

FOOD ORDINANCE

HENRY COUNTY  
HEALTH DEPARTMENT

10/14/2011

## **HENRY COUNTY 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 OF THE 12TH DAY OF APRIL, 1977, AS FOLLOWS:

### **SECTION I. DEFINITIONS**

A. Health Authority shall mean the Administrator or Health Officer of the Henry County Health Department or his or her designee.

B. A food service establishment shall be defined as specified in the Illinois Department of Public Health Food Service Sanitation Code (77 Ill. Adm. Code 750) as currently written or as may be amended.

C. A retail food store shall be defined as specified in the Illinois Department of Public Health Retail Food Store Sanitation Code (77 Ill. Admin. Code 760) as currently written or as may be amended.

D. A temporary food service establishment shall ~~mean~~ be defined as any food service establishment which operates at a fixed location and for a temporary period of time not exceeding two consecutive weeks in conjunction with a single event or celebration.

### **SECTION II. ADOPTION BY REFERENCE**

In addition to those provisions set forth in Sections I through XI, this ordinance shall be interpreted and enforced in accordance with the provisions set forth in the current and subsequent amendments or editions of the following: Illinois Department of Public Health Food Service Sanitation Code, Illinois Department of Public Health Retail Food Store

Sanitation Code, Bed and Breakfast Act, Illinois Farm Products Marketing Act, Egg and Egg Products Act and The Smoke Free Illinois Act (410 IL CS 82). Copies of said Codes and Ordinance shall be on file with the County Clerks Office and the office of the Health Authority.

### **SECTION III. COMPLIANCE PROVISIONS**

A. **PERMIT:** It shall be unlawful for any person to operate a food service establishment, tavern, temporary food service establishment, mobile unit or retail food store 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 Sanitation Code, Retail Food Sanitation 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 shall not be transferable from one person to another person or place. A valid permit shall be publicly posted in every food service establishment and retail food store. Permits for food service establishments and retail food stores 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.

- 1) **ISSUANCE OF PERMITS:** Any persons desiring to operate a new food service establishment or retail food store or renew an existing permit to operate 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 service establishment or retail food store to determine 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.

- 2) **SUSPENSIONS 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 insanitary or other conditions in the operation of a food service establishment or retail food store which constitutes a substantial hazard to the public health, the Health Authority may without warning, 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 as soon as possible.

- 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 10 calendar days, or pay the fine within 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, make application for a reinspection for the purpose of reinstatement of the permit. Within 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 reinspection. 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 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 such a 5 calendar day period. 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. Establishments that have only prepackaged nonpotentially hazardous food and whose principal order of business is not to sell food for human consumption.
  - b. Establishments that prepare or serve food on less than 3 consecutive days and/or no more than 12 days in any one calendar year. However, they are required to register on approved forms provided by the Health Authority notifying the Health Authority of such an event.
  - c. Cooperative arrangements by persons who purchase food or beverages for their own consumption where no person is assigned full-time responsibility for such arrangements.
  - d. Farmer's markets offering produce and other non-potentially hazardous foods. Farmer's markets shall also comply with Illinois Food Service Sanitation Guidelines for farmer's markets.

All those food establishments included under 5) a – d shall otherwise still be subject to food borne illness investigations, consumer complaints and shall be afforded food service sanitation education and prior consultation upon request.

**B. CONSTRUCTION/REMODELING PLAN REVIEW:** When a food service establishment or retail food store is hereafter constructed or extensively remodeled or when an existing structure is converted for use as a foodservice establishment or retail food store, adequately prepared plans and specifications for such construction, remodeling, or alteration,

showing layout, arrangement and construction materials of work areas, and the location, size, and type of fixed equipment and facilities, shall be submitted to the Health Authority for review and approval before such work is begun.

