



**COUNTY OF KENDALL, ILLINOIS
HEALTH & ENVIRONMENT COMMITTEE**

**Kendall County Office Building
111 W. Fox Street; County Board Rm 210**

Yorkville, Illinois

Tuesday, October 12 @ 8:30a.m.

MEETING AGENDA

- 1. Call to Order**
- 2. Roll Call:** Robyn Vickers (Chair), Elizabeth Flowers, Scott Gengler, Judy Gilmour, Ruben Rodriguez
- 3. Approval of Agenda**
- 4. Approval of Minutes from September 13, 2021**
- 5. Status Reports**
 - Board of Health
 - Health Department
 - Soil & Water
 - Water Related Groups
 - Other Reports
- 6. Old Business**
- 7. New Business**
 - **Discussion and Approval of an Update to the Kendall County Food Protection Ordinance**
 - **Discussion and Approval of an Update to the Kendall County Onsite Wastewater Treatment System Ordinance**
 - **Discussion and Approval of an Update to the Kendall County Public Nuisance Ordinance**
- 8. Chairman's Report**
- 9. Public Comment**
- 10. Questions from the Media**
- 11. Action Items for the County Board**
- 12. Executive Session**
- 13. Adjournment**

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Department at 630- 553-4171, a minimum of 24-hours prior to the meeting time

COUNTY OF KENDALL, ILLINOIS

Health & Environment Committee

Monday, September 13, 2021

Meeting Minutes

CALL TO ORDER

The meeting was called to order by Chair Robyn Vickers at 8:30 a.m.

ROLL CALL

Attendee	Status	Arrived	Left Meeting
Robyn Vickers	Here		
Ruben Rodriguez	Here		
Elizabeth Flowers	Present		
Scott Gengler	Here		
Judy Gilmour	Here		

With all members present, a quorum was determined for the conducting of committee business.

OTHERS PRESENT: Rae Ann VanGundy; Health Department Executive Director, Aaron Rybski; Director of Environmental Health, Alyse Olson; KC Soil & Water District,

APPROVAL OF AGENDA – Member Gilmour made a motion to approve the agenda, second by Member Rodriguez. **With all members present in agreement, the motion carried 5–0.**

APPROVAL OF MINUTES FROM MAY 10, 2021 AND JULY 12, 2021 – Member Gilmour made a motion to approve the minutes, second by Member Gengler. **With all members present in agreement, the motion carried.**

STATUS REPORTS

- Board of Health – Rae Ann VanGundy, Health Department Executive Director reported the COVID-19 vaccination clinic is still open on Thursdays from 3-6 p.m. and Fridays from 9 – 11 a.m. VanGundy stated there was a minor dip in attendance however the last two weeks have picked back up. Booster shots will begin once approved. In the last few weeks 325 positive cases of that 125 were children under the age of 18. Schools are handling the initial contact tracing and forwards the information to the Health Department for follow up. The Health Department does not do COVID-19 testing. Current positivity rating is 7.3% which is decreased from 9.3%.
- Health Department – Aaron Rybski, Director of Environmental Health informed the committee of the four key ordinances under environmental health which are; food, well, septic and public health nuisance. In 2020 a review of these ordinances were conducted and it is recommended that three of the four key ordinances will need language changes due to either new state rules, technology changes, fees and condition changes. Mr. Rybski specified the process of changing and updating these ordinances.

- Kendall County Soil and Water District – Alyse Olson reported they are still accepting cover crop seed order forms. Mid-August the fall newsletter was dispersed. Fish sale will be held Wednesday, September 22, 2021 at 11 a.m. and the Tree sale will be held Thursday, October 7, 2021 from noon to 4 p.m. Ms. Olson spoke to the committee on a current project; working with a homeowner that has a creek through their property with erosion issues. A stream specialist is also involved to help stabilize the erosion. Project hopes to be completed this fall.

Ag in the classroom program will be learning about local foods that are grown in the area, and the activity will be to grow their own salads. Ariel Beauchamp continues to provide live streamed lessons as well as pre-recorded lessons. Ms. Beauchamp will begin to offer in person lessons on a case by case basis.

- Water Related Groups – None
- Other Reports – Chair Vickers updated the committee on the 708 Mental Health Board and stated hearings with agencies a few weeks ago and the needs for mental health are staggeringly increased. All the agencies have had decreased revenue due to the inability to hold fundraisers and increased costs due to the rising need for services. Kendall County will be working with a new agency NAMI which will serve southern Kane, Kendall and Dekalb. The executive director of NAMI is hoping to expand services for Kendall County especially since Kendall does not have a hospital in the area.

OLD BUSINESS - None

NEW BUSINESS - None

CHAIRMAN’S REPORT - None

PUBLIC COMMENT – None

QUESTIONS FROM THE MEDIA - None

ITEMS FOR COMMITTEE OF THE WHOLE - None

COUNTY BOARD ACTION ITEMS - None

EXECUTIVE SESSION - None

ADJOURNMENT – Member Rodriguez made a motion to adjourn the meeting, second by Member Flowers. **With all members present in agreement, the motion carried and the meeting ended at 8:48 a.m.**

Respectfully Submitted,

Christina Wald
Administrative Assistant

**FOOD PROTECTION ORDINANCE
KENDALL COUNTY ORDINANCE 17-01
KENDALL COUNTY, ILLINOIS**

SECTION 1: SCOPE

This Ordinance is enacted to establish and provide for the minimum standards to protect the health of the public through the permitting and regulation of food service establishments within Kendall County.

The statutes of the State of Illinois grant to the Kendall County Board the power to enact such ordinances that protect the health of the citizens of Kendall County.

Therefore, be it ordained by the County Board of Kendall County, Illinois, that the following rules and regulations are hereby made and adopted.

SECTION 2: ADOPTION BY REFERENCE

The rules and regulations set forth in the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750), Sanitary Food Preparation Act (410 ILCS 650) and Food Handling Regulation Enforcement Act (410 ILCS 625) as now enacted or hereafter amended are adopted by reference and fully incorporated herein.

SECTION 3: DEFINITIONS

"APPLICANT" means the business or property owner or his/her authorized agent

"COMMISSARY" means a food service establishment, restaurant, or any other permitted/licensed place in which food, containers, or supplies are kept, handled, prepared, packaged, cleaned, or stored.

"DIRECTOR" means the Director of Environmental Health Services

"EMBARGO" to detain or place a hold on food or equipment

"ESTABLISHMENT RATING" inspection score or grade as outlined by the Illinois Food Service Sanitation Code

"FOOD SERVICE ESTABLISHMENT" means a food service establishment, food establishment, or a restaurant location as defined in the Illinois Food Service Sanitation Code; including but not limited to an operation conducted in mobile, stationary, temporary, or permanent facility or location

"HEALTH DEPARTMENT" means the Kendall County Health Department and its authorized representatives

"MOBILE FOOD SERVICE ESTABLISHMENT" means a vehicle, trailer, or cart mounted food service establishment designed to be readily movable. Regulations found in Food Service Sanitation State Code.

"NON PROFIT" describes an organization or food operator such as a 501(c)(3) organization or an organization or special event organized for one of the purposes identified in section 103.05 of the General Not For Profit Corporation Act of 1986, 805 ILCS 105/03.05(a).

"PERMIT HOLDER" means any business or property owner or his/her agent holding a permit issued by the Health Department

"PERSON" includes any individual, organization, partnership, corporation, association, or legal entity

"POT LUCK EVENT" is defined pursuant to 410 ILCS 625/3.1 as an event that meets all of the following conditions:

1. People are gather to share food at the event;
2. There is no compensation provided to people for bringing food to the event;
3. There is no charge for any food or beverage provided at the event;
4. The event is not conducted for commercial purposes, and;
5. It is generally understood by the participants at the event that neither the food nor the facilities have been inspected by the State or local certified public health department.

