

PROPOSED

KENDALL COUNTY

RETAIL FOOD STORE ORDINANCE

86-6B

F274

An ordinance providing for incorporation by reference of the 1983 Edition of the "Illinois Department of Public Health Retail Food Store Sanitation Rules and Regulations" and subsequent revisions and providing for the enforcement of this ordinance; requiring permits; establishing a permit fee schedule; requiring the posting of the County permit on the premises; regulating the inspection of such establishments; and the fixing of penalties.

SECTION I: With regard to the rules and regulations to provide minimum sanitation procedures and controls to assure that foods sold to the consuming public are safe, wholesome; handled and dispensed under sanitary conditions, the 1983 Edition of the "Illinois Department of Public Health Retail Food Store Sanitation Rules and Regulations" and any subsequent revisions, is hereby adopted by reference.

SECTION II: Permits and plan review

1. Permits: It shall be unlawful for any person to operate a retail food establishment within the County of Kendall, or its police jurisdiction, 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 shall be entitled to receive and retain such a permit. Conditional permits not to exceed sixty (60) days may be granted to new establishments that are in substantial compliance. Permits shall not be transferable from one person or place to another person or place. A valid permit shall be posted in every retail food establishment.

(a) Issuance of permits: Any person desiring to operate a retail food establishment shall make written application for a permit on forms provided by the health authority. Such application shall include the applicants full name and post office address and telephone number, also whether such applicant is an individual, firm, or corporation. If a partnership, the names and addresses of the partners shall be included; the location and type of the proposed retail food establishment; and the signature(s) of the applicant(s).

Upon receipt of such an application, the health authority shall make an inspection of the retail food establishment to determine compliance with the provisions of this ordinance. When inspection reveals that the applicable requirements have been met and the permit fees have been paid, a permit shall be issued to the applicant by the health authority.

(b) Fees: The fee for a permit to operate a retail food establishment shall be \$15.00 per checkout counter but no more than \$60.00. The payment shall be made each year on the anniversary date of the permit. Application for renewal of permit must be submitted thirty (30) days prior to expiration of the current permit.

2. Plan review: When a retail food establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a retail food establishment, properly 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 approval before such work is begun.

SECTION III: The inspection of food stores shall be regulated in accordance with the 1983 Edition of the "Illinois Department of Public Health Retail Food Store Sanitation Rules and Regulations" and any subsequent revisions.

1. Frequency: At least once every six (6) months, the health authority shall inspect each retail food establishment located within the County of Kendall, or its police jurisdiction, and shall make as many additional inspections and reinspections as are necessary for the enforcement of this ordinance.

2. Access: The health authority, after proper identification, shall be permitted to enter, at any reasonable time, any retail food establishment within the County of Kendall, or its police jurisdiction, for the purpose of making inspections to determine compliance with this ordinance. He 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.

3. Inspection procedures;

(a) Inspection reports. Whenever the health authority makes an inspection of a retail food establishment, he shall record his findings on an inspection form provided for this purpose, and shall furnish the carbon copy of such inspection report form to the permit holder, operator, or his agent. Such form shall summarize the requirements of this ordinance and shall set forth demerit weights for each requirement. Upon completion of an inspection, the health authority shall total the demerits for all items in violation. By subtracting this total demerit from 100, the sanitation score for the establishment is revealed.

(b) The written inspection report for the establishment shall include the following information and requirements:

(1) Set forth the specific violations found together with the sanitation score for the establishment.

(2) Establish a specific and reasonable period of time for the correction of violations found.

(3) Regardless of the sanitation score, all critical sanitation violations (4 and 5 demerit items) and/or those of a procedural nature shall be corrected immediately. Within fifteen (15) days after the inspection, the permit holder or operator shall submit a written report to the regulatory authority stating that the critical (4 and 5 demerit items) violations have been corrected and the method of correction. Failure to submit this report will result in an immediate reinspection, at which time, all critical items must have been corrected.

(4) All 1 or 2 point violations shall be corrected as soon as possible, but, in any event, by the time of the next routine inspection.

(5) When the sanitation score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. A reinspection shall be made within 10 days. If no improvement is noted, the permit to operate is immediately suspended.

