

98-19

KENDALL COUNTY FOOD ESTABLISHMENT SANITATION ORDINANCE

SECTION I. PURPOSE:

The purpose of this ordinance is to protect the health, safety and general welfare of the residents of Kendall County by establishing sanitation requirements for food sold in retail stores, food equipment and utensils, food service personnel, food protection and food service establishments by regulating the inspection of food operations and providing for the enforcement of this ordinance.

SECTION II. ADOPTION BY REFERENCE:

In addition to those provisions set forth herein, this ordinance adopts by reference the provisions set forth in the "Illinois Department of Public Health Food Service Sanitation Code 1996", the "Illinois Department of Public Health Retail Food Store Sanitation Code 1992" and the "Bed and Breakfast Act" as now enacted or hereafter amended.

SECTION III. PERMITS:

It shall be unlawful for any person to operate a food service establishment, retail food store, temporary food stand or bed and breakfast operation within the County of Kendall who does not possess a valid permit issued by the Health Authority hereafter referred to as the Kendall County Department of Health and Human Services. Only those persons who comply with the requirements of this ordinance shall be entitled to receive and retain a food permit. Permits shall not be transferable from one person to another person, nor shall the permit be applicable to another location other than that for which it was issued. *A valid permit shall be displayed per requirements in section VIII.*

A. PERMIT RENEWAL:

Every operating permit shall be issued for a period of one year, April 1- March 30, except seasonal or temporary permits, unless sooner due to revocation or suspension. A person, firm or corporation who begins a food operation after October 1 shall be required to pay only one-half (1/2) the annual permit fee for the balance of that permit year. Any operating permit not renewed by March 30th shall be considered delinquent. A late charge specified in the permit fee schedule will be assessed to all permit renewal applications received after March 30th.

B. CONDITIONS FOR PERMIT:

The Health Authority is hereby authorized upon application to issue new operating permits and renewals in the names of the applicant, owners or operators of food stores, food service establishments, temporary food establishments and seasonal establishments. No permit shall be issued unless said establishment is found upon inspection to meet all the requirements of this ordinance. When conditions exist that a regular permit cannot be issued a conditional permit may be issued.

C. CONDITIONAL PERMITS:

A conditional permit shall be issued for a period of thirty (30) days or less at which time either a regular permit is issued or another conditional permit is issued if conditions creating the conditional permit are not corrected. The cost of the conditional permit is due at the Health Authority before issuance of the permit.

D. PERMIT APPLICATIONS:

Any person desiring to operate a food service establishment, food store, temporary food establishment, seasonal establishment or bed and breakfast operation shall make written application for a permit on forms provided by the Health Authority. Such application shall include:

1. Applicants full name and post office address.
2. Telephone number.
3. Whether said applicant is individual, firm, corporation, or partnership. The names and addresses of the partners shall be included.
4. Location of the establishment.
5. Type of establishment.
6. Signature of applicant or applicants.
7. Any other information deemed necessary to process the application.

E. TEMPORARY PERMITS:

Food establishments including food stands that operate at a fixed location for a period of time not to exceed fourteen (14) consecutive days must obtain a Temporary Food Permit from the Health Authority prior to commencing with food operations. *Temporary applications submitted less than forty eight (48) hours in advance of said event shall pay a late fee of \$ 10.00 to be added to the permit fee. Temporary food events may be inspected as deemed necessary by the Health Authority.*

A permanent or fixed food service establishment or food store may operate one temporary food stand per calendar year free of charge if said applicant has a valid food permit issued from the Health Authority of Kendall County. Food service establishments operated within a school shall send a list of the organizations using the school facility and the dates of the events to the Health Authority. Organizations associated with the school, i.e. sports booster clubs, may operate a concession stand or prepare food at the licensed facility under the direct supervision of the certified food handler for the school facility. The licensed food establishment shall be responsible for all food handling requirements of this ordinance.

