensure that new procedures are established to adequately cool the food in the future.

It is intended to be a strategy to change behavior and promote long-term compliance for specific uncontrolled foodborne risk factors. Successful risk control plans are often developed with a team of people instead of individually. They involve training, teaching, and coaching staff on proper procedures. Risk control plans will be reviewed by the Health Authority to determine, if followed, that the risk control plan corrects the violation.

**Satellite Food Establishment** shall be defined as any food establishment that only serves food to customers. These establishments receive food delivered from a permitted central food production site (central kitchen). All leftover food and used utensils are transported back to the central kitchen at the end of service.

**Self-contained Mobile Food Establishment** shall be defined as a food establishment on wheels which meets the requirements of the Food Code where all operations and equipment are an integral part of the establishment, and may include open grills, and

smokers. At a minimum, the self-contained mobile food establishment must have: food storage and preparation area, mechanical hot and cold holding unit, gas, electric cooking equipment, hand sink, three compartment sink, adequate storage for all food, single use items and cleaning supplies, potable water holding tank, and a liquid waste disposal tank.

**Servicing Area** shall be defined as a facility/location approved by the Health Authority to which the mobile food establishment or transportation vehicle returns regularly for such things as cleaning, disposing of liquid and solid wastes and refilling of water tanks. If food is to be stored, the facility shall be designated as a commissary, not servicing area.

**Single Day Event** shall be defined as an event in which food is prepared and/or served with or without a fee, on that day only.

**Standard Operating Procedure (SOP)** shall be defined as standardized written procedures for performing various tasks specific to an operation to be in accordance with the Food Code and this ordinance. The procedures are used to train staff members to ensure that quality, efficiency, and safety criteria are met each time the task is performed. Some of the examples but not limited to are: facility, equipment and utensil maintenance, sanitary conditions (general cleaning), sanitary facilities (approved water supply and plumbing) and personnel (disease control, training).

**Time/Temperature Control for Safety Food (TCS)** shall be defined as set forth in the Food Code as written and any subsequent amendments thereto. {Formerly known as “potentially hazardous food” (PHF)}.

**Variance** shall be defined as a written document issued by the Health Authority that authorizes a modification or waiver of one or more requirements of this Ordinance and/or Food Code if, in the opinion of the Health Authority, a health hazard or nuisance will not result from the modification or waiver.

**Voluntary Compliance** shall be defined as conforming to the provisions set forth by the Health Authority on one’s own free will to safeguard public health and ensure that food is safe.

### **SECTION III. ADOPTION BY REFERENCE**

In addition to those provisions set forth in Sections I through XIII, this ordinance shall be interpreted and enforced in accordance with the provisions set forth in the following and any subsequent amendments thereto: Illinois Department of Public Health Food Service Sanitation Code referred herein as the Food Code, Food Handling Regulation Enforcement Act (410 ILCS 625), Illinois Farm Products Marketing Act (505 ILCS 70), Egg and Egg Products Act (410 ILCS 615) and Smoke Free Illinois Act (410 ILCS 82). Copies of said Codes and Ordinance shall be on file with the County Clerk’s Office and the office of the Health Authority.

## **SECTION IV. COMPLIANCE PROVISIONS**

- A. PERMIT:** It shall be unlawful for any person to operate a food establishment, within Henry County, State of Illinois, who does not possess a valid permit issued to him by the Health Authority. Only a person who complies with the requirements of this ordinance, including payment of permit fees and all fines originating from enforcement of the Food Code, or the Smoke Free Illinois Act shall be eligible to receive and retain such a permit.

Fees shall be paid in accordance with the current fee schedule adopted by the Henry County Board of Health. Permits for annual food establishments shall be valid for one year following the date of issuance. All other permits issued shall be valid only for the time designated on such permit.

Permits shall not be transferable from one person or location to another person or location or from one food establishment to another, or from one type of risk categorized operation as specified in the application to another risk category operation that has not been approved. A valid permit shall be publicly posted in every food establishment.

