

# Mason County Health Department



**Public Health**  
Prevent. Promote. Protect.

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## MASON COUNTY BOARD OF HEALTH RULES AND REGULATIONS

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| Mason County Health Department                             | Environmental Health- Food Protection  |
| TITLE:<br>Food Service Establishment Rules and Regulations | Approval Date: February 26 <sup>th</sup> , 2018  |
| Prepared by:<br>Camryn Gann, BS, LEHP                      | Cross References: Illinois State Food Code,<br>FDA Food Code, Mason County Food Service Ordinance<br><i>And any amendments thereto</i> |

### Section A. Scope

These Rules and Regulations set forth by the Mason County Board of Health shall enable the Mason County Health Department to perform a comprehensive food protection program to protect the citizens within its jurisdiction from contracting and transmitting foodborne illnesses. The Mason County Health Department shall undertake activities to identify, reduce, and whenever possible, eliminate factors which may cause foodborne illnesses in order to reduce the incidence of foodborne illnesses.

### Section B. Adoption by Reference

- 1) In addition to those provisions set forth in these rules and regulations, Mason County hereby adopts, by reference, the provisions set forth in the following State of Illinois, Department of Public Health, Division of Food, Drugs, and Dairies, *Illinois Food Code* and any subsequent amendments of revisions thereto.

### Section C. Definitions

- 1) **Board of Health (BOH)** in these rules shall mean the Mason County Board of Health

- 2) **Bar**- any establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises. “Bar” includes, but it not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.
- 3) **Cottage Food Operations**- Food that is not potentially hazardous may be produced in the kitchen of the person’s primary domestic residence for direct sale to customers at farmers’ markets. The public act only provides for direct sale by the owner or family member to customer at farmer’s markets. Cottage food operation products cannot be sold to retail stores, restaurants, over the Internet, by mail order or to wholesalers, brokers, or other food distributors who resell food.
- 4) **MCHD**- Mason County Health Department
- 5) **IDPH**- Illinois Department of Public Health
- 6) **Extensively remodeled**- whenever an existing structure is converted for use as a food establishment or any structural additions or alterations are made to existing establishments such as changed, modification, and extensions of plumbing systems, excluding routine maintenance.
- 7) **Farmers’ Market**- Common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers.
- 8) **Food**- any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption
- 9) **Food Establishment**- any food service establishment, retail food store, limited food establishment, bar, temporary service establishment, or mobile food unit
- 10) **Food Service Establishment (FSE)**- any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. FSE includes any such place regardless of where consumption is on or off the premises and regardless of whether there is a charge for the food. FSE also includes delicatessen type operations that prepare food intended for individual portion service. FSE does not include lodging facilities serving only a continental breakfast, (a continental breakfast is one limited to only coffee, tea, and/or juice and commercially prepared sweet baked goods), private homes, or a closed family function where food is prepared or served for individual family consumption, retail food stores, or the location of food vending machines.
- 11) **Health Authority** - the person or persons who have been designated by the Mason County Board of Health to administer the affairs of the Mason County Health Department.
- 12) **Imminent Health Hazard**- any condition or event which poses a particular, immediate hazard to the public health such as, but not limited to fires, floods, total loss of refrigeration, total loss of potable water supply, backup or sewage in to an establishment, or evidence of recent foodborne illness
- 13) **Mobile food Unit**- a vehicle-mounted food service establishment designed to be readily movable

- 14) **Non-profit organization**- those organizations recognized as such pursuant to the laws of the State of Illinois
- 15) **The Ordinance**- Mason County Food Service Ordinance
- 16) **Permit Holder**- any individual, partnership, corporation, association, or other legal entity.
- 17) **Potluck**- any event in which people are gathered to share food at the event, there is no compensation provided to people for bringing food to the event, there is no charge for any food or beverage provided at the event, the event is not conducted for commercial purposes, it is generally understood by the participants at the event that neither the food nor the facilities have been inspected by the State or health authority, AND the event is not held on public property.
- 18) **Temporary Food Service Establishment**- a food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration

#### **Section D. General**

- 1) No person shall operate a food establishment, who does not have a valid license issued by the health authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such license. Licenses are not transferrable from location to location or from one owner to another. A valid license shall be posted in a conspicuous location in every food service establishment, retail food store, mobile food service establishment, or mobile retail store, or catering operation.