"REVOCATION" means the nullification of a permit, or approval

"SEASONAL FOOD SERVICE ESTABLISHMENT" means any food service establishment which routinely operates at an approved, fixed location and for a temporary period of time not exceeding eight (8) consecutive months within a permit year, excluding temporary food service establishments

"SHALL" means that the stated provision is mandatory

"SHOULD" means the stated provision is recommendation, but not required

“SUSPENSION” means a temporary hold on a permit

“TEMPORARY FOOD SERVICE ESTABLISHMENT” means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days of a single event or celebration

“VENDING MACHINE” means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction dispenses or provides unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

SECTION 4: FOOD HANDLING PERMITS

A. PERMITS IN GENERAL

Any person seeking to operate a food establishment within Kendall County’s jurisdiction shall possess a valid permit issued by the Kendall County Health Department. Only a person, who meets and complies with the requirements of this Ordinance, referenced state law and codes, and any applicable variance, shall be entitled to receive or retain such a permit. It shall be unlawful for any person to operate a food establishment outside of defined parameters as set forth in this Ordinance and related state code.

The food handling permit is not transferable to another person nor is it useable by the same permit holder at another location or outside of the permitted, fixed facility.

A valid food handling permit shall be posted for public display at every food service establishment.

Annual food handling permits shall be issued for a period of one (1) year, April 1 – March 31, unless subject to suspension or revocation.

B. PERMIT APPLICATION

Any person desiring to operate a food service establishment shall make a written application for a food handling permit on forms provided by the Health Department. Applications shall include, but not be limited to, the following:

- a. Applicant’s full name, post office address, and telephone number,
- b. Whether said applicant is an individual, firm, corporation, partnership, or other legal entity,
- c. The name, location, and type of the proposed establishment,
- d. Proof of access to commissary, if applicable, and
- e. The signature of applicant.

Upon receipt of such application, the Health Department shall make an inspection of the food service establishment to determine compliance with the provisions of this Ordinance. If the inspection reveals that the application requirements have been met, a permit shall be issued by the Health Department.

C. PERMIT RENEWAL

A renewal application must be completed prior to the expiration date of the annual food handling permit. Whenever an inspection, or the record, reveal(s) a serious or repeated violation of this Ordinance, the annual food handling permit may not be renewed and the Health Department shall notify the applicant in writing that the annual food handling permit will not be renewed and that an opportunity for a hearing will be provided if a written request for such hearing is filed within five (5) business days from receipt of the notice with the Health Department by the applicant. Such hearings, and the notice for them, shall be as directed in Section 6(D).

D. CONDITIONAL FOOD HANDLING PERMIT

When conditions exist that prevent an annual food handling permit from being issued, a conditional food handling permit may be issued. A conditional food handling permit shall be issued for a period of no more than ninety (90) days. The issuance of an annual food handling permit shall be contingent upon the completion of items requiring correction during the conditional food handling permit period.

No more than two (2) consecutive conditional food handling permits may be issued.

E. TEMPORARY FOOD SERVICE ESTABLISHMENT 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.

Applications shall include, but not be limited to, the following:

- a. Applicant’s full name, post office address and telephone number,
- b. The name and dates of the event,
- c. The location of the temporary establishment,
- d. The menu to be served,
- e. Proof of access to commissary, if applicable, and
- f. The signature of the applicant.

Temporary food handling permit applications submitted less than 48 hours (2 days) in advance of the start of the event shall be assessed a late fee, as designated in the fee schedule, in addition to the permit fee.

No more than two (2) consecutive temporary food handling permits shall be issued.

F. VENDING MACHINE PERMITS

Only those vending machines that vend food or beverages that are in part or in total, time/temperature controlled for safety, shall be subject to the requirements of this ordinance. Vending machines must meet all applicable requirements in the 2017 FDA Food Code, 77Ill. Administrative Code 750 (section 1-201.10, definitions), and any subsequent revisions.

Vending machines that vend in part or in total, food and/or beverages that require time/temperature control for safety and are located and serviced by the same operator of a permitted food service establishment who already holds a Kendall County food service establishment permit are not subject to vending machines permit fees. These vending machines shall be permitted and inspected under the food service establishment’s existing permit.

G. POT LUCK EVENTS

Notwithstanding any other provision of law, the Kendall County Health Department shall not regulate the serving of food that is brought to a potluck event sponsored by a group of individuals or a religious, charitable, or nonprofit organization by individuals attending the potluck event for consumption at the potluck event.

Individuals who are not members of a group or organization sponsoring a potluck event may attend the potluck event and consume food at the event.

Pursuant to the Food Handling Regulation Enforcement Act (410 ILCS 625/3.1), no fee may be charged for admission to a potluck event that is exempt from regulation under this Section, nor may food be sold at a potluck event that is exempt from regulation under said Act. A business establishment dealing in the sale of food items may not sponsor a potluck event. Potluck event food may not be brought into the kitchen of a business establishment dealing in the sale of food items.

SECTION 5: INSPECTIONS

The Health Authority shall inspect each food service establishments, food stores and seasonal operations within Kendall County as described in this Ordinance and the applicable state code.

A. ACCESS TO ESTABLISHMENTS

The Health Department, after proper identification, shall be permitted to enter, at any reasonable time, any food service establishment within Kendall County, Illinois, for the purpose of conducting inspections or investigations to determine compliance with this Ordinance. Refusal to permit access after proper identification may be cause for immediate suspension or revocation of the permit.

The Health Department shall be permitted to examine the records of any food service establishment to obtain information pertinent to food safety; including but not limited to, food and supplies purchased, food received or sold, services acquired, and persons employed.

B. INSPECTION FREQUENCY

The frequency of routine inspections of permitted food service establishments by the Health Department shall be as outlined below, or as required by the Illinois Department of Public Health Local Protection Grants Rules if they are more restrictive (see 77 Ill. Adm. Code 615.310):

“The local health department shall inspect facilities at least as often as prescribed by the following schedule.

- A. Category I facilities shall receive three inspections per year, or two inspections per year if one of the following conditions is met:
 - i. A certified food service manager is present at all times the facility is in operation; or
 - ii. Employees involved in food operations receive a Hazard Analysis Critical Control Point (HACCP) training or in-service training in another food service sanitation area, or attend an educational conference on food safety or sanitation.
- B. Category II facilities shall receive one inspection per year.
- C. Category III facilities shall receive one inspection every two years.”
- D. Vending machines that vend food or beverages that are in part or in total time/temperature controlled for safety shall receive two inspections per year.

The Health Department shall make as many additional inspections as necessary for the enforcement of this Ordinance.

C. INSPECTION RECORDS

Upon inspection of a food service establishment by the Health Department, the inspection findings shall be recorded on an inspection report provided for this purpose and a copy shall be provided to the permit holder.

D. INSPECTION REPORTS

When the Health Department makes an inspection of a food service establishment and discovers that any of the requirements of this Ordinance have been violated, it shall notify the permit holder in writing.

Written notification shall include:

- a. The specific violation(s) found,
- b. A reasonable time frame for correction of said violation(s),
- c. A statement that failure to comply with any time limits for correction may result in immediate suspension and/or revocation of the subject permit and/or further legal action, and
- d. When applicable, the establishment rating.

SECTION 6: ADMINISTRATIVE

A. SUSPENSION OF PERMITS

Permits may be suspended by the Health Department for failure of the permit holder to comply with the requirements of this Ordinance. Whenever a permit holder has failed to comply with a notice issued under provisions of this Ordinance, requiring mitigation of conditions capable of compromising the health and safety of the public, the permit holder shall pursuant to Section E below be notified in writing that the food handling permit is immediately suspended. An opportunity for a hearing will be provided if a written request for such a hearing is filed, within five (5) calendar days from receipt of the notice at the Health Department by the permit holder.

If the Health Department finds unsanitary or other conditions in the operations of a food service establishment that 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 service establishment or any employee, the Health Department may issue a notice of suspension of the food handling permit requiring the permit holder to immediately suspend all food service operations. At that time the permit shall be removed from the establishment by the Health Department. An opportunity for a hearing will be provided if a written request for such a hearing is filed, within five (5) calendar days from suspension, at the Health Department by the permit holder.

B. REINSTATEMENT OF SUSPENDED PERMITS

A permit holder whose food handling permit has been suspended may make a written request for a re-inspection of the food service establishment for the purpose of reinstatement of the food handling permit. If the permit holder is in substantial compliance with the requirements of this Ordinance, and any applicable agreements from administrative actions, the food handling permit may be reinstated.