### **1. ISSUANCE OF PERMITS:**

- a) Annual or Seasonal permits: any person(s) desiring to operate a new food establishment, or seeking to renew an existing permit and any person(s) who is a new owner of an existing food establishment shall make written application for a permit on approved forms provided by the Health Authority.

Upon receipt of such an application and permit fee, the Health Authority shall make any necessary inspections of the food establishment to verify that the food establishment is constructed and equipped in accordance with the approved plans or approved modifications of the plans and is in compliance with the provisions of this ordinance. When inspections determine that the applicable requirements have been met, a permit shall be issued to the applicant by the Health Authority.

- i. The above permits are to be renewed annually. These permits are not renewable if the permit holder has failed to remit outstanding fines owed to the Henry County Health Department, or has failed to correct violations ordered by the Health Authority or by a court.
- b) Temporary food establishment permit: any person(s) desiring to operate a temporary food establishment shall make written application using the temporary food application form provided by the Health Authority.

The application and the appropriate fee shall be submitted at least Five (5) calendar days prior to the start of the event at which food will be provided. If the application with the fee is not received by the Health Authority at least five (5) calendar days prior to the start of the event, a late fee will be charged in addition to the permit fee.

- c) Event Coordinator(s)/Farmers Markets Coordinator(s) shall complete and submit an "Event Coordinator Application" on the forms provided by the Health Authority. The Event Coordinator Application must be submitted at least ten (10) business days before the scheduled event. Any changes to the Event Coordinator Application shall be filed not less than five (5) business days prior to the event.

**2. SUSPENSION OF PERMITS:** Permits may be suspended temporarily by the Health Authority for failure of the permit holder to comply with the requirements of this ordinance.

Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this ordinance, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed within ten (10) calendar days with the Health Authority by the permit holder.

Notwithstanding the other provisions of this ordinance, whenever the Health Authority finds unsanitary or other conditions in the operation of a food establishment which constitutes a substantial hazard to the public health, the Health Authority may without warning, prior notice, or hearing issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken and specifying the time period within which such action should be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended and all food service discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Authority, shall be afforded a hearing.

- a) **Smoke Free Illinois Act (410 ILCS 82):** Permits may be suspended temporarily by the Health Authority for failure of the permit holder to comply with notices or citations issued for violation of the Smoke Free Illinois Act.

Whenever a permit holder or operator has received a Smoke Free Illinois Citation and failed to request a hearing within ten (10) calendar days, or pay the fine within twenty eight (28) calendar days, or failed to obey the findings and final order of an Illinois Department of Public Health Administrative Law Judge, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended.

- 3. REINSTATEMENT OF SUSPENDED PERMIT:** Any person whose permit has been suspended may, at any time, apply for a re-inspection for the purpose of reinstatement of the permit. Within ten (10) calendar days following receipt of a written request, including a statement signed by the applicant that, in his opinion, the conditions causing suspension of the permit have been corrected, the Health Authority shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance, including payment of the permit reinstatement fee and all fines originating from enforcement of the Smoke Free Illinois Act, the permit shall be reinstated.
- 4. REVOCATIONS OF PERMITS:** For serious or repeated violations of any of the requirements of this ordinance, or for interference with the Health Authority in the performance of official duties, or two (2) suspensions during a consecutive twelve (12) month period, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Prior to such action, the Health Authority 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 (5) calendar days following service of such notice, unless a written request for a hearing is filed with the Health Authority, by the permit holder, within said five (5) calendar day period. If no request for hearing is filed within five (5) calendar days, the revocation of the permit becomes final. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- 5. EXEMPTIONS:** The following entities shall be exempt from the provisions of this Ordinance:

  - a) Closed families function(s) where food is prepared or served for individual family consumption.
  - b) A food processing plant, including those that are located in the premises of a food establishment.
  - c) A kitchen in a private home if only food that is not time/temperature control for safety food is prepared for sale or service at a function such as a religious or charitable organization's bake sale, 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 inspection by the Health Authority.
  - d) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal offered, the number of guests served on any given day does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the

registration area that the food is prepared in a kitchen that is not regulated and inspected by the Health Authority.

