

COLES COUNTY FOOD SANITATION ORDINANCE

An ordinance defining and regulating the inspection of food service establishments and retail food stores; providing for the examination and condemnation of food; providing for the enforcement of current and subsequent Illinois Food Service Sanitation Rules and Regulations, Illinois Department of Public Health; providing for the enforcement of current and subsequent Illinois Food Stores Rules and Regulations, Illinois Department of Public Health; and providing for the enforcement of this ordinance and affixing of penalties.

Whereas, 55 ICS 5/5-1052 of the Illinois Compiled 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.

Be it ordained by the Coles County Board of Illinois as follows:

February 14, 1995

AMENDED

September 13, 1977

ADOPTED

APPROVED

SECTION A - RULES AND REGULATIONS

The current edition and any subsequent amendments or revisions thereto of the rules and regulations promulgated by the Illinois Department of Public Health pertaining to food service establishments and retail food stores are hereby adopted by reference. Three copies of each set shall be on file in the Coles County Clerk's Office.

SECTION B - DEFINITIONS

In addition to the definitions contained in the above mentioned Rules and Regulations, the following definitions shall apply in the interpretation and enforcement of this ordinance:

1. Adulterated shall mean the condition of any food
 - a. if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
 - b. if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or in excess of such tolerance if one has been established.
 - c. if it consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
 - d. if it has been processed, prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.
 - e. if it is in whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter.
 - f. if its containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

2. Health Authority shall mean the Coles County Health Department or an authorized representative thereof.

3. Food establishment shall mean a food service establishment, or a retail food store as defined in the Rules and Regulations adopted herein.

SECTION C - ENFORCEMENT PROVISIONS

1. PERMITS: It shall be unlawful for any person to operate a food establishment within the County of Coles, State of Illinois, who does not possess a valid permit issued to him by the Health Authority. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in a conspicuous place in every food establishment.

Permits for permanent food establishments shall expire on September 30 of each year. Permits for temporary food establishments shall be issued for a period of time not to exceed 14 days.

- a. FEES: The Coles County Board of Health shall set fees to be collected annually by the Coles County Health Department to offset the cost of administering the program pursuant to this Ordinance. This fee is collected by the Coles County Health Department at the time of application for permit is submitted and shall be deposited into the Health Department fund. There will be no charges for such permits to any schools, religious, voluntary or non-profit community organizations and institutions.

A late fee of \$5.00 per month shall be required for permit renewal applications submitted after the expiration date. If the permit application and fees are not received within sixty (60) days past the expiration date a notice shall be issued in writing stating that all operations as a food establishment are to be immediately discontinued. The notice shall also state that an opportunity for a hearing shall be provided for the applicant at a time and place designated by the Health Authority upon written request as provided in Section C1h .

- b. **ISSUANCE OF PERMITS:** Any person desiring to operate a food establishment or to renew an expired permit 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; the location, names and type of the proposed food establishment; and the signature of the applicant or applicants. If the application is for a temporary food establishment, it shall also include the inclusive dates of the proposed operation.

Upon receipt of such application, the Health Authority shall make an inspection of the 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.

- c. **RENEWAL OF PERMITS:** Whenever the inspection for renewal of a permit reveals serious or repeated violations of this Ordinance, the permit will not be issued and the Health Authority shall notify the applicant immediately thereof. Such notice shall state the reason(s) for not renewing the permit. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant at a time and place designated by the Health Authority. Such hearing shall be scheduled not later than 10 days from the date of notice. The notice referred to in this paragraph shall be delivered to the applicant in person by the Health Authority or may be sent registered mail, return receipt requested. A permit which has expired shall be removed from the food establishment by the Health Authority.

- d. **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 C 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 food establishment which, in its judgement, constitute a substantial hazard to the public health, it 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 operations as a food establishment 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.
- e. **SERVICE OF NOTICES:** A notice provided for in the Ordinance is properly served when it is personally delivered to the holder of the permit or person in charge or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of such notice shall be filed with the records of the Health Authority.
- f. **REINSTATEMENT OF SUSPENDED PERMITS:** Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within 10 days

following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the Health Authority shall make a reinspection. If the applicant is in compliance with the requirements of this Ordinance, the permit shall be reinstated.