C. REVOCATION OF PERMITS

For serious or repeated violations of any of the requirements of this Ordinance, for the failure to correct permit suspension violations, or for the interference with the Health Department in the performance of its duties, the Health Department may revoke any food handling permit.

Prior to such action, the Health Department shall notify the permit holder in writing of the reasons for which the food handling permit is subject to revocation and advising the permit holder that the food handling permit shall be revoked after five (5) calendar days following service of the notice unless a request for a hearing is filed with the Health Department by the permit holder within five (5) calendar days of receiving such notice. A food handling permit may be suspended for cause pending revocation. Following revocation, the Health Department shall obtain the permit from the establishment.

D. HEARINGS

Any person may appeal a permitting decision to the Health Department by written notice that shall be filed with the Department within ten (10) business days after the receipt of the subject notice to revoke, suspend or deny the permit at issue.

A hearing for such appeal shall be scheduled to take place as soon as reasonably possible, but no later than fifteen (15) business days from the date of filing such request, unless a later date is agreed upon. The Health Officer conducting the hearing shall give notice by phone and regular mail of the date, time and location of such hearing. Written notice of the hearing to a party may be waived by that party.

The hearing shall be conducted by a Health Officer at the place and time designated by him/her. All hearings shall be conducted so as to provide the parties adequate time to prepare, the right to present evidence in support of their position, the right to cross-examine, and the right to legal counsel at their

own expense. The formal rules of evidence shall not apply. The Health Office may ask questions of any witness to assist in reaching a decision. The Health Officer shall make a record of the proceedings. Should a party desire a verbatim transcript of such hearings, they may obtain a court reporter at their own expense.

Based upon the record of such hearing, the Health Department shall make a finding and a written decision shall be prepared. Such decision shall be considered final and shall be provided to the permit holder by the Health Department within fifteen (15) days and a record of the same shall be maintained.

E. SERVICE OF NOTICES

Notices shall be considered properly served when a copy of the inspection report or other notice has been delivered to the permit holder or applicant, or mailed to the permit holder or applicant at the address provided on the permit application, by certified mail, return receipt requested. A copy of the Notice shall be kept on file by the Health Department.

SECTION 7: PLAN REVIEW FOR NEW OR REMODELED FACILITIES

When a food service establishment is to be constructed or remodeled, and whenever an existing structure is converted for such use, properly prepared plans and specifications shall be submitted to the Health Department for review and approval prior to commencement of construction or remodeling. The plans and specifications shall be approved by the Health Department, in writing, only if they meet the requirements of this Ordinance.

The plans and specifications shall include the following:

- a. A copy of the proposed menu,
- b. A completed Plan Review application,
- c. The proposed layout/arrangement of equipment,
- d. Mechanical and plumbing schematics,
- e. Proposed equipment types and models,
- f. Proposed construction materials and finish schedules.

SECTION 8: FEES

FOOD SERVICE SANITATION FEES	
Food Service Establishment / Retail Food Store Annual Permit:	
Risk Type 1 (Low)	\$190
Risk Type 2 (Medium)	\$350
Risk Type 3 (High)	\$500
Retail Grocery w/ Food Prep (per check-out lane, in addition to risk based permit fee)	\$20
Vending Machine (requiring time/temperature control for food safety)	\$25
<i>New food establishment permit fees for application received after October 1st but prior to April 1st will be prorated.</i>	
Mobile Food Vendor Permit:	
Risk Type 1	\$175
Risk Type 2	\$225
Risk Type 3	\$275
Temporary / Special Event Charitable Non-Profit:	
Risk Type 1 and Charitable <u>All Non Profit Organizations or Events</u>	\$30
Risk Type 2	\$50
Risk Type 3	\$70
Temporary event permit late fees	\$10
Construction Plan Reviews:	
Risk Type 1	
Up to 1500 Sq. Ft.	\$300
1501 – 3000 Sq. Ft.	\$350

3001 – 5000 Sq. Ft.	\$450
Over 5001 Sq. Ft.	\$550
Risk Type 2	
Up to 1500 Sq. Ft.	\$400
1501 – 3000 Sq. Ft.	\$450
3001 – 5000 Sq. Ft.	\$550
Over 5001 Sq. Ft.	\$650
Risk Type 3	
Up to 1500 Sq. Ft.	\$450
1501 – 3000 Sq. Ft.	\$500
3001 – 5000 Sq. Ft.	\$550
Over 5001 Sq. Ft.	\$650
Conditional Permit	Permit fee x 50%
Re-inspection / non-compliance fee	\$100
Late payment fee	25% of fee
Outdoor grilling plan review	\$100
Pre-Operational re-inspection	\$50
Application to perform reduced oxygen packaging	\$125
Change of ownership inspection	\$100
<u>Replacement establishment annual permit</u>	<u>\$20</u>
Cottage food operation (one time registration)	\$15
Permit reinstatement fee	\$75
<ul style="list-style-type: none"> • Fee exemptions will be granted to those organizations that are classified as official units of Kendall County Government. • An applicant that can prove 501 (C)(3) status will be granted a fee reduction of 50 percent of the regular fee listed on this schedule, <u>except in the context of a temporary or special event permit for which the applicant already receives a discount as a Non Profit.</u> • <u>All soup kitchens, food pantries and surplus food outlets which provide food to the public at no charge shall be exempt from the food permit fee. This fee exemption does not relieve the entity from the need to obtain a permit and meet all other requirements of this ordinance.</u> • Issuance of a food service establishment, retail food store or mobile food vendor permit is contingent upon Health Department receipt of payment for any and all past due fees owed by said business to the Health Department. 	

SECTION 9: EXAMINATION AND CONDEMNATION

Food may be examined, sampled, or collected by the Health Department as often as necessary to determine freedom from adulteration, misbranding, or bacteriological contamination for the enforcement of this Ordinance.

The Health Department may, upon written notice to the permit holder, specifying the particular reasons, place an embargo on any food which it believes creates a potential health hazard. The Health Department shall tag, label, or otherwise identify any food subject to the embargo. No food subject to an embargo shall be used, served, altered, or moved from the food service establishment until written permission is obtained from the Health Department. The Health Department shall permit storage of the food under conditions specified in the embargo, unless storage is not possible without risk to the health of the public; in which case, immediate destruction shall be ordered and observed by the Health Department.

The permit holder may make a written request for a hearing to seek the lifting of an embargo or order for destruction of materials in accordance with Section 6(D). Such request must be submitted to the Health Department within five (5) business days after receipt of the subject notice.

Where equipment used in the preparation of food is found to be in a state of disrepair, unsafe, unsuitable for use, or unsanitary, such equipment shall be taken out of service and an embargo may be placed on said equipment by the Health Department. Such equipment that has been embargoed shall not be returned to service, altered, disposed of, or destroyed until written permission is obtained from the Health Department, or otherwise by order of a Court of competent jurisdiction.

SECTION 10: IMMINENT HEALTH HAZARD

A permit holder shall immediately discontinue operations and must notify the Health Department if an imminent health hazard may exist because of an emergency including, but not limited to, fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne or waterborne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health. The Health Department upon receiving this notice shall take actions necessary to protect the health of the public.

SECTION 11: FOOD PREPARED OUTSIDE OF KENDALL COUNTY

Food prepared for human consumption outside of Kendall County and transported into Kendall County shall conform to the standards and provisions of this Ordinance. To determine the extent of compliance with such provisions, the Health Department may accept reports from the regulating agency where such establishments are located.

SECTION 12: VARIATIONS

The Health Department may grant a variation by modifying or waiving specific requirements of this Ordinance if, in the opinion of the Health Department, a public health hazard or nuisance will not result from the issuance of the variation. If a variation is granted, the Health Department shall retain all pertinent information in its records.

Variation requests must be submitted in writing by the permit holder and shall include the following:

- a. An explanation of how the potential public health hazards shall be addressed,
- b. The relevant code sections that apply,
- c. A HACCP plan, if required.