F. PERMIT FEE:

No operating permit shall be issued or renewed unless the completed application form is accompanied by a payment in accordance with the fee schedule. The fee schedule is approved by the Kendall County Board of Health and is available on separate sheet as an addendum to this ordinance.

G. VARIATIONS:

When circumstances exist which make impractical full compliance with the requirements of this Ordinance, as listed in this paragraph, an applicant may request that the Public Health Administrator grant a variance. Such request shall be made in writing and shall accompany any other pertinent data which might support the request or which the Public Health Administrator may require. The Public Health Administrator may grant the request for variance provided the variance does not conflict with the stated purpose of this ordinance. Variations will be considered for low risk fixed food establishments or retail food stores. Variations will be considered for medium and high risk facilities for items in the ordinance that do not compromise the storage, handling or service of potentially hazardous foods.

SECTION IV. PLAN REVIEW:

Whenever a food service establishment or retail food store is hereafter constructed or remodeled, or whenever an existing structure is converted to use as a food service establishment or food store, properly prepared plans and specifications for construction or remodeling shall be submitted to the Health Authority for review and approval prior to the commencement of construction or remodeling.

The plans and specifications shall include the proposed layout, arrangement, mechanical plans and construction materials of work areas; and the model of proposed fixed equipment and facilities. The plans and specifications shall be approved by the Health Authority only if they meet the requirements of this Ordinance or adopted food codes.

No food service establishment or food store shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the Health Authority. The Health Authority shall provide plan review guidelines and forms for new construction, remodeling or conversion of existing structures for use as a food service establishment or food store.

The Health Authority shall perform a pre-opening inspection for new food establishments, food stores or seasonal establishments within ten (10) days prior to opening or when such establishments have been closed for more than thirty (30) consecutive days. An opening inspection shall be performed one (1) day prior to the opening of the establishment. A rating score of ninety five (95) or above and no critical item violation must be obtained before the Health Authority will allow the establishment to open.

SECTION V. INSPECTIONS:

The Health Authority shall inspect each food service establishments, food stores and seasonal operations within Kendall County, Illinois as follows:

High Risk Facilities:	Three (3) times annually
Medium Risk Facilities:	Two (2) times annually
Low Risk Facilities:	One (1) time annually

The following substitute activities may be used in place of one (1) annual inspection at high risk facilities:

1. A H.A.C.C.P. INSPECTION--- HAZARDOUS ANALYSIS CRITICAL CONTROL POINT INSPECTION.
2. EDUCATIONAL CONFERENCE--- *Must have prior Health Authority approval.*
3. IN SERVICE TRAINING--- *Conducted by the Kendall County Department of Health and Human Services, Environmental Division.*

The Health Authority shall make as many additional inspections as are necessary for the enforcement of this Ordinance. The Health Authority reserves the right to change the risk classification of food establishments (i.e. poor sanitation) and thus increase the risk classification for low and medium risk operations to a higher category.

For every food service establishment, food store and seasonal operation in Kendall County, a risk classification shall be established by the Health Authority based upon I.D.P.H. risk definitions as follows:

1. High Risk Facility means a food establishment that presents a high relative risk of causing food borne illness based on the large number of food handling operations typically implicated in food borne outbreaks and/or the type of population served by the facility. High risk facilities include those where the following operations occur:
 - a. Cooling of potentially hazardous foods as part of the food handling operation facility.
 - b. Potentially hazardous foods are prepared hot or cold and held hot or cold for twelve(12) hours before serving.