- g. **REVOCATION OF PERMITS:** For serious or repeated violation(s) of any of the requirements of this Ordinance, or for interference with the Health Authority in the performance of its 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 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 5 day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- h. **HEARING:** The hearing provided for in this section shall be conducted by the Health Authority at a time and place designated by it. 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.
- i. **ADMINISTRATIVE REVIEW:** Any person, firm, or corporation affected by the decisions of the Health Authority may have the decisions of said Health Authority, reviewed in the Circuit Court of Coles County. The provisions of the "Administrative Review Act" of the State of Illinois,

approved May 8, 1945, and all amendments and modifications thereof, and the rules adopted pursuant thereto shall apply to and govern all proceedings for the judicial review of final administrative decisions of the Health Authority. The term "Administrative Decisions" is defined in Section 1 of said "Administrative Review Act."

2. INSPECTION:

- a. **FREQUENCY OF INSPECTION:** The Health Authority shall inspect each food establishment within the County of Coles, State of Illinois, in accordance with the Illinois Administrative Code 615.30 commonly known as the Food Protection and Program Standards. Additional inspections and/or reinspections as are necessary for the enforcement of this Ordinance may be made by the Health Authority. Except that the Health Authority shall not perform routine inspections of those food service establishments which are inspected by qualified personnel of the Illinois Department of Public health, provided that the inspections are conducted according to the current and subsequent Illinois Food Service Sanitation Rules and Regulations, as amended, Illinois Department of Public Health. If the agency responsible for routine inspections shall fail to conduct at least one yearly inspection, the Health Authority may perform the routine inspections. Nothing in this section shall prohibit the Health Authority from conducting investigations or inspections of a special or emergency nature or routine inspections at the request of the Illinois Department of Public Health.

- b. **RIGHT OF ENTRY:** The Health Authority, after proper identification, shall be permitted to enter at any reasonable time any food establishment in the County of Coles, State of Illinois, for the purpose of making inspections to determine compliance with this Ordinance. The Health Authority shall be permitted to examine the records of the establishment to obtain pertinent

information pertaining to food and supplies purchased, received, or used, and persons employed.

- c. **REPORT OF INSPECTION:** Whenever an inspection of a food establishment is made, the findings shall be recorded on a form that is substantially equivalent to the current or subsequent Illinois Department of Public Health Retail Food Establishment Inspection Report. One copy of the inspection report form shall be furnished to the persons in charge of the establishment. The complete inspection report form is a public document and shall be made available for public disclosure to any person who requests it. The inspection report form shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point values for all violations subtracted from 100 and shall be shown on all copies of the report.

- d. **ISSUANCE OF NOTICES:** Whenever the Health Authority 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 or operator of such violations by means of an inspection report form or other written notice. In such notification, the Health Authority shall:
 - 1. Set forth the specific violations found, and, if a complete inspection is conducted the sanitation score of the establishment.

 - 2. **Correction of Violations:** The inspection report form and/or notice shall establish a specific and reasonable period of time for the correction of the violations found. The correction of the violations found shall be accomplished within the period specified by the Health Authority utilizing the following guidelines:

- a. When the rating score of any food establishment is 75 or more, all violations of one or two point weighted items shall be corrected as soon as possible, but in any event by the time of the next routine inspection.
- b. When the rating score of any food establishment is at least 60 but not more than 74, all violations of one and two point weighted items shall be corrected as soon as possible, but in any event within a period not exceeding 30 days.
- c. When the rating score of a food establishment is less than 60, or if an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, then operations may be suspended. Operations shall not be resumed until authorized by the Health Authority.
- d. Regardless of the rating score of a food establishment, all violations of four and five point weighted items shall be corrected immediately.
- e. In case of temporary food establishments, all violations shall be corrected immediately if four or five point weighted items and within 24 hours if one and two point weighted items. If violations are not so corrected, operations shall immediately cease and the permit suspended.

3. The report of inspection shall state that the failure to comply with any time limits for correction will require that the food establishment immediately cease operations and the permit suspended.

An opportunity for appeal from the inspection findings will be provided if a request for a hearing is filed with the Health Authority within 10 days. If a request for a hearing is received, a hearing shall be held within 20 days of the receipt of the request.

4. Whenever any food establishment is required under provisions of this section to cease operation, it shall not resume operations until such time that a reinspection has been made and confirms that conditions responsible for the requirement to cease operation no longer exists. Opportunity for a reinspection shall be offered within a reasonable time.

3. EXAMINATION AND CONDEMNATIONS OF FOOD AND/OR EQUIPMENT:

a. **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 move or alter a hold order notice or tag placed on food by the Health Authority.