A variance shall not be granted for more than one specific dimension per application. A copy of an approved variance must be kept on-site at the food service establishment. The permit holder must comply with the plans and procedures that are approved by the Health Department. Failure to comply with the variation, as approved, shall result in the revocation of variation approval.

All approvals, denials, and revocations shall be provided by the Health Department, in writing, to the permit holder.

SECTION 13: DIRECT SALES OF BAKED GOODS FROM HOME KITCHEN OPERATIONS

Pursuant to authority granted by 410 ILCS 625/3.6(c) of the Food Handling Regulation Enforcement Act as amended by Public Act 99-0191, which went into effect on January 1, 2016, the Kendall County Board allows for the direct sale of baked goods from home kitchen operations as set forth below.

A. Definitions:

1. "BAKED GOODS" as defined pursuant to 410 ILCS 625/4(b)(1)(C) are those such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits. Fruit pies not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6 or has been specified and

adopted as allowed in administrative rules by the Department of Public Health pursuant to 410 ILCS 625/4(e).

2. "HOME KITCHEN OPERATION" is defined pursuant to 410 ILCS 625/3.6(a) as a person who produces or packages non-potentially hazardous baked goods in a kitchen of that person's primary domestic residence for direct sale by the owner or family member.

A home kitchen operation does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes; the production or packaging of non-potentially baked goods for these purposes is exempt from the requirements of this Act.

3. "POTENTIALLY HAZARDOUS FOOD" is defined pursuant to ILCS 625/4(a) and 410 ILCS 625/4(b)(1)(C) as food that is potentially hazardous according to the Department of Public Health administrative rules, generally meaning food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. The following are potentially hazardous and prohibited from production and direct sale by a home kitchen operation: pumpkin pie, sweet potato pie, cheesecake, custard pie, crème pie, and pastries with potentially hazardous filling or toppings.

B. Home kitchen direct sales conditions:

The direct sale of baked goods from home kitchen operations is allowed in the County of Kendall pursuant to 410 ILCS 625/3.6 and is subject to the following conditions:

1. Monthly gross sales do not exceed one thousand dollars (\$1000).
2. The food is a non-potentially hazardous baked good, as described in 410 ILCS 625/4.
3. A notice is provided to the purchaser that the product was produced in a home kitchen.
4. The food package is affixed with a label or other written notice is provided to the purchaser that includes:
 - i. The common or usual name of the food product; and
 - ii. Allergen labeling as specified in federal labeling requirements by the United States Food and Drug Administration.
5. The food is sold directly to the consumer.
6. The food is stored in the residence where it is produced or packaged.

C. Home kitchen inspections:

Home kitchen operations may be inspected by the Department of Public Health or the Kendall County Health Department in the event of complaint or disease outbreak. (*Kendall County Ordinance No. 16-06*)

SECTION 14: PARTIAL INVALIDITY

If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatsoever, such invalidation shall not affect the remaining portions of this article which shall remain in full force and effect.

SECTION 15: PENALTIES OTHER THAN SUSPENSION AND REVOCATION

Any person, firm, or corporation, who violates, disobeys, omits, neglects, ~~or~~ refuses to comply with, or refuses to remedy a violation of the provisions of this Ordinance shall be guilty of a Class B misdemeanor pursuant to 55 ILCS 5/5-1116 and be fined \$500.00 for each offense ~~pursuant to 55 ILCS 5/5-2003-E~~, with each day upon which such violation continues shall constitute a separate offense, unless such other penalties for the particular offense are set forth by State or Federal law.

In addition, the Health Department may refer the matter to the Kendall County State's Attorney's Office to initiate any necessary action to obtain injunctive relief in the Circuit Court, in order to abate any such violating condition as enumerated in the Ordinance or the associated State law.

SECTION 16: ENFORCEMENT

Enforcement of this Ordinance shall be performed by the Kendall County Health Department. The Kendall County State's Attorney's Office shall be authorized to bring any necessary actions and prosecute any violations of this ordinance in the Circuit Court.

SECTION 17: REPEAL AND DATE OF EFFECT

This ordinance shall be in effect upon its adoption by the Kendall County Board and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

BE IT FURTHER RESOLVED that the Kendall County Food Protection Ordinance shall be available in print at the Kendall County Health Department.

DATE OF KENDALL COUNTY BOARD APPROVAL:

DATE OF ILLINOIS DEPT. OF PUBLIC HEALTH APPROVAL:

DATE OF EFFECT:

**ONSITE WASTEWATER TREATMENT SYSTEM ORDINANCE
KENDALL COUNTY, ILLINOIS**

SECTION 1: SCOPE

This ordinance is enacted to establish and provide for the enforcement of minimum standards to assure that onsite wastewater treatment systems are designed and constructed to ensure properly operating wastewater treatment systems through the construction phase in such a way as to protect the health of the public and natural resources within the county from impairment, pollution, or destruction. The maintenance and servicing of these systems are also inspected through regular food establishment inspections, complaint driven events, or homeowner requests to meet the requirements of applicable state code.

The statutes of the State of Illinois, including 225 ILCS 225/1 *et seq.*, grant to the Kendall County Board the power to enact such ordinances that protect the health of the citizens of Kendall County.

Therefore, be it ordained by the County Board of Kendall County, Illinois, that the following rules and regulations are hereby made and adopted.

SECTION 2: ADOPTION BY REFERENCE

The rules and regulations in the latest edition of the Illinois Department of Public Health Private Sewage Disposal Licensing Act (225 ILCS 225/1 *et seq.*) & Code (77 Ill. Adm. Code 905), and any subsequent amendments or revisions thereto, are adopted and incorporated as part of this ordinance.

SECTION 3: DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance:

“ACCESSORY STRUCTURE” means any structure with a roof that is not attached to the dwelling.

“AGRICULTURAL LAND” means land on which a food crop, feed crop, or fiber crop is grown such as range land, pasture land or farms.

“APPLICANT” means the property owner as defined herein or his or her authorized agent.

“APPROVED” or **“APPROVAL”** as it pertains to this ordinance, means constructed and installed in compliance with technical standards and requirements of this ordinance. Approved does not imply or ensure that a system will perform satisfactorily.

“DIRECTOR” means the Director of Environmental Health Services.

“HEALTH DEPARTMENT” means Kendall County Health Department and its authorized representatives.

“DOMESTIC SEWAGE or SEWAGE” as it pertains to this ordinance, means human wastewater derived principally from plumbing fixture drains in dwellings, business or office buildings, institutions, food service establishments, and similar facilities. It shall not include animal waste, industrial waste or commercial processing waste.

“INSPECTION FEE” as it pertains to this ordinance, means a fee assessed for the inspection of work performed which relates to an onsite wastewater treatment system.

“INTERCEPTOR DRAIN” is a drain tile located upslope from the soil treatment area and consists of a perforated tile extending beyond the septic field width and then outlets through a non-perforated tile that runs down slope on one side of the onsite wastewater treatment system.

“ONSITE WASTEWATER TREATMENT SYSTEM (OWTS)” means a an absorption system relying on natural processes and/or mechanical components- that is used to collect, store, treat, neutralize, stabilize, or dispose sewage which is not a part of or connected to a sewage treatment works. An OWTS is commonly referred to as a “septic system”. *Also see 225 ILCS 225/3(7) "Private Sewage Disposal System"*.

“ONSITE WASTEWATER TREATMENT SYSTEM COMPONENT” means a component of an onsite wastewater treatment system that is installed on the site at which the wastewater is produced, including, but not limited to, a septic tank, lift station, a secondary pretreatment unit, or soil treatment area. For the purposes of this ordinance, an onsite wastewater treatment system component may also be referred to as a system component.

“NON-RESIDENTIAL PROPERTY” means any property that is not used for a single family home.

“PERIMETER DRAIN is a perforated drain tile that encircles the soil treatment area and outlets down slope through a non- perforated tile.

“PERMIT” means the document that is issued by the Health Department upon proper application, which authorizes the construction, repair or alteration of an onsite wastewater treatment system under this Ordinance.

“PERMIT FEE” means a fee assessed for the issuance of a permit by the Kendall County Health Department.