- e) A private home that receives catered or home-delivered food.
- f) Cooperative arrangements by persons who purchase food or beverages for their own consumption where no person is assigned full-time responsibility for such arrangements.
- g) Communal kitchen in a private residential leasehold.
- h) Cottage Food Operation must operate in accordance with Section 4 of the Food Handling Regulation Enforcement Act and must register annually together with a registration fee with the Henry County Health Department on forms provided by the Health Authority. These registration cards are valid to be used at any farmers markets within the State of Illinois. Annual registration card expires on December 31st of each calendar year.
- i) Establishments that have only prepackaged non-time/temperature control for safety foods and whose principal order of business is not to sell food for human consumption.
- j) Establishments that prepare and/or serve food on less than (two) consecutive days (preparation counts as day 1) and/or no more than 12 days in any one calendar year. However, registration on approved forms provided by the Health Authority notifying the Health Authority of such an event is required. These completed registration forms must be submitted no later than five (5) calendar days with a fee before the event.
- k) Farmer's markets and roadside produce stands that only offer whole, unwashed, uncut agricultural products to include fruits and vegetables. Otherwise, farmer's markets shall comply with the Food Code along with Section 3.4 Product Samples, Section 3.5 Product Origin and Section 4 Cottage Food Operation of the Food Handling Regulation Enforcement Act.
- l) Potluck events must operate in accordance with Section 3.1 of the Food Handling Regulation Enforcement Act.

All food establishments included under 5) a - l shall otherwise still be subject to foodborne illness investigations, consumer complaint(s) and shall be offered food sanitation education and consultation prior to an event upon request.

**B. PLAN REVIEW:** When a food establishment or retail food store is hereafter constructed or extensively remodeled or when an existing structure is converted for



use as a food establishment, adequately prepared plans and specifications for such construction, remodeling, or alteration showing layout, arrangement and construction materials of work areas, the location, size, type of fixed equipment and facilities, together with, the proposed menu and anticipated volume of food to be stored, prepared, and sold/served shall be submitted to the Health Authority.

Before engaging in an activity that requires a HACCP plan, a permit applicant shall submit on forms, provided by the Health Authority, to the Health Authority for review and approval a properly prepared HACCP plan as specified in the Food Code and the relevant provisions of the Food Code.

1. A completed plan review application packet must also be submitted after the establishment has been closed, or when the annual permit has not been renewed as of expiration date.
2. Whenever plans and specifications are required, the Health Authority shall inspect the food establishment prior to the start of operations as many times as necessary to determine compliance with the approved plans and requirements of this ordinance.

**C. INSPECTION:** The Health Authority shall inspect and regulate each permitted food establishment as specified in Illinois Administrative Code, Title 77, Chapter I, Subchapter h, Section 615.310 and any subsequent revisions thereto, except Registered Temporary Food Establishments, and Registered Cottage Food Operations may be inspected as deemed necessary by the Health Authority. The Health Authority shall make as many additional inspections as are necessary for the enforcement of this ordinance.

1. **ACCESS TO ESTABLISHMENTS:** All food establishments are subject to inspections and investigations at all times. The Health Authority, after displaying proper identification and announcement of the purpose of the intention to conduct an inspection, investigation, issue citation, secure any sample, photograph, or gather evidence to determine compliance with this Ordinance shall be permitted to enter, any establishment within Henry County in the State of Illinois during the establishment's hours of operation and at any other reasonable time. 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 and persons employed.

"Reasonable time", for the purpose of this section, shall mean at all times the establishment is open to the public and shall also be taken to mean any time food is being handled. Failure to allow the Health Authority access is grounds for immediate permit suspension.

2. **INSPECTION REPORTS:** Inspection findings shall be recorded on an inspection form that is substantially equivalent to the current or subsequent Illinois State Department of Public Health Food Inspection Report. The inspection remarks shall be written to reference by item number and shall state the correction to be made. A copy (hard copy or electronic copy) of the

completed inspection report form shall be furnished to the person in charge of the establishment. The findings of the violations will be posted on the Health Department's website.