- c. Potentially hazardous cooked foods must be reheated.
 - d. Potentially hazardous foods are prepared for off-premises service for which time-temperature requirements during transportation, holding and service are relevant.
 - e. Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods as part of the food handling operations.
 - f. Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level.
 - g. Immuno-compromised individuals such as the elderly, young children under age 4 and pregnant women are served where these individuals comprise the majority of the consuming population.
2. Medium Risk Facility means a food establishment that presents a medium relative risk of causing food borne illness based upon food handling operations typically implicated in food borne illness outbreaks. Medium risk facilities include those where the following operations occur:
- a. Hot or cold foods are held at required temperatures for no more than twelve (12) hours and are restricted to same day use.
 - b. Foods prepared from raw ingredients use only minimal assembly.
 - c. Foods that require complex preparation (whether canned, frozen, or fresh prepared) are obtained from approved food processing plants, high risk food service establishments or retail food stores.
3. Low Risk Facilities means a food establishment that presents a low relative risk of causing food borne illness based upon few food handling operations typically implicated in food borne illness outbreaks. Low risk facilities include those where the following operations occur:
- a. Only pre-packaged foods are available or served in the facility, and any potentially hazardous foods available are commercially pre-packaged in an approved processing plant.
 - b. Only limited preparation of non-hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the facility.
 - c. Only beverages (alcoholic or non-alcoholic) are served at the facility.

A. ACCESS TO ESTABLISHMENTS:

The Health Authority, after proper identification, shall be permitted to enter, at any reasonable time, any food service establishment, food store or seasonal operation within Kendall County, 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 sold, and persons employed.

B. INSPECTION PROCEDURES:

Whenever the Health Authority makes an inspection of a food service establishment, food store or seasonal operation, the inspector will record the findings on an inspection form provided for this purpose and shall furnish a copy of the inspection report to the permit holder, operator or his agent.

The inspection report shall include a rating score of the establishment which shall be a total of the weighted point values for all violations subtracted from one hundred (100). Inspection reports shall state the violation and the correction to be made. The inspection shall also provide for a reasonable time for correction of the violations. If any four (4) or five (5) point violations are found, they shall be corrected immediately if possible or within ten (10) working days and a re-inspection will be performed within ten (10) working days for any four or five point violations not immediately corrected. *When the rating score is between 60 and 70, a conditional permit will be issued and a fee charged as specified in fee schedule. If the establishment rating score is below sixty (60) the permit will be immediately suspended. Upon reinstatement of the permit, a conditional permit will be issued. Whenever more inspections are performed in a calendar year than allowed by the establishment permit, a penalty fee will be charged as specified in the fee schedule. If the permit to operate is suspended or revoked, a permit reinstatement fee shall be charged as specified in the fee schedule.*

Notices under this section shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered to the permit holder or licensee or person in charge, or when such notice has been posted to the front door of the permit holder's establishment, or by leaving such notice at his residence with some person of the family of age ten (10) or older.

C. EXAMINATION AND CONDEMNATION OF FOOD

Food may be examined or sampled by the Health Authority as often as necessary to determine freedom from adulteration or misbranding. The Health Authority may, upon written notice to the owner or person in charge, place a hold order on any food which he determines, or has probable cause to believe to be unwholesome or otherwise adulterated, or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order notice, or tag placed on food by the Health Authority and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission from the Health Authority, except on order by a court of competent jurisdiction.

The Health Authority may vacate the hold order, or may by written order direct the owner or person in charge of the food which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this Ordinance: Provided that such order of the Health Authority to denature or destroy such food or bring it into compliance with the provisions of this Ordinance shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days of the issuance of such order.

Samples for the determination of adulteration and misbranding shall be taken and examined in accordance with the methods prescribed by the Association of Official Analytical Chemists, The Food And Drug Administration, or by other standard methods.

When cases of food borne illness are reported, an immediate epidemiological and laboratory investigation shall be made by the Kendall County Department of Health and Human Services in an effort to determine the vehicle and the source, so as to prevent a recurrence. Any food suspected of being a vehicle in a food borne disease outbreak shall be placed under a hold order pending laboratory examination.

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 service and a hold order placed on said equipment by the Health Authority. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on the equipment by the Health Authority. Such equipment will not be altered, disposed of, or destroyed without permission of the Health Authority except on an order of a court of competent jurisdiction.

In an event of fire, flood including sewage backup, power outage or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the permit holder or person in charge shall contact the Health Authority. The Health Authority upon receiving this notice shall take whatever action necessary to protect the public's health.