“PROPERTY” means any parcel or combination of contiguous parcels, under ownership or control for which legal title has been recorded and which is designated by its owner as a tract of land to be used, developed, or built upon as a unit.

“PROPERTY OWNER” means the person in whose name legal title to property is recorded.

“REVOCATION” means nullification.

“SEGMENT DRAIN” is an extension of an interceptor or perimeter drain that extends between sections of a split soil treatment field. Segment drains supplement drainage efficiency in large soil treatment fields or where soil permeability is moderately slow as in Soil Design Groups IX, X, and XI.

“SHALL” means that the stated provision is mandatory.

“SHOULD” means the stated provision is recommended, but not required.

SECTION 4: POWERS AND DUTIES OF THE HEALTH DEPARTMENT

- A. The Health Department shall be responsible for regulating the design, construction, operation, maintenance and service of onsite wastewater treatment systems and their compliance with this Ordinance, the Illinois Department of Public Health Private Sewage Disposal Licensing Act (225 ILCS 225/1 *et seq.*) & the Private Sewage Disposal Code (77 Ill. Adm. Code 905).
- B. The Health Department shall be empowered to issue permits authorizing the installation, repair, alteration or renovation of onsite wastewater treatment systems within their jurisdiction.
- C. The Health Department shall be empowered to withhold issuance of or revoke an onsite wastewater treatment system permit if the permit application is incomplete or if site conditions are inconsistent with those provided within the submitted permit application.
- D. The Health Department shall make all necessary sanitary and health investigations and inspections to ensure compliance with the appropriate administrative codes, statutes and ordinances as is necessary to protect and improve the public health.
- E. The Health Department shall either institute, or cause to be instituted, legal proceedings in the Circuit Court of Kendall County in cooperation with the Kendall County State’s Attorney’s Office where a violation of this ordinance occurs or a condition presents a substantial hazard to public health.

SECTION 5: RIGHT OF ENTRY AND INSPECTION

Pursuant to 55 ILCS 5/5-25013(A)(8), the health department shall be empowered to conduct inspections, investigations and site evaluations of properties, public and private, to determine compliance with the provisions of this ordinance. The health department shall perform all inspections, investigations and site evaluations at a reasonable time.

It shall be the duty of all property owners or occupants to allow the Health Department personnel free access to the subject property at reasonable times to conduct inspections, investigations and site evaluations. Persons who deny Health Department personnel the ability to discharge the above described duties shall be in violation of this Ordinance. In the event that Health Department personnel are refused permission to inspect any property at a reasonable time; he or she shall have the authority to seek an injunction and/or administrative investigative warrant from the Kendall County Circuit Court, as well as any other relief the Court may deem appropriate.

SECTION 6: NON-RESIDENTIAL ONSITE WASTEWATER TREATMENT SYSTEMS

- A. The health department shall review any proposal for an onsite wastewater treatment system to service a non-residential property via an informal meeting with the designer prior to its submittal for approval. The review shall consider those elements of the proposal which may impact the functioning and longevity of the onsite wastewater treatment system including, but not limited to, waste strength, peak flows, removal of non-domestic wastewater, seasonal flow variations, soil or site limitations, adequate future replacement area and elements of the proposal which may require special arrangements for access and maintenance.
- B. In all cases where non-residential properties are proposed for development, an area for a full-size replacement system shall be provided. The area shall be suitable for an onsite wastewater treatment system as confirmed by onsite soil investigation and designated for future onsite wastewater treatment system replacement. The replacement area shall be kept free of development, traffic or soil modification on all properties.
- C. An aeration treatment plant servicing a non-residential system shall meet the requirements of 77 Ill. Adm. Code 905.100J and may be subject to routine or periodic wastewater sampling which may be requested by the Kendall County Health Department at their discretion.

SECTION 87: SOIL INVESTIGATIONS

Soil investigations shall be conducted as outlined in the latest edition of the Illinois Department of Public Health Private Sewage Disposal Code (77 Ill. Adm. Code 905).

SECTION 98: INTERCEPTOR DRAIN & PERIMETER DRAIN INSTALLATIONS TO AFFECT A SEASONAL HIGH WATER TABLE WITH A SUBSURFACE SEEPAGE SYSTEM

- A. General requirements
 1. The minimum size and grade of drain tile shall be 4-inch single-wall corrugated, perforated HDPE pipe conforming to ASTM F405. Non-perforated tile conforming to ASTM F405 shall be the minimum used for outlet tiles.
 2. Well-graded pit run gravel with less than 5 percent fines passing the #200 sieve and no aggregate more than 1.5 inches in diameter shall be used for gravel backfill around the drainage tile. Ideal material will contain a mixture of medium and coarse sand with fine and medium gravel.
 3. Other department approved synthetic media may be used in lieu of gravel and tile provided their drainage capability equals or exceeds that of gravel.
 4. Drain tile installed in sandy soil, as indicated on the soil evaluation report, shall be wrapped in geotextile fabric with an effective opening size between 0.2 and 0.85 millimeters.
 5. The drain tile outlet shall be metal or PVC a minimum of 2 feet in length that is equipped with a rodent guard.
 6. Gravity discharge from the outlet is strongly preferred, and the outlet pipe shall be placed to encourage free flow of water in all seasons.

7. If a gravity-flow outlet cannot be achieved, the drain shall flow into a vault of sufficient size to maximize the life of the sump pump.
 8. Any existing drainage tiles encountered in the proposed soil treatment area during construction shall be rerouted.
 9. A cross-section of the curtain drain shall be provided on the onsite wastewater treatment system plan. All construction details of the curtain drain shall be provided on the cross-section.
 10. Discharge to roadside drainage ditches is not permitted without written permission from the responsible highway authority, responsible township authority or other entity responsible for the roadside drainage ditch.
- B. Placement requirements
1. The minimum trench width shall be eight inches.
 2. A minimum of 3 inches of gravel, or approved synthetic aggregate, shall be placed in the trench bottom prior to installation of drainage tile.
 3. Outlet tiles do not require gravel, or approved synthetic aggregate, and should be backfilled with native material.
 4. Drainage tile shall be placed so that no sags occur that may impede drainage. Minimum slope on drain tile is 0.2 foot per 100 feet of run (0.2%).
 5. Buried open ends of drainage tile shall be capped to prevent siltation within the tile.
 6. The center of all tiles in drainage systems shall be placed a minimum of ten feet from the center of any septic field lines.
 7. If the shallowest depth to restrictive permeability is 36-42 inches below the surface, the drain tile trench bottom should extend 6 inches into the restricted permeability zone. In these instances, septic lines must lie at-grade or within 12 inches of the surface.
 8. If the shallowest depth to restrictive permeability is 42 inches or more, the drain tile trench bottom should extend 6 inches into the restricted permeability zone or lie 3 feet below the bottom of the deepest septic field trench, whichever is shallower.
 9. Drain tiles installed parallel to effluent lines shall not lie more than 50 feet apart in soils with design loading rates in Design Groups IX or X, 30 feet apart in Design Group XI. Segment drains shall be used to achieve proper intervals. Drain tile intervals shall not exceed 65 feet for soils in Design Groups II-VIII.
- C. Perimeter segment drain requirements
1. Drain tile trench should be backfilled with gravel, or approved synthetic aggregate, to a depth of 6 inches above the shallowest seasonal high water table depth shown by the soil evaluation report. The remainder of the trench may be backfilled with native material. Backfilling with gravel or approved synthetic aggregate, to within 6 inches of the soil surface and capping with topsoil to final grade is recommended for soils in Design Groups IX, X, and XI.
 2. Segment drains may be used in conjunction with both perimeter and interceptor drains. Ten-foot setbacks to septic field lines must be maintained with segment drains.
- D. Interceptor drain requirements
1. The center of the drain tile shall lay a minimum of 10 and a maximum of 15 feet upslope from the center of the nearest effluent line.
 2. The drain tile trench shall be backfilled with gravel, or approved synthetic aggregate, to within 6 inches of the surface and capped with topsoil to final grade.