Neither such food nor the containers thereof shall be relabeled, repackaged, or reprocessed, altered, disposed of, or destroyed without the permission of the Health Authority, except on an order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided in Section C1h, and on the basis of evidence produced at such hearing, or on the basis of examination in the event a 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 food which was placed under the hold order to denature or destroy such food or bring it into compliance with the provisions of this Ordinance. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within 3 days.

b. **EQUIPMENT:** When equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsuitable for use, or insanitary, such equipment shall be taken out of use and a hold order placed on the said

items by the Health Authority. Such equipment may not be put back into service until written permission is obtained from the Health Authority. It shall be unlawful for any person to move or alter a hold order notice or tag placed on equipment by the Health Authority. Such equipment shall not be altered, disposed of or destroyed without the permission of the Health Authority except on order by a court of competent jurisdiction. Such equipment may not be returned to service unless the hold order is removed by the Health Authority. After the owner or person in charge has had a hearing as provided in Section C1h, and on the basis of the evidence produced at such hearing, or on the basis of examination in the event a written request for a hearing is not received within 10 days, the Health Authority may vacate the hold order or may, by written notice, direct the owner or person in charge of the equipment which was placed under the hold order to remove such equipment or bring it into compliance with the provisions of this Ordinance. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within 3 days.

- c. **EXISTING EQUIPMENT:** Equipment which was installed in a food establishment prior to the effective date of this Ordinance, and which does not meet fully all of the design and construction requirements of this Ordinance, shall be deemed acceptable in that food establishment if it is in good repair, capable of being maintained in a sanitary condition and the food contact surfaces are nontoxic. Such equipment shall also be so located and installed as to enable reasonable compliance with all of the requirements pertaining to food protection.

4. **PROCEDURE WHEN INFECTION IS SUSPECTED:**

When the Health Authority has reasonable cause to suspect possibility of disease transmission from any food establishment employee, it shall secure a morbidity

history of the suspected employee or make any other investigation as may be indicated, and take appropriate action. The Health Authority may require any or all of the following measures:

- a. Immediate exclusion of the employee from any food handling activities.
- b. Immediate closure of the food establishment until in the opinion of the Health Authority, no further danger of disease outbreak exists.
- c. Restriction of employee's services to some area of the food establishment where there will be no danger of transmitting disease.
- d. Adequate medical and laboratory examinations of the employee or other employees and of his or their body discharges.

5. FOOD HANDLERS CLASSES:

The Health Authority may order any food handler to attend an immediate food handler training course when, in the judgement of the Health Authority, the work habits of said food handler constitute a hazard to public health. Fees may be charged by the Health Authority to offset the cost of the course.

SECTION D- FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES OUTSIDE JURISDICTION OF HEALTH AUTHORITY

Food from food establishments outside the jurisdiction of the Health Authority of the County of Coles, State of Illinois may be sold in the County of Coles, State of Illinois, if such food establishments conform to the provisions of this Ordinance or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

SECTION E - PLAN REVIEW OF FUTURE CONSTRUCTION

When any food establishment is hereafter constructed or extensively remodeled or whenever existing structures are to be converted for use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or alteration shall be submitted

to the Health Authority for approval before such work is begun. Said plans shall indicate layout, arrangement and construction materials of work areas, and the locations, size and type of fixed equipment and facilities. The Health Authority shall establish fees to be collected by the Coles County Health Department to offset the cost of reviewing plans pursuant to this Ordinance. Plan review fees for units of government or school districts are waived.

SECTION F - PENALTIES

Any person who violates any provision of this Ordinance, or any rules and regulations adopted herein shall be guilty of a Petty Offense and, upon conviction thereof, shall be punished by a fine not less than \$100.00. In addition thereto, such person may be enjoined from continuing such violations. Each day upon which such violation occurs constitutes a separate offense. The State's Attorney of Coles County shall bring such actions in the name of the People of the State of Illinois or may bring action for an injunction to restrain such violation or to enjoin the operation of any such food establishment causing such violation.

SECTION G - REPEAL AND DATE OF EFFECT

1. This ordinance shall be in full force and effect 10 days after its adoption as provided by law, and, at that time, all Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION H - UNCONSTITUTIONALITY CLAUSE

1. 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.

Passed and adopted this 13th day of September, 19 77 by the Coles County Board

Passed and amended this 14 day of February, 1995.

Chairman