SECTION VI. PERSONNEL:

No person, while affected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, or infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons. When the Health Authority has reasonable cause to suspect possible disease transmission by an employee of a food establishment it may make any investigation or take any appropriate action deemed necessary to protect the public. Any or all of the following measures may be necessary:

- 1. The immediate exclusion of the employee from employment in the food establishment.*
- 2. The immediate closing of the food establishment concerned until, in the opinion of the Health Authority, no further danger of disease outbreak exists.*

3. *Restriction of employees services to some area of the food establishment where there is no danger of transmitting disease.*
4. *Adequate medical and laboratory examination of the employee and of other employees.*

Disease transmitted through food frequently originates from an infected food service employee even if the employee shows little outward appearance of being ill. A whole range of communicable diseases and infections may be transmitted by infected food establishment personnel to other employees and to the consumer through contamination of food or food utensils, and through careless food handling practices. It is the responsibility of both management and staff to see that no person who is affected with any disease that can be transmitted by food works in any area of a food establishment where there is a possibility of disease transmission.

Employees shall wash their hands and exposed portions of their arms with soap and warm water before starting work, during work as often as necessary to keep them clean, and after smoking, eating, drinking, or using the washroom. The hands are a particularly important as a potential vehicle of contamination of food and food contact surfaces.

SECTION VII. ADMINISTRATIVE ACTION:

A. SUSPENSION OF PERMITS:

Whenever a permit holder or operator has failed to comply with any notice issued under provisions of Section II or Section V (5) of this ordinance, the permit holder or operator shall be notified in writing that the permit is immediately suspended and that an opportunity for a hearing will be provided if a written request for such a hearing is filed, within five (5) days from receipt of the notice, to the Health Authority by the permit holder. If the Health Authority finds unsanitary or other conditions in the operation of a food establishment and in his judgement constitute a substantial health risk to the public, or in the event that there is reasonable cause to suspect the possibility of disease transmission from any food establishment or any employee, the Health Authority may issue a notice of suspension of the permit requiring the permit holder to immediately suspend all food service operations. The permit holder may submit, in writing, a request for a hearing to the Health Authority within five(5) working days from the issuance of the suspension notice and a hearing will be scheduled within seven (7) working days from the date of receipt of the hearing request.

B. REVOCATION OF PERMITS:

For serious or repeated violations of any of the requirements of this ordinance, or for failure to correct permit suspension violations, or for the interference with the Health Authority in the performance of his duties, the permit may be 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 of the reasons for which the permit is subject to revocation and advising the permit holder that the permit shall be permanently revoked after five (5) days following service of the notice unless a request for a hearing is filed with the Health Authority by the permit holder within the five (5) day notice period. A permit may be suspended for cause pending revocation or a hearing relative thereto.

C. HEARINGS:

Hearings provided for in Section VII shall be conducted by the Health Authority or legal representative at a time and place designated by him. Based upon the record of such hearing, the regulatory Authority shall make a finding and shall sustain, modify or rescind any official notice or notice considered in the hearing. A written report of the hearing shall be furnished to the permit holder by the Health Authority and placed in the establishments' file.

D. REINSTATEMENT OF PERMIT:

A person whose permit has been suspended may make a written request for a reinspection of the establishment for the purpose of reinstatement of the permit. *At the time of this request a seventy-five (75) dollar reinstatement fee is due.* Within ten (10) days from receipt of the written request, the Health Authority shall make a reinspection. If the applicant is in substantial compliance with the requirements of this ordinance, the permit may be reinstated.

SECTION VIII. PERMIT AND CERTIFICATE DISPLAY:

Each food establishment in Kendall County shall conspicuously display the Kendall County Permit and the Food Managers Sanitation Certificate so as to be visible to the general public.

SECTION IX. PENALTIES:

Any person or permit holder who violates any provision of this Ordinance shall be guilty of a Class B misdemeanor *which is punishable with a fine of \$500.00 per offense or incarceration in county jail.* Each day of the violation constitutes a separate offense.

SECTION X. UNCONSTITUTIONALITY CLAUSE:

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