SECTION 109: PERMIT REQUIREMENTS

- A. An application for a permit to install, repair or renovate an onsite wastewater treatment system shall be submitted, in writing, on forms provided by the Kendall County Health Department.
- B. The applicable permit fee and any related inspection fee shall be paid at the time of permit application.
- C. If the health department finds that a permit application meets the requirements of the Illinois Department of Public Health Private Sewage Disposal Code (77 Ill. Adm. Code 905) and all requirements of this ordinance a permit shall be issued to the applicant.

- D. Three copies of the onsite wastewater treatment system plan shall accompany the permit application. Plans shall be drawn with an Engineer's scale (1 inch equals 10', 20', 30', 40', 50' or 60').
- E. The following specifications shall be included on, or with, the onsite wastewater treatment system permit application:
1. Location of all existing and proposed buildings, accessory structures, driveways, roads, parking areas, sidewalks, patios, decks, swimming pools and any other improvements that may affect the location of onsite systems;
 2. Location and dimensions of all lot boundaries and easements on the property;
 3. Location of all existing water wells and onsite wastewater treatment system components whether existing or proposed on the subject and adjacent properties;
 4. Location of all proposed storm water systems including, but not limited to, storm sewers, detention basins, retention basins or drainage tiles on the subject and adjacent properties;
 5. Location of any lake, stream, wetland or body of water, flood plains, detention or retention areas on the subject property;
 6. Identification of any agricultural land which is used for farming purposes (on the subject property);
 6. Existing roadways and other areas where existing soil may be disturbed;
 7. Description and location of all existing and proposed components of the onsite wastewater treatment system. The description shall include manufacturer name and size of each component of the system. The location of all components of the onsite wastewater treatment system shall be provided on the design plan. This includes tanks, lift stations, distribution piping (material and size), distribution boxes, drop boxes, soil treatment components, gravel application beds in mound systems and any area where fill is to be applied;
 8. A copy of the soil investigation report, including the location of all soil evaluation points. All soil borings locations shall be transposed onto the permit design plans.
 9. Existing and proposed topography in two foot contours;
 10. A cross-section view of the subsurface seepage system including the total amount of soil cover, in inches, over the system. For subsurface seepage systems, the minimum and maximum cover shall be provided, in inches, on the plan. If a curtain drain is utilized, include a cross-section of the curtain drain, including construction details and depth, in inches, of the curtain drain;
 11. Elevations necessary to describe the sewage flow to, and through, the onsite wastewater treatment system. These elevations include, but are not limited to, the following: top of foundation or another suitable benchmark, plumbing stub-out, inlet and outlet of any tank(s), inlet of distribution box(es), top or bottom elevations of seepage lines or other subsurface seepage components.
- F. No onsite wastewater treatment system shall be installed, repaired or renovated until a permit has been issued by the department.

SECTION 410: REVOCATION OF PERMIT

- A. The health department shall have the authority to revoke onsite wastewater treatment system permits when information serving as the basis for approval is found to be false or erroneous, or when provisions of this ordinance or the Illinois Department of Public Health Private Sewage Disposal Code (77 Ill. Adm. Code 905) are violated.
- B. The health department shall have the authority to revoke onsite wastewater treatment system permits if the area designed for the soil treatment is disturbed by major filling, compaction, excavation, paving or other disturbances that adversely impact the permeability of the soil.
- C. The reason for the revocation of a permit shall be posted in writing at the site, or mailed to the applicant at the address provided on the permit application, by certified mail, return receipt requested.

SECTION 421: PERMIT VALIDITY

A health department issued permit for the installation, repair or renovation of an onsite wastewater treatment system is valid for a period of 12 months from the date of permit issuance. If construction has not started within that 12-month period, the permit is void. Written request for extension may be submitted to the Environmental Health Department prior to remaining 30 days of 12 month period.

SECTION 1312: FEES

ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) FEES	
OWTS permit (new construction or replacing existing tank & field)	\$340
OWTS septic tank replacement permit	\$100
OWTS soil absorption system repair permit	\$200
OWTS re-inspection	\$50
OWTS permit (new construction - community/cluster)	\$500
OWTS permit plan revision	\$50
Permanent holding tank	\$150
Septic tank abandonment	\$50
Variance request	\$70
Change of contractor	\$25
Annual domestic sewage land applicator	\$100
Soil evaluation consultation and report	\$50
Subdivision plat review (per lot)	\$50
Public sewer feasibility letter	\$25
Site evaluation	\$50
Community system administrative and inspection fee	\$400
Non-compliance fee (work performed without a permit)	Permit fee x 2
Property transaction inspection fee - well & septic site evaluation and report	\$200
<ul style="list-style-type: none"> ● Fee exemptions will be granted to those organizations that are classified as official units of Kendall County Government. ● An applicant that can prove 501(c)(3) status will be granted a fee reduction of 50 percent of the regular fee as listed on this schedule. 	

SECTION 1413: ONSITE WASTEWATER TREATMENT SYSTEM INSTALLATION

A. Installer responsibilities

1. No onsite wastewater treatment system shall be installed, repaired or renovated except in accordance with the provisions of this ordinance.
2. It is the responsibility of the licensed private sewage disposal installation contractor to install the onsite wastewater treatment system per the approved permit application. Failure to install the onsite wastewater treatment system per the approved permit application is a violation of this ordinance which may result in a delay of system approval and/or occupancy and/or the revocation of any permit granted for the same.
3. It is the responsibility of the licensed private sewage disposal contractor to notify the health department of any change(s) to the approved permit application. Notification of any changes shall be provided, in writing, to the Health Department. Failure to provide the department with written notice of changes is a violation of this ordinance which may result in a delay of system approval and/or occupancy and/or the revocation of any permit granted for the same.
4. The system installer shall be present during a system inspection. If the system installer is unable to be present, his or her representative shall be present.

B. Protection of the onsite wastewater treatment system

The area of an onsite wastewater treatment system shall be selected and maintained so that it is free from soil compaction or soil disturbance caused by, but not limited to the following: driveways, decks, patios, slabs, accessory structures, swimming pools, parking areas, buried lawn sprinkling systems, underground utility services, and addition to the original structure. Access to all onsite wastewater treatment system components shall be provided at all times for maintenance and servicing.

C. Construction traffic

On properties where installation equipment will have limited access to the proposed onsite wastewater treatment system area, the health department may request that the location for material storage and the designated path for construction traffic be specified on, or with, the system plan.

Agricultural land

Onsite wastewater treatment systems and onsite wastewater treatment system components shall not be installed on agricultural land which is routinely farmed.

D. Notification

The property owner or licensed contractor shall provide a minimum 24 hours advance notification to the health department before beginning installation, repair or renovation of any component or components of the onsite wastewater treatment system for which a permit has been issued.

E. F. Site access

In order to determine compliance with this ordinance, site access for system inspection shall be deemed essential for, but not limited to, the following:

1. On-site system layout review or site evaluations.
2. Observing soil investigations and soil borings.
3. At any stage of installation of the system.
4. Final inspection, following completion of the system installation, prior to covering.
5. As may otherwise be necessary in compliance with Section 5 of this Ordinance.

F. Tree removal

Any removal of trees from the proposed onsite wastewater treatment system area which have a trunk diameter measuring greater than twelve inches shall be removed by cutting near the surface. Stumps shall be removed by grinding or cutting. On wooded lots, it is strongly recommended that property owners and/or private sewage disposal system installation contractors contact KCHD prior to any tree or soil disturbance.

G. Patios, concrete slabs and decks

1. New construction of patios and slabs shall maintain a five foot horizontal separation distance to a septic tank, aeration device, lift station, holding tank or any other component of the septic system.
2. New decks shall be built so as to accommodate the integrity, functionality, or servicing of any component of septic system; allowing for a five foot horizontal separation from the septic tank.
3. Existing decks, patios and slabs located over septic system components shall be modified to allow access for maintenance of the onsite wastewater treatment system.

H. Above ground swimming pools

1. New construction of above ground swimming pools not meant to be emptied and stored between uses, shall maintain a five foot horizontal separation distance to a septic tank, aeration device, lift station, holding tank, seepage field or any other component of the septic system.