- 1) Whenever plans and specifications are required, the Health Authority shall inspect the food service establishment prior to the start of operations 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 Temporary Food Establishments 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: The Health Authority, after proper identification, shall be permitted to enter, at any reasonable time, any establishment within Henry County in the State of Illinois, for the purpose of making inspections to determine compliance with this ordinance. 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.
- 2) INSPECTION REPORTS: Inspection findings shall be recorded on an Illinois Department of Public Health approved inspection form. The inspection remarks shall be written to reference by item number and shall state the correction to be made. The rating score of the establishment shall be the total of the weighed point values of all violations subtracted from 100. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The most recent inspection report shall be available for public disclosure to any person who requests it.

D. 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. Fees for tax supported government agencies 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 are non-refundable.

#### **SECTION IV. 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.
- B. Establish a specific and reasonable period of time for the correction of violations 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, 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 may endanger public health, the establishment shall be required to cease operations until the violation has been abated and the Health Authority has given approval to resume operations.
  - 2) When one or more four (4) point, eight (8) point or nine (9) point violation items are in violation, regardless of rating score, such items must be corrected and corrective actions implemented for a Hazard Analysis Critical Control Point (HACCP) plan provision that is not in compliance with its critical limit. These corrections and implementations must be done at the time of inspection if possible and at no time to exceed a period of ten (10) calendar days.
  - 3) When one or more three (3) point violation items are in violation, regardless of rating score, such items must be corrected and corrective actions implemented for a HACCP plan provision that is not in compliance with its critical limit. These corrections and implementations must be done at the time of inspection immediately if possible and at no time to exceed thirty (30) calendar days.

- 4) When one or more one (1) point violation items are in violation, regardless of rating score, such items must be corrected at the time of inspection if possible, but in any event, by the time of the next routine inspection.
- 5) When the rating score of the establishment is sixty (60) or less, the permit is immediately suspended unless corrections can be made at the time of the inspection that would bring compliance levels to the equivalence of a score of sixty (60) or greater together with corrective actions implemented for a HACCP plan provision that is not in compliance with its critical limit.
- 6) In the case of temporary food service establishments, all violations must be corrected prior to operation. If operational deficiencies are not corrected, food service 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.
- 7) 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.
- 8) Food establishments that do not have a Certified Food Service Sanitation Manager within three months of opening or due to employee turnover, or other loss of certified personnel together with any nine (9) point violations shall cease food service operation.

## **SECTION V. 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, person in charge or violator or when such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder, person in charge or violator. A copy of such notice shall be filed with the Records of the Health Department.

## **SECTION VI. 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, 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. 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 VII. 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 VIII. 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 per day. In addition thereto, such persons may be enjoined from continuing such violations.

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 such violation or to enjoin the operation of any such establishment causing such violation.

## **SECTION IX. EDUCATION**

A. The Henry County Health Authority shall require any food handler/food service worker to attend an immediate Food Handler Sanitation Training (one hour) when in the judgment of the inspecting officer, the work habits of such food handler/food service worker constitutes a hazard to public health.

B. Food Handler Sanitation Training:- Within 30 calendar days of being hired, all food handlers/food service workers shall be encouraged to obtain a Food Handler Sanitation Card by completing a Food Handler Sanitation Training one hour course provided/approved by Henry County Health Department, or show evidence of having completed an Illinois State Approved Food Service Sanitation Manager course. Satisfactory completion of the one hour training is required every 3 years.

C. As of January, 2016, no person operating a food service establishment shall allow any employee to engage in handling of any open or unpackaged food unless the employee has attended a Food Handler Sanitation Training or a Food Service Sanitation Manager Certification class that is provided or approved by the Health Authority. Each employee shall maintain in his or her possession a Food Handler Sanitation Card or a Food Service Sanitation Manager Certificate issued by the Health Authority or the State of Illinois. This does not apply to employees/food service workers/food handlers engaged in handling food or drink exclusively in closed crates, cartons, packages, bottles or similar containers in which no portion of the food or drink is exposed to contamination through such handling.

D. Each food establishment shall maintain on its premises a separate file containing the Food Handler Sanitation card and/or the Food Service Sanitation Manager Certificate for each food handler/food service worker and the manager. This file shall be accessible to the Health Authority for review at each inspection or upon request.

## **SECTION X. 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 XI. 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