- a) Recheck inspections will be performed as previously listed on the inspection reports. However, if a new priority violation item is observed during the recheck inspection, the inspector shall document the new priority violation item on the recheck inspection report and if necessary, conduct another recheck inspection for the new item cited.
  - b) Refusal to sign the inspection report will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified in the report.
3. Upon receipt of a complaint involving products produced in a kitchen in a private home for a charitable or religious organization's bake sale, or a cottage food operation, or upon the outbreak of a disease that may be connected to any of such sites, the Health Authority shall have authority to inspect such sites involved. The Health Authority or designee shall request consent to inspect such sites during office hours between 8:00 a.m. to 4:00 p.m. In the absence of consent, the Health Authority or designee shall obtain an administrative search warrant to inspect such kitchen in a private home or the cottage food operation.

In the event of a disease outbreak reasonably connected to a kitchen in a private home or a cottage food operation, the Health Authority or designee shall request the kitchen in a private home, or the cottage food operation, to cease food sales to the public until the Health Authority has determined that operations may continue. In the absence of voluntary compliance, the Health Authority or designee may seek a court order for cessation of food preparation in a kitchen in a private home or a cottage food operation.

**D. CERTIFIED FOOD PROTECTION MANAGER REQUIREMENT:** The Person(s) In Charge (PIC) of all food establishments in addition to having supervisory and management responsibility and the authority to direct and control food preparation and service during all hours of operation to include preparation time shall also be a Certified Food Protection Manager.

This does not apply to certain PIC(s) who are responsible for certain types of food establishments deemed by the Health Authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation. However, these types of food establishments shall have a person in charge on site at all operating hours.

**E. FEES:** The Henry County Board of Health shall establish permit fees in accordance with Sec: 5-25013 of Chapter 55, Act 5 of the Illinois Compiled Statutes and that are reasonable and necessary to provide the services and required activities. Annual

fees for local tax supported government agencies together with nursing homes and senior sites may be set to cover the cost of the food program.

1. The fee schedule shall be available for reviewing and copying by the public and is incorporated herein by reference.
2. Permit fees, including plan review fees are non-refundable.
3. All food establishment permit fees, including seasonal permits, and mobile permits shall be assessed based on the Risk Category except temporary food permit fees.
4. Establishments that fail to correct and/or abate the violation(s) marked during the recheck, prior to the first recheck, will be subject to a second recheck fee. Any second recheck fee must be paid at the time of the second recheck inspection, unless prior arrangements have been made.
5. Establishments that fail to correct and/or abate any violation(s) marked during the routine inspection, prior to the following next routine inspection, will be subject to a repeat violation recheck inspection fee. Any repeat violation(s) recheck inspection fee must be paid at the time of the repeat recheck inspection, unless prior arrangements have been made.
6. All outstanding fees shall be paid within 30 days of receipt of invoice. No annual, seasonal, temporary permits will be issued until all outstanding fees are paid.

## **SECTION V. ISSUANCE OF NOTICES**

Whenever the Health Authority makes an inspection and discovers that any of the requirements of this ordinance have been violated, the Health Authority shall notify the permit holder or operator of such violations by means of an inspection report form or other written notice. In such notification, the Health Authority shall:

- A. Set forth the specific violation found and mark as not in compliance with either "OUT" or "X" on the inspection report form, as a "NOTICE OF VIOLATION" of this ordinance and is an "ORDER" to abate the violations within the time frame(s) specified.
- B. Establish a specific and reasonable period of time for the correction of violations observed and documented in accordance with the following provisions:
  1. If an imminent health hazard exists because of an emergency such as a fire, flood, extended interruption of electrical (power outage) or water service, contaminated water supply, sewage back up, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstances that could result in the contamination of food, or that might prevent time/temperature control for

safe food from being held at required temperatures, the permit holder or person in charge shall cease operations and contact the Health Authority. Upon receiving notice of this occurrence, the Health Authority shall take actions as it deems necessary to protect public health. If operations are ceased, the establishment shall obtain approval from the Health Authority prior to reopening.