I. Access to onsite wastewater treatment system components

1. All onsite wastewater treatment system tanks, lift stations, aeration devices and any other treatment components installed after the effective date of this ordinance shall be provided with risers that terminate a minimum of three inches above finished grade in order to allow access for pumping and maintenance.

SECTION 1514: EMERGENCY REPAIRS

In the case of emergency repairs which require a permit, the emergency repair shall be performed only after written notice has been provided to the health department outlining the necessary repair. This section only applies to those emergency repairs which, if not promptly addressed, may endanger the public or present an immediate threat to public health.

SECTION 1615: ORDER TO UNCOVER

If any person backfills, or covers, any portion of the system with earth, or other material which prevents the Health Department from properly inspecting the system to determine compliance with this ordinance, the system installer shall uncover the portions of the system deemed necessary by the Health Department to allow for system inspection. (See 77 Ill. Adm. Code 905.190)

SECTION 1716: PROTECTION OF THE ONSITE WASTEWATER TREATMENT SYSTEM

- A. The onsite wastewater treatment system area shall be protected by fencing, or other department approved measures, prior to applying for a permit. The system shall remain protected throughout the duration of any construction to eliminate compaction of the soil or damage to the soil or the onsite wastewater treatment system.

- B. It shall be the responsibility of the property owner to protect the area(s) of the onsite wastewater treatment system and all system components.
- C. It shall be the responsibility of the property owner to reserve any area(s) designated for future installation of an onsite wastewater treatment system.

SECTION 1817: BUILDING & ZONING RECOMMENDATION

It is recommended that the designer of the system contact the subdivision developer and Kendall County Planning Building & Zoning Department to review the accepted engineering plans for the subdivision to determine locations of required setbacks, drainage requirements, easements, floodplains, surface drain system, detention/retention ponds and other features. Nothing contained herein shall absolve the applicant from the necessity of following all applicable plats, PUD's , covenants, etc. that are in effect regarding applicant's property.

SECTION 1918: BUILDING CONSTRUCTION PROJECTS & PERMITTING

All onsite wastewater treatment systems shall either be in compliance with the Illinois Private Sewage Disposal Code and this ordinance or new onsite wastewater treatment system plans shall be submitted to the health department and approved by this health department prior to the issuance of the building permit by the building authority.

SECTION 2019: VARIATIONS

The Health Department may grant a variation by modifying or waiving specific requirements of this ordinance if, in the opinion of the Health Department a public health hazard will not result from the issuance of the variation. Variation requests shall be submitted in writing, on forms provided by the Kendall County Health Department. The Health Department shall notify the applicant in writing of its decision to either grant or deny the variation. The approved variation documents shall be recorded on the property deed and filed with the Kendall County Recorder of Deeds.

SECTION 2420: VIOLATIONS

- A. Whenever the health department determines that there is a violation of any provision of this ordinance, the health department shall give notice of such alleged violation to the property owner, who shall then remedy the violation within the time allotted.
- B. The notice of violation shall:
 - 1. Be in writing.
 - 2. Include a statement of the reasons for the issuance of the notice.
 - 3. Contain details of the remedial action to be taken.
 - 4. Allow reasonable time to take remedial action and to otherwise comply with this ordinance.
 - 5. Be served to the property owner, or resident, via personal deliver or sent via registered or certified mail.
- C. In addition to the revocation or suspension of any permit issued, if such violation continues, the matter will be referred to the Kendall County State's Attorney's Office to prosecute violations of the ordinance and to initiate any necessary action in the Circuit Court, in order to abate such violating condition as enumerated in this Ordinance or the associated State law, including, but not limited to seeking injunctive relief.

SECTION 2221: HEARINGS AND APPEALS

Any person may appeal a permitting decision to the Health Department by written request that shall be filed with the Department within ten (10) business days after receipt of the subject notice to revoke or deny the permit at issue.

A hearing for such appeal shall be scheduled to take place as soon as reasonably possible, but no later than fifteen (15) business days from the date of filing such request, unless a later date is agreed upon. The Health Officer conducting the hearing shall give notice by phone and regular mail of the date, time and location of such hearing. Written notice of the hearing to a party may be waived by that party.

The hearing shall be conducted by a Health Officer at the place and time designated by him/her. All hearings shall be conducted so as to provide the parties adequate time to prepare, the right to present evidence in support of their

position, the right to cross-examine, and the right to legal counsel at the party's own expense. The formal rules of evidence shall not apply. The Health Officer may ask questions of any witness to assist in reaching a decision. The Health Officer shall make a record of the proceedings. Should a party desire a verbatim transcript of such hearings, they may obtain a court reporter at their own expense.

Based upon the record of such hearing, the Health Department shall make a finding and a written decision shall be prepared. Such decision shall be considered final and shall be provided to the permit holder by the Health Department within fifteen (15) days and a record of the same shall be maintained.

SECTION 2322: PARTIAL INVALIDITY

If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatsoever, such invalidation shall not affect the remaining portions of this article which shall remain in full force and effect.

SECTION 2423: PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects, ~~or~~ refuses to comply with, or refuses to remedy a violation of the provisions of this Ordinance shall be guilty of an ordinance violation a business offense and be fined not less than \$100.00 and no more than an amount not to exceed \$1,000 for each violation, plus \$100 for each day the violation continues~~offense. Each day upon which such violation continues shall constitute a separate offense. Further~~ If, however, the violation constitutes conduct addressed under section 905.205 of the Private Sewage Disposal Code, the penalty shall be in accordance with that Section. penalties shall be assessed as outlined in the latest edition of the Illinois Department of Public Health Private Sewage Disposal Code (See 77 Ill. Adm. Code 905.205).

SECTION 2524: MAINTENANCE OF RECORDS

The Health Department shall maintain a record of applications and permits, notices of subsequent enforcement, records of hearings and the information contained in those documents, which shall be available for public inspection.

SECTION 2625: ENFORCEMENT

Enforcement of this ordinance shall by performed by the Kendall County Health Department. The Kendall County State's Attorney's Office shall be authorized to bring any necessary actions and prosecute any violations of this ordinance in the Circuit Court.

SECTION 2726: EFFECTIVE DATE

This ordinance and the regulations contained therein shall be in full force and effect on and after the date signed below.

APPROVED BY THE KENDALL COUNTY BOARD THIS DAY _____ 20 _____

Chair, Kendall County Board

Ayes _____

Nays _____

Attest _____
Kendall County Clerk

**PUBLIC HEALTH NUISANCE ORDINANCE
KENDALL COUNTY, ILLINOIS**

No. _____

**Pertaining to refuse disposal, open burning, and public health nuisances within the
County of Kendall, Illinois**

WHEREAS pursuant to Illinois Compiled Statutes, Chapter 55, Section 5/5-1052, the Kendall County Board finds it necessary to adopt an ordinance regulating the storage and handling of refuse, open burning, and other activities detrimental to the public health, welfare, and safety of the inhabitants of the County;

NOW THEREFORE BE IT ORDAINED by the Board of Kendall County that the following rules and regulations within this ordinance be hereby adopted for all unincorporated areas of Kendall County:

INCORPORATED OR REFERENCED MATERIALS: Latest version of the Environmental Protection Act (415 ILCS 5)

SECTION 1: DEFINITIONS

Agricultural Operation – any operation devoted to a bona fide production of crops, animal, or fowl; including but not limited to the production of fruits and vegetables of all kinds; meat, dairy, poultry, and fish products; nuts, tobacco, nursery and floral products, and the production and harvest of products of silviculture activity.

Enforcement Officer - means that person or persons designated by the Kendall County Board and the Kendall County Board of Health to enforce this Ordinance.

Garbage – any accumulation of waste resulting from the handling, processing, preparation, cooking, and consumption of food or produce.

Health Authority – the Director of Environmental Health of Kendall County or his/her designated agent.

IEPA – Illinois Environmental Protection Agency

Noxious – Detrimental to one’s health.

Public Health Nuisance – any condition considered harmful to person(s) or property, or which may be hazardous to the public health. A public health nuisance is one that has far reaching effects. It has the ability to affect the health, safety, or welfare of the public in general.

