

FULTON COUNTY HEALTH ORDINANCE PART III

FOOD SANITATION ORDINANCE

SECTION A, SCOPE:

An Ordinance regulating food service establishments, retail food stores, mobile food service establishments, mobile retail food stores and temporary food establishments, and requiring an annual permit and the temporary permitting of food operations within the limits of Fulton County, Illinois.

Pursuant to the powers granted to the Fulton County Board by the Illinois Compiled Statutes Chapter 55, Act 5, Section 1113 in such case made and provided therefore, and WHEREAS, improper food service sanitation is a menace to the public health:

THEREFORE, BE IT RESOLVED by the County Board of Fulton County, Illinois that the following Ordinance is hereby made and adopted.

SECTION B, ADOPTION BY REFERENCE:

In addition to those provisions set forth in the Fulton County Health Ordinance, Part III, Food Sanitation Ordinance, this Ordinance hereby adopts, by reference, the provisions set forth in the State of Illinois, Department of Public Health, Division of Food Drugs and Dairies, *Part 750, Food Code*; and any subsequent amendments or revisions thereto.

SECTION C, PERMIT:

1. It shall be unlawful for any person to operate a food service establishment, retail food store, mobile food service establishment or mobile retail store or catering operation within the limits of Fulton County, Illinois who does not possess a valid permit issued by the Fulton County Health Department. Only a person who complies with requirements of this Ordinance and the Rules and Regulations adopted by the Board of Health shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person; nor shall said permits be applicable to any locations, buildings or places other than that for which it is issued. A valid permit shall be conspicuously posted in every food establishment, retail food store, mobile food service establishment or mobile retail food store.
2. A permit is valid for only one calendar year. All permits will expire on December 31st of each year.

3. It shall be unlawful for any person to operate a temporary food service establishment within Fulton County, Illinois who does not possess a valid permit issued by the Fulton County Health Department. Only a person who complies with the requirements of this Ordinance and regulations adopted by the Board of Health shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person, nor shall said permits be applicable to any locations or events other than that for which they were issued. A valid permit shall be available at every temporary food service establishment. Applications for a temporary food permit must be submitted at least seven (7) days before the event.
4. It shall be unlawful for any person to operate a catering operation within Fulton County, Illinois who does not possess a valid permit issued by the Fulton County Health Department. Only a person who complies with the requirements of this Ordinance and regulations adopted by the Board of Health shall be entitled to receive and retain such a permit. Permits shall not be transferable from one (1) person to another person, nor shall said permits be applicable to any locations or events other than that for which they were issued. A copy of the valid permit shall be available in every catering delivery vehicle. Applications for a Food and Drink Permit must be submitted to the Fulton County Health Department at least seven (7) days before the event.
5. A temporary food facility will be allowed to operate one (1) day in the first six (6) months and one (1) day in the second six (6) months of the year, but not on consecutive days, by registering on forms provided by the Fulton County Health Department. The registration would consist of the name and address of the individual, group or organization, the name of an on-site contact person and his/her telephone number in case of an emergency, the date and location of the event, the hours of operation, the foods to be served, and where the food items were purchased. A temporary food facility meeting the requirements of the registration will not be subject to the temporary food permit fee. All completed registration forms must be received by the Fulton County Health Department at least 7 days prior to the one (1) day event. All temporary food facilities selling non-potentially hazardous foods that are commercially processed and prepackaged at a commercial processing facility must register with the Fulton County Health Department, but will not be subject to the temporary food permit fee if packages remain sealed and no open food samples are provided. A temporary food facility is considered a bake sale if it consists of non-hazardous baked goods made in home kitchens being sold in order to raise money for a charity, non-profit organization, or special event. Groups or individuals planning to hold a bake sale must register with the Fulton County Health Department, but will not be subject to the temporary food permit fee if food is prepackaged and no open food samples are provided.

6. A temporary food service establishment that does not meet the requirements of a registration will be allowed to apply for a temporary food permit lasting either 1 to 2 consecutive days, or 3 to 14 consecutive days. All completed temporary food service application forms and applicable fees must be received by the Fulton County Health Department at least 7 days prior to the first day of the event, or be subject to a late fee. The temporary food service establishment must be set up and operated according to the guidelines set out by the Board of Health. A minimum of two (2) days must elapse between consecutive temporary food service permits held by the same person or group.
7. A temporary food service establishment will be allowed to apply for a seasonal temporary food permit. Only a person who complies with the requirements of this Ordinance and regulations adopted by the Board of Health shall be entitled to receive and retain such a permit. This permit shall be valid for up to 7 consecutive months from the date of issue and only one permit shall be issued in a 12 month period. The temporary food service establishment must be set up and operated according to the guidelines set out by the Board of Health. A seasonal temporary food service establishment must have a Certified Food Protection Manager on site at all times during operation. The seasonal temporary food service permit shall not be transferable from one person to another, nor shall said permit be used for more than one stand or location on any day. A valid permit shall be posted at every seasonal temporary food service establishment. The initial dates and location(s) of operation for a seasonal temporary food service establishment shall be submitted at least seven (7) days before the first event.