2. When a Priority item(s) and/or a Priority Foundation item(s) is documented as a violation during an inspection, such items(s) shall be corrected and corrective actions (i.e. risk control plan/standard operating procedure) must be implemented as part of a Hazard Analysis Critical Control Point (HACCP) plan provision that is not in compliance with its critical limit. These corrections and implementations shall be done at the time of inspection if possible, or by a time frame agreed upon with the Health Authority, but at no time to exceed a period of ten (10) calendar days. If the tenth (10) calendar day falls on a weekend or state holiday, the first work day following shall be treated as the 10<sup>th</sup> day.
3. When Core item(s) is documented as a violation during an inspection, such item(s) must be corrected at the time of inspection if possible, or by a time frame agreed upon by the Health Authority, but at least by the time of the next routine inspection.
4. New food establishments, except those outlined in sec IV D of this ordinance, shall have a Certified Food Protection Manager from the initial day of operation or shall provide documentation of enrollment in an approved course to be completed within ninety (90) calendar days of the initial day of operation.
5. Food establishments that are not in compliance with Section IV D of this ordinance because of employee turnover or other loss of Certified Food Protection Manager shall have ninety (90) calendar days or by the next routine inspection (whichever is less from the date of loss of certified personnel) to comply.
  - a) Incidental absences of the Certified Food Protection Manager due to temporary illness, short errands off the premises, etc., shall not constitute a violation of Section IV D of this Ordinance, provided that there is documentation that a Certified Food Protection Manager was scheduled to work at that time.
6. Food establishments that do not have a Certified Food Protection Manager within ninety (90) calendar days of opening or due to employee turnover, or other loss of certified personnel together with any Repeat Priority and/or Priority Foundation Item violation shall cease food service operation.
7. The Health Authority shall require any Food Handler trained in basic safe food handling principles or Certified Food Protection Manager or volunteer(s) who is responsible for food service to attend an immediate in-service provided by

the Health Authority to include but not be limited to, the relationship between time and temperature with respect to foodborne illness, the relationship between personal hygiene and food safety, methods of preventing food contamination, procedures for cleaning and sanitizing equipment and utensils when, in the discretion of the Health Authority, the work habits of said Food Handler/Certified Food Protection Manager constitutes a hazard to the health of the public. Fees shall be charged by the Health Authority to offset any costs incurred by the Health Authority.

**8. Enforcement of Repeat Violations is as follows:-**

- a) Repeat violation(s) of priority or priority foundation item(s), shall be corrected at the time of inspection, to include implementing RCP/SOP at the time of inspection, if possible, or at a time frame agreed upon with the Health Authority but at no time to exceed a period of five (5) calendar days. If the fifth (5) calendar day falls on a weekend or state holiday, the first work day following shall be treated as the 5<sup>th</sup> day.
- b) Repeat violation(s) of a core item shall be corrected at the time of inspection, if possible, to include implementing RCP/SOP at the time of inspection, if possible, or at a time frame agreed upon with the Health Authority but no time shall exceed a period of fifteen (15) calendar days. If the fifteenth (15) calendar day falls on a weekend or state holiday, the first work day following shall be treated as the 15<sup>th</sup> day.

**9. Administrative action pertaining to Continuous Violation(s) or Recurring Violation(s) shall be made by the Health Authority based upon the circumstances and information documented in the reports. These decisions shall be thoroughly documented so as to provide a clear enforcement path for corrections of these violations. The administrative action should include:-**

- a) Step 1: A warning letter is issued by the Health Authority that lists the violations and establishes compliance requirements. This letter can also be a warning that the violation has occurred two continuous or intermittent times, and the third time shall start the formal enforcement process.
- b) Step 2: An office compliance conference shall occur between a food establishment owner or a designated representative, and the Health Authority, for the purpose of reviewing the severity of observed repeat or recurring violations, the need for correction, and consequences of allowing violations to continue. In addition, the conference is intended to reach agreement on procedures that, if followed, will result in compliance with this Ordinance and Food Code. Fees shall be charged by the Health Authority to offset any costs incurred by the Health Authority paid within five (5) calendar days of the receipt of the bill.