Refuse – all solid wastes, excluding bodily wastes, including garbage, rubbish, dead animals, abandoned automobiles, discarded appliances, and solid manufacturing and industrial wastes.

Rubbish – combustible and non-combustible waste, except garbage, including but not limited to rags, old clothes, scrap metal, glass, cement, paper, raw (untreated) scrap lumber, card board, and similar materials.

Stagnant Water – standing, motionless water, devoid of natural mosquito predators and parasites, that persists for seven days or more.

Vermin – collectively noxious, troublesome and disease-transmitting small animals such as rodents and insects such as cockroaches, flies, lice, mosquitoes, etc.

Yard Waste – any waste generated as the result of tree trimming, lawn mowing, gardening, leaf raking, and other yard activities and consisting of branches, brush, grass clippings, leaves, sod, hedge trimmings and other plant waste from yard and garden sources.

SECTION 2: REFUSE – STORAGE AND DISPOSAL

- A. It shall be unlawful to cause, or allow to cause, the dumping of any refuse on any public or private land, unless such dumping occurs at an IEPA permitted disposal site.
- B. It shall be unlawful to collect or accumulate refuse, offal, animal carcasses, tires, abandoned vehicles, and other materials which could potentially be a harborage for mosquitoes, rodents, or other vermin, or which may impose a physical hazard to the public, with the exception of normal storage of manure or machinery on a farm for agricultural purposes.

SECTION 3: OPEN BURNING/INCINERATION

- A. Open burning of garbage, as herein defined, is prohibited except at those facilities which have been issued a permit to incinerate garbage by the IEPA, and only when such burning is done in a manner which complies with all rules adopted by the IEPA for lawful burning.
- B. The open burning of leather, rubber, carpets, furniture, plastic, tires, and all other toxic materials as defined by the IEPA is prohibited at all times in the County except at facilities which have been issued a permit to burn such material by the IEPA and only when the burning at said facility is done in a manner which complies with all rules adopted by the IEPA for the lawful burning of such material as defined by the IEPA.
- C. In the areas where burning is permitted, open burning of yard waste is only permitted on the property which it was generated, subject to the following conditions:
 - 1. Atmospheric conditions allow for ready dispersal of contaminants.

2. Open burning is prohibited on “Code Red” or “Ozone Action” alert days as determined by the IEPA.
3. The burning does not create visibility hazards on roadways, tracks, or airfields.
4. Burning is not done within 20 feet of any building or structure.
5. Burning is supervised until the fire is extinguished, and a hose or fire extinguisher is readily available.
6. The material to be burned is clean and dry.
7. The material does not contain varnish, paint, finishes, or other chemicals which would cause toxic emissions when burned, as per Section III (B) herein.

SECTION 4: DECLARED PUBLIC HEALTH NUISANCES

The following, except in conjunction with standard farming practices, and standard road work practices on county and township roads, are hereby declared general nuisances when affecting the health and well being of persons residing within Kendall County or adversely affecting the property of county residents and are prohibited.

- A. To cause or allow to cause the deposit of any animal carcass, offal, or other noxious or potentially hazardous material in any lake, pond, stream, well, common sewer, waterway, street or public highway.
- B. To cause or permit the pollution of any well, cistern, spring, underground water source, stream, lake, canal or other body of water by sewage or industrial wastes, or any other substance considered hazardous to the public health.
- C. All buildings, walls, or other structures which have been damaged by fire or have become dilapidated, rundown, or decayed and are so situated as to endanger the safety of the public or provide a possible harborage for rodents, insects, and other vermin.
- D. ~~Dense smoke, vapors, gas, dust, soot, cinders, or other airborne particles, or offensive and lingering odors in unreasonable or toxic quantities.~~
- E. To maintain any kennel, stable, barn, coop, pen, yard, or other place where animals, including pets, are kept in an unsanitary condition which leads to noxious conditions or provides a harborage for insects and other vermin.
- F. To cause or allow for the impoundment and stagnation of water which ~~produces offensive odors, harbors vermin, or promotes the breeding of disease causing vermin in residential areas of the county~~ on land used for residential, commercial, business, industrial and manufacturing purposes as defined by the most current version of the Kendall County Zoning Ordinance.

SECTION 5: ODORS AND DUST AT WASTE PROCESSING FACILITIES

Dense smoke, vapors, gas, dust, soot, cinders, or other airborne particles, or offensive and lingering odors produced by IEPA permitted waste processing facilities may be investigated and corrections to resolve the matter will be suggested at the time of the inspection. If corrective measures cannot be identified at the time of inspection or the corrections are not promptly completed upon a follow up inspection and within the amount of time provided, the matter will be forwarded to the IEPA for enforcement.

SECTION 5 6: RIGHT TO FARM

In order to limit the circumstances under which agricultural operations may be deemed to be a nuisance, especially when nonagricultural land uses are initiated near existing agricultural operations, no agricultural operation or any of its appurtenances shall be considered a nuisance, public or private, if such operations are conducted in accordance with existing best management practices and comply with existing laws and regulations of the State of Illinois (Farm Nuisance Suit Act, 740ILCS 70/) and local ordinances. The exemptions specified in this section shall not apply whenever a nuisance results from the negligent or improper operation of any agricultural operation or its appurtenances, nor shall these exemptions supersede any restrictions or requirements of farming operations set forth in any other county regulations.

SECTION 6 7: ENFORCEMENT AND PENALTIES

- A. Authorization to enter premises – The Enforcement Officer is hereby authorized to make the necessary inspections to obtain compliance with this ordinance. For the purpose of making such inspections, the enforcement officer is hereby authorized to request entry to any property at any reasonable time upon reasonable notice, for the purpose of determining compliance with this ordinance. Refusal of right to entry shall be cause for the enforcement officer to seek the permission of the court for right of entry.
- B. Notice to Abate – Upon investigation of the nuisance complaint by the enforcement officer, if he/she determines that a nuisance does exist, he/she shall issue a written notice to abate the nuisance condition within a reasonable amount of time to be determined by the Health Authority. A follow-up inspection will then be made in an effort to ensure that compliance has been achieved. Depending on the nature and conditions of the violation(s) and/or responsible party, a series of follow-up inspections may be necessary to achieve total compliance. However, a final date by which all violations are to be fully resolved shall be established and adhered to.

If it is determined that the condition constitutes an immediate and serious threat to the health and safety of the population, the enforcement officer may approach the court for an immediate abatement order.

- C. Failure to Abate Condition – Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of an offense ordinance violation punishable by a

fine not to exceed \$500 with each week the violation remains uncorrected constituting a separate offense; ~~which penalties shall be assessed in accordance with the terms and provisions of the applicable ordinances and codes established by the County Board regarding the creation of a Code Hearing Unit charged with the enforcement and administrative adjudication of violations to the provisions of this and all other applicable codes and ordinances of the County unless otherwise provided by law.~~

SECTION 7 8: ANNUAL REVIEW OF THE PUBLIC HEALTH NUISANCE ORDINANCE

- A. In an effort to evaluate the efficacy of the Kendall County Public Health Nuisance Ordinance, the Kendall County Health Department shall prepare and present to the Kendall County Board no later than the first regular board meeting of each calendar year the previous year’s nuisance complaint and investigation activity. Said report shall include yet not be limited to the numbers and types of public health nuisance complaints received and investigated by the Health Department, and the numbers of public health nuisance complaints resolved by means of the Kendall County Code Hearing Unit Ordinance and/or Kendall County State’s Attorney’s Office.

**PUBLIC HEALTH NUISANCE ORDINANCE, KENDALL COUNTY ILLINOIS,
APPROVED AND RECOMMENDED BY THE KENDALL COUNTY BOARD OF HEALTH THIS _____
DAY OF _____.**

President, Kendall County Board of Health

**PUBLIC HEALTH NUISANCE ORDINANCE, KENDALL COUNTY ILLINOIS,
APPROVED AND ADOPTED BY THE KENDALL COUNTY BOARD THIS _____ DAY OF _____.**

Chairman, Kendall County Board

**Ayes -
Nays -
Abstain -**

Attest:

Kendall County Clerk