SECTION D, ENFORCEMENT PROVISIONS:

1. Issuance of Permit.
 - a. Any person desiring to operate a food service establishment, retail food store, mobile food service establishment or mobile retail food store shall make a written application for a permit on forms provided by the Fulton County Health Department and pay all applicable fees at least 10 business days prior to the proposed opening date.
 - b. Prior to facility operation, the Health Officer shall make an inspection of the food service establishment, retail food store, mobile food service establishment or mobile retail food store to determine compliance with the provisions of this Ordinance and the Rules and Regulations adopted by the Board of Health. The findings shall be documented on an inspection report form for the purpose of giving written notice of necessary corrections that must be completed prior to operation. If deemed necessary, additional preoperational inspections will be scheduled with the license holder or person in charge. When inspection reveals that all

applicable requirements of the Ordinance and Rules and Regulations have been met, the Health Officer shall issue a permit to the applicant.

- c. The permit shall be such form as adopted and approved by the Health Officer but it shall contain a description of the food service establishment, retail food store, mobile food service establishment or mobile retail food store and shall be valid only for the location, building, vehicle, or place described therein.
- d. The Fulton County Food Inspection and Enforcement Procedures approved by the Board of Health will be used for determining the Enforcement Action to be utilized for compliance of a food service establishment, retail food store, mobile food service establishment or mobile retail food store.

2. Suspension of Permit:

Permits may be suspended temporarily by the Health Officer for failure of the holder to comply with the requirements of this Ordinance.

- a. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this Ordinance, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a hearing is filed with the Board of Health by the permit holder.
- b. Notwithstanding the other provisions of this Ordinance, whenever the Health Officer finds unsanitary or other conditions in the operation of a food-service establishment, retail food store, mobile food service or mobile retail food store which, in his judgment, constitute a substantial hazard to the public health, the Health Officer, without warning, notice or hearing may issue a written notice to the permit holder or operator citing such condition, specifying the time period within which such action shall be taken and if deemed necessary. Such order shall state that the permit is immediately discontinued. Any person to whom such an order is issued shall comply immediately herewith, but upon written petition to the Board of Health shall be afforded a hearing as soon as possible.
- c. Smoking is prohibited within food service establishments pursuant to 410 ILCS 82 Smoke Free Illinois Act. Food service establishments found to be in violation of this Act will be subject to suspension of their Food and Drink Permit.

3. Reinstatement of Suspended Permit:

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 ten (10) days following receipt of a written request, including a statement signed by the applicant that in the applicant's opinion the condition causing suspension of the permit have been corrected, the Health Officer shall make a reinspection. If the applicant is complying with the requirements of this Ordinance, the permit shall be reinstated.

4. Revocation of Permit:

For serious repeated violations of any of the requirements of this Ordinance, or for interference with the Health Officer in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Board of Health.

Prior to such action, the Health Officer shall notify the permit holder that the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the Board of Health by the permit holder, within such five (5) day period. The permit may be suspended for cause pending its revocation of a hearing relative thereto.

5. Voluntary Termination of Operation:

Any person who terminated the operation of a food service establishment, retail food store, mobile food service establishment, or mobile retail store must notify the Fulton County Health Department and must surrender their Food or Drink Permit to the Health Officer.

6. Inspection:

A. The Health Officer shall inspect each Category I food-service establishment, retail food store, mobile food service establishment, or mobile food store located in Fulton County, Illinois, at least three (3) times per year, or two inspections per year if one of the following conditions are met:

1. a Certified Food Protection Manager is present at all times the facility is in operation and the facility has shown through historical documentation to have achieved active managerial control of foodborne illness risk factors. ; or
2. employees involved in food operations receive a HACCP training

exercise, in-service training in another food service sanitation area, or attend an educational conference on food safety or sanitation.

- B. Each Category II food-service establishment, retail food store, mobile food service establishment, or mobile food store shall be inspected at least one (1) time annually by the Health Officer.
- C. Each Category III food-service establishment, retail food store, mobile food service establishment, or mobile food store shall be inspected at least once every two (2) years and be reevaluated every year by the Health Officer.
- D. The Operator of the food service establishment shall receive a written report from the Health Officer at the end of the inspection. The inspection findings shall be reported on the "Food Establishment Inspection Report" approved by the Board of Health and the Illinois Department of Public Health.