SECTION IV: Compliance procedures

1. Service of notice: Notices provided for under this Section shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the health authority.

2. Suspension of permits: Permits may be suspended temporarily by the health authority for failure of the 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 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 retail food establishment which, in his judgement, constitute a substantial hazard to the public health, he may without warning, notice, or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately 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.

3. Reinstatement of suspended permits: Any person whose permit has been suspended may, at any time, make application for reinspection for the purpose of reinstatement of the permit. Within ten (10) 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 complying with the requirements of this ordinance, the permit shall be reinstated.

4. Revocation 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 his duties, 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 days following service of such notice, unless a request for a hearing is filed with the health authority, by the permit holder, within such five day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

5. Hearings: The hearings provided for in this ordinance shall be conducted by the health authority at a time and place designated by him. Based upon the record of such hearing, the health authority shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the health authority.

SECTION V: Examination and condemnation of food: Food may be examined or sampled by the health authority as often as may be 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 of the health authority, except on order of a court of competent jurisdiction. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held within twenty (20) days after receipt of the request. On the basis of evidence provided at that hearing, the hold order may be vacated or the owner or person in charge of the food may be directed by written 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.

SECTION VI: Procedure when infection is suspected: When the health authority has reasonable cause to suspect the possibility of disease transmission from any retail food establishment employee, the health authority shall secure a morbidity history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The health authority may require any or all of the following measures:

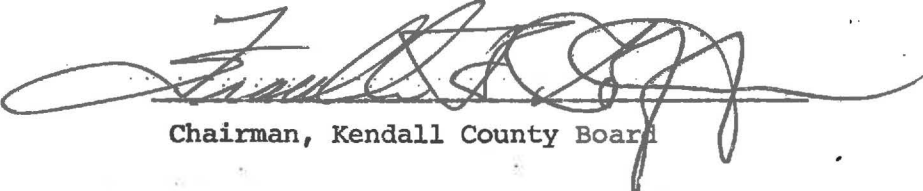
1. Adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.
2. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.
3. The immediate exclusion of the employee from all retail food establishments.
4. The immediate closure of the retail food establishment concerned until, in the opinion of the health authority, no further danger of disease outbreak exists.

SECTION VII: Penalties: Any person who violates any of the provisions of this ordinance shall be guilty of a Class B misdemeanor. In addition, thereto, such a person may be enjoined from continuing such violations. Each day upon which such violations occur constitutes a separate violation.

SECTION VIII: Unconstitutionality 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 IX: Repeal and date of effect: This ordinance shall be in full force and effect upon its adoption, and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. BE IT FURTHER RESOLVED that this Kendall County Retail Food Establishment Ordinance be printed in book or pamphlet form and published by authority of the Kendall County Board.

ADOPTED AND APPROVED THIS 13 DAY OF May 19 86


Chairman, Kendall County Board

Ayes: _____

Nayes: _____

Attest: Jim P. Brady
Kendall County Clerk

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ORDINANCE NO. 90-32

Be it hereby ordained by the Kendall County Board:

1. That Paragraph 1 of Section III of the Retail Food Store Ordinance is hereby amended as follows:

1. Frequency: The Regulatory Authority shall inspect each Retail Food Store establishment located in the County of Kendall as often as is necessary to enforce the terms of this Ordinance but at a minimum of that which is required to conform to the Illinois Department of Public Health Standards.

2. That all remaining portions of the aforesaid Ordinance remain and are hereby ratified including the Preamble and Sections 2 and 3.

ADOPTED AND APPROVED THIS 11 th day of December, 19 90

James B. ...
Chairman, Kendall County Board

Attest:
Lawrence P. ...
Kendall County Clerk

AMENDMENT TO KENDALL COUNTY
RETAIL FOOD STORE ORDINANCE

Be it Ordained by the Kendall County Board as follows:

SECTION II - 1B - FEEES

(b) Fees: The fee for a permit to operate a retail establishment shall be \$25.00 per checkout counter. The payment shall be made each year on the anniversary date of the permit. Application for renewal of permit must be submitted thirty (30) days prior to expiration of the current permit.

ADOPTED AND APPROVED THIS 21ST DAY OF July, 1992.

ATTEST:


Kendall County Clerk


Chairman