10. In the case of temporary food establishments, all violations must be corrected prior to operation and/or during operation but no later than 24 hours following notification of the violation. If violations are not corrected, food establishment operations shall cease immediately until a permit is issued or operations are authorized to resume by the Health Authority. Failure to comply with such notice shall result in immediate suspension of the permit.
11. Failure to comply with any notice regarding violations which pose imminent health hazards or repeat violations issued in accordance with the provisions of this ordinance may result in the immediate suspension of the permit.
12. Whenever any establishment is required under the provisions of this ordinance to cease operation, it shall not resume operations until such time that a re-check inspection has been made and the Health Authority confirms that conditions responsible for the requirement to cease operation no longer exist. Opportunity for a re-check inspection shall be offered within a reasonable time.

## **SECTION VI. VARIANCES**

The Health Authority may grant a variance, by modifying or waving requirements of this Ordinance, or sections of the Food Code that grants a variance if, in the opinion of the Health Authority a health hazard or nuisance condition will not result from the modification (or) waiver. The variance request must be submitted on the forms provided by the Health Authority. If a variance is granted, the Health Authority shall retain the information in its records for the food establishment. Variances are not transferable to new owners or locations.

If the Health Authority grants a variance, the permit holder shall:

- A. Comply with the plans and procedures as submitted on the request forms and approved as a basis for the modification or waiver; and,
- B. Maintain and provide to the Health Authority upon request, documentation of records as deemed necessary to include monitoring, verification, and corrective action of the critical control points.

## **SECTION VII. SERVICE OF NOTICES**

Notices provided under this section shall be deemed to have been properly served when the original of the inspections report form or other notice has been delivered personally to the permit holder, owner, or person in charge or when such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder, owner or person in charge. A copy of such notice shall be filed with the Records of the Health Department.

## **SECTION VIII. EXAMINATION AND CONDEMNATION OF FOOD**

- A.** Food may be examined and/or sampled by the Health Authority as often as necessary for enforcement of this ordinance. The Health Authority may upon written notice to the owner or person in charge, specifying the reasons therefore, place a hold order on any food which the Health Authority has determined or has probable cause to believe that the food is unwholesome, (unsafe, contaminated, unsanitary) adulterated or misbranded. The Health Authority shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. All food that is subject to a hold order shall be segregated from all other food and located where it can be detained without risk to the public's health for inspection, inventory, and sampling until final disposition is determined. Such disposition will be made after notification, concurrence, consultation, and direction of the Division of Food, Drugs and Dairies Regional Office.
- B.** If any time/temperature control for safety food item is found to be in the optimal temperature range for the growth of pathogenic foodborne bacteria of 41°F to 135°F by the Health Authority during an inspection of an establishment, the food shall be subject to immediate condemnation or destruction if food safety has been compromised. The condemned food shall be seized and held under embargo until it has been proved satisfactory and safe for human consumption by a certified laboratory at the expense of the permit holder if the food product is not voluntarily and immediately destroyed.
- C.** Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, display, or service of food, such equipment shall be taken out of use and a hold order placed on said equipment by the Health Authority. Such equipment may not be put back into service until written permission is obtained from the Health Authority. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on equipment by the Health Authority. Such equipment will not be altered, disposed of, or destroyed without written permission of the Health Authority, except on an order of a Court of competent jurisdiction.

## **SECTION IX. HEARINGS**

- A. HEARING BEFORE THE HEALTH AUTHORITY:** Any person affected by order or notices issued by the Health Authority in connection with the enforcement of any section of this ordinance, may file with the office of the Henry County Health Department a written request for a hearing before the Health Authority. The Health Authority shall hold a hearing at a time and place designated within twenty eight (28) calendar days from the date on which the written request was filed. The petitioner for the hearing shall be notified of the time and place of the hearing not less than five (5) calendar days prior to the date on which the hearing is to be held.

If, as a result of the hearing, the Health Authority finds that strict compliance with the order or notice would cause undue hardship on the petitioner, and that the public health would be adequately protected and substantial justice done by varying or withdrawing the order or notice, the Health Authority may modify or withdraw the order or make requirements which are additional to those prescribed in this ordinance for the purpose of properly protecting the public health. The Health Authority shall render a decision within ten (10) calendar days after the date of the hearing which shall be reduced to writing and placed on file in the office of the Henry County Health Department as a matter of public record. Any person aggrieved by the decision of the Health Authority may seek relief there from through a hearing before the Henry County Board of Health.

