

RETAIL FOOD STORE SANITATION ORDINANCE

72-3

An ordinance defining food, potentially hazardous food, adulterated, misbranded, food store, health authority, utensils, equipment etc., providing for the sale of only unadulterated, wholesome, properly branded food; regulating the source of food; establishing sanitation standards for food, food store personnel, food protection, food store operations, food store equipment and utensils, sanitary facilities and controls, and other facilities; requiring permits for the operation of food store establishments; regulating the inspection of such establishments; providing for the examination and condemnation of food; providing for incorporation by reference of the 1968 Edition of the "Illinois Department of Public Health Retail Food Store Sanitation Rules and Regulations"; and providing further for the enforcement of these Rules and Regulations.

WHEREAS, Section 419 of Chapter 34 of the Illinois Revised Statutes grants to Illinois Counties the power to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

NOW, THEREFORE, BE IT RESOLVED by the Kendall County Board of Supervisors as follows:

SECTION I. The definitions: the inspection of food store establishments shall be regulated in accordance with the 1968 Edition of the "Illinois Department of Public Health Retail Food Store Sanitation Rules and Regulations", three certified copies of which shall be on file in the office of the Kendall County Clerk.

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. Temporary 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 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 applicant's full name and post office address and whether such applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses shall be included; the location and type of the proposed retail food establishment; and the signature of the applicant or applicants.

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 of this ordinance have been met, a permit shall be issued to the applicant by the health authority.

b. 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 Section I 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 judgment, 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 suspended, and all retail food operations are to be 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.

c. 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.

d. 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 (5) 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 (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

e. Hearings: The hearings provided for in this section 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.

2. Inspection of Food Service Establishments: At least once every six (6) months, the health authority shall inspect each retail food establishment located in 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.

a. Access to Establishments: 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 person employed.

b. Service of Notices: 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 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.

3. 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 by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in subsection I, i.e., and on the basis of evidence produced at such hearing, or on the basis of his examination in the event of written request for a hearing, is not received within ten (10) days, 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.

4. Plan Review of Future Construction: 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.

5. 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:

(a) the immediate exclusion of the employee from all retail food establishments;

(b) the immediate closure of the retail food establishment concerned until, in the opinion of the health authority, no further danger of disease outbreak exists;

(c) restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and

(d) adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.

6. 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 II. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$200.00. In addition, thereto, such a person may be enjoined from continuing such violations. Each day upon which such violations occurs constitutes a separate violation.

SECTION III. Fees: The fee for a permit to operate a retail food establishment shall be \$5.00 annually, renewable on the anniversary of the current permit. Application for renewal of permit must be submitted thirty (30) days prior to expiration of the current permit.

SECTION IV. This ordinance shall be effective twelve months after publication. All ordinances and parts of ordinances, including any portion of ordinances incorporated by reference herein, in conflict with this ordinance, are hereby repealed.

Adopted by roll call vote this 14 day of March 1972.

  
Chairman, Board of Supervisors

Ayes: 11

Nays: 0