The Health Officer shall make as many additional inspections and reinspections as deemed necessary for the enforcement of this Ordinance.

- A. The definitions of high, medium, and low risk food service establishments, retail food stores, mobile food service establishments, or mobile food service establishments, or mobile retail food store used by the Fulton County Health Department shall be the current definitions adopted by the State of Illinois Department of Public Health.
- B. The Health Officer, after proper identification, shall be permitted to enter any food-service establishment, retail food stores, mobile food service establishments, or mobile retail food store within Fulton County, Illinois, or its jurisdiction for the purpose of making inspections to determine compliance with this Ordinance. He or she shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food supplies purchased, received, or used, and persons employed. A report of the findings will be left with the operator.

7. Plan Review of Future Construction:

When a food-service establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as food service establishment, retail food store, mobile food service establishment or mobile retail store, a properly prepared plan, specifications for such construction, materials of work areas, the location, size, and type of fixed equipment and facilities shall be submitted to the Health Officer for approval at least 10 business days before such work is initiated.

8. Procedure When Infection Is Suspected:

When the Health Officer has reasonable cause to suspect possibility of disease transmission from any food-service establishment, retail food store, mobile food service establishment or mobile retail food store employee, the Health Officer shall secure a morbidity history of the suspected employee, or make sure other investigations as may be indicated, then take appropriate action. The Health Officer may require any or all of the following measures:

(a) the immediate exclusion of the employee from all food-service establishments, retail food stores, mobile food service establishments or mobile food stores, (b) the immediate closure of the food-service establishment, retail food stores, mobile food service establishments or mobile food store concerned until, in the opinion of the Health Officer, no further danger of disease outbreak exists; (c) restriction of employee's services to some area of the establishment where there would be no danger of transmitting disease; and, (d) adequate medical and laboratory examinations of the employee, or other employees, and of his and their body discharges.

9. Examination and Condemnation of Food:

Food may be examined or sampled by the Health Officer as often as may be necessary to determine freedom from adulteration or misbranding. The Health Officer may, upon written notice to the owner or person in charge, place a hold order on any food which is determined or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order notice or tag placed on food by the Health Officer, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Health Officer, except on order by a court of competent jurisdiction. The owner may request a hearing on the hold order with the Board of Health within ten (10) days and after such hearing and on the basis of evidence produced at such hearing, or in the event that a written said ten (10) day period, the Board of Health may vacate the hold order, or may by written order direct the owner or person in charge of the food which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this Ordinance shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days.

SECTION E, APPEAL OF A SUSPENSION OR REVOCATION OF PERMIT

A person whose permit has been suspended or revoked may make a written request within five (5) days of notification of such suspension or revocations to the Health Officer for a hearing before the Board of Health to contest the

conditions of the suspension or revocation of a permit. Failure to request such hearing within five (5) days of the aforementioned notification shall constitute a waiver of the permit holder's right to a hearing to contest such suspension or revocation. Any food service establishment for which the permit has been suspended or revoked shall remain closed during those periods when an appeal and/or a hearing is being sought or under consideration by the Board of Health.

All hearing shall be conducted so as to provide the parties with written notice of the hearings, written notice of the conditions which have lead to the suspension or revocation, adequate time to prepare, the right to make an opening statement, the right to present evidence in support of their position including the right to present witnesses, the right to cross-examine any witness called to testify, the right to legal counsel at their expense, and the right to make a closing statement. All hearings shall be conducted in an informal manner, with consideration to be provided to all parties. All hearings shall be tape-recorded.

The formal rules of evidence shall not apply; however, all witnesses called to testify shall do so under oath or affirmation administered by the Chair of the Board of Health. The hearing body may exclude irrelevant or immaterial evidence. The hearing body, the Board of Health, may question any witness called to testify to clarify any point or to otherwise assist the body in reaching a decision. Written notice of a hearing may be waived by the party.

The health officer shall be designated as "petitioner", and the permit holder shall be designated as "respondent" in hearings before the Board of Health. The petitioner bears a civil burden of proof, preponderance of the evidence, to have a suspension or revocation of a permit affirmed by the Board of Health. A majority decision of the Board of Health of the members present at the hearing shall be required to affirm a suspension or revocation of a permit. The decision of the appeal body, the Board of Health shall be a final decision.

SECTION F, PENALTY:

Any person or corporation who violates any provision of the Fulton County Health Ordinance Part III, Food Sanitation Code, shall be guilty of a petty offense, and shall be fined not less than \$100.00, and not more than \$500.00. Each day's violation constitutes a separate offense.