- B. HEARING BEFORE THE BOARD OF HEALTH:** Any person aggrieved by the decision of the Health Authority rendered as the result of a hearing held in accordance with this section may file with the President of the Henry County Board of Health a written request for a hearing before the Board of Health. The President of the Henry County Board of Health shall designate the time and place of such hearing to take place within twenty eight (28) calendar days of the date on which the request was filed. The petitioner for the hearing shall be notified of the time and place of the hearing not less than five (5) calendar days prior to the date on which the hearing is to be held.

If, as a result of facts elicited as a result of the hearing, the Henry County Board of Health finds that strict compliance with the decision of the Health Authority would cause undue hardship on the petitioner and that the public health would be adequately protected and substantial justice done by granting a variance from the decision of the Health Authority, the Henry County Board of Health may grant a variance and as a condition for such variance, may, where it deems necessary, make requirements which are additional to those prescribed by this ordinance, all for the purpose of properly protecting the public health. The Henry County Board of Health shall render a decision within ten (10) calendar days after the date of the hearing which shall be reduced to writing and placed on file in the office of the Henry County Health Department and a copy thereof shall be served on the petitioner personally or by delivery to the petitioner by certified mail.

## **SECTION X. PENALTIES**

- A.** Any person who shall violate any of the provisions of this ordinance shall be guilty of a Petty Offense and, upon conviction thereof, shall be punished by a fine of not more than \$500.00. In addition thereto, such persons may be enjoined from operations.
- B.** Each day's violation constitutes a separate offense. The State's Attorney of Henry County shall bring such actions in the name of the People of the State of Illinois or may bring action for an injunction to restrain or to enjoin the operation of any such establishment causing such violation.



## **SECTION XI. TRAINING**

- A. FOOD HANDLER TRAINING:-** All food handlers employed by a food establishment other than someone holding a Food Protection Manager Certificate shall receive or obtain American National Standards Institute-Accredited Training or Department Approved Training in basic safe food handling principles within thirty (30) calendar days after employment, and shall renew this training every three (3) years thereafter in accordance with the provisions set forth in the current and any subsequent amendments to the Food Handling Regulation Enforcement Act.
- B. Certified Food Protection Manager:-** Each food service establishment, except certain types of establishments deemed by the Health Authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation, shall be under the operational supervision of a Certified Food Protection Manager who has completed a minimum of 8 hours of Department Approved Training for food protection manager certification or attended an American National Standards Institute-Accredited Training, inclusive of the examination by the certification exam provider accredited under standards developed and adopted by the Conference for Food Protection or its successor organization. The certification shall be valid for five (5) years and shall not be transferable from the individual to whom it was issued.
- C. Allergen Awareness Training:** - All Certified Food Protection Managers employed by a non-franchise Category I restaurant must receive or obtain training in basic allergen awareness principles within thirty (30) days after employment and every three (3) years thereafter. Training programs must be accredited by the American National Standards Institute or another reputable accreditation agency under the ASTM International E2659-09 (Standard Practice for Certificate Programs).
- D.** Each food establishment shall maintain on its premises a separate file (hard copy/electronic format) containing proof that the Food Handler has been trained in basic food safety principles or possesses a Food Protection Manager Certificate. In addition, proof that the Certified Food Protection Managers are trained in basic allergen awareness principles shall be maintained in the above stated file at the food establishment. This file shall be accessible to the Health Authority for review at each inspection or upon request.

## **SECTION XII. UNCONSTITUTIONAL CLAUSE**

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

### **SECTION XIII. REPEAL AND DATE OF EFFECT**

This ordinance shall be in full force and effect from and after April 12, 1977. At that time, all resolutions and parts of resolutions in conflict with this ordinance are hereby repealed.

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 7-10-84

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 1-13-87

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 7-11-95

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 03-09-2010

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 10-11-2011

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 07-16-2015

REVISIONS PASSED AND APPROVED BY THE COUNTY BOARD OF HENRY COUNTY, ILLINOIS: 10-18-2018