#### **Section E. Permits**

- 1) Any person desiring to operate a food service establishment shall make a written application for a permit on forms provided by the health authority prior to opening. The application shall include: the name and address of the applicant, the location and type of the proposed food service establishment, any additional information requested by the health authority, the signature of the applicant, and include the appropriate fee.
- 2) Whenever a Food Establishment is to be newly constructed or extensively remodeled, prepared plans for construction or remodeling shall be submitted to the health authority. The health authority shall make the determination on if a plan review and pre-operation inspection is required.
- 3) Upon receipt of such application, the health authority shall conduct an inspection of the food service establishment to determine compliance with the provisions of the Ordinance and these Rules and Regulations. When Inspection reveals that all applicable requirements of the Ordinance and Rules and Regulations of the Board of Health have been met, the health authority shall issue a permit to the applicant.

- 4) Whenever a Food Establishment is to change ownership, a written application for a permit on forms provided by the health authority shall be submitted prior to opening under new ownership. The application shall include the name and address of the applicant, the location and type of the proposed food service establishment, any additional information requested by the health authority, the signature of the applicant, and the appropriate fee. A plan review and pre-operation inspection may be required as determined by the health authority.
  - a. A Plan Review and pre-operation inspection will be required upon change of ownership if the following occurs:
    - i. it is determined that there are previous repeat violations not related to food employee practices that need to be addressed to bring the facility into compliance with the Ordinance and these rules and regulations
    - ii. the facility is changing classification and it is deemed a plan review and pre-operation inspection is needed to meet the needs of that classification
  - b. A Plan Review and pre-operation inspection will generally not be required upon change of ownership in the following situations:
    - i. It is determined that the facility is in compliance the Ordinance and these rules and regulations
    - ii. The facility is not changing classification and it is deemed that the physical facility will meet the needs of the food operations.
- 5) The annual permit term shall be January 1 through December 31 of each calendar year. Licenses issued pursuant to this ordinance shall be posted in a conspicuous place in the premises for which they are issued. Fees will not be prorated for the length of operation during the year.
- 6) If a food service establishment has changed its food operations, putting the establishment into a different classification, a new permit must be issued for the new classification. A plan review and pre-operation inspection may be required at the determination of the health authority.
- 7) Annual renewal of permits shall be required for continued operation of the food establishment. All existing permitted food service establishments desiring to renew a permit shall make written application on forms provided by the health authority. Failure to renew could result in late fees or in closure of the food service establishment.
- 8) Any owner who terminates the operation of a food service establishment must notify the health authority. Fees paid for permits will not be refunded.

#### **Section F. Classification**

- 1) Food establishments will be classified as a Category I, Category II, or Category III as described in the Illinois Food Code.

- 2) The Health Authority shall re-evaluate all Category I, Category II, and Category III food establishments by annually completing a risk assessment

### **Section G. Inspections**

- 1) The Health Authority shall inspect each Category I food establishment at least three times per year, or two inspections per year if the following conditions are met:
  - a. A certified food protection manager is present at all times the facility is preparing food
  - b. Employees involved in food operations receive a HACCP training exercise, in-service training in another food service sanitation area, or attend an education conference on food safety or sanitation
- 2) The Health Authority shall inspect each Category II food establishment at least one (1) time annually
- 3) The Health Authority shall inspect each Category III food establishment at least once every two (2) years.
- 4) The health authority, after proper identification, shall be permitted to enter any food establishment within Mason County for the purpose of conducting inspections to determine compliance with the Ordinance and these rules and regulations. The health authority 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.
- 5) The Operator of the food service establishment shall receive a written report from the health authority at the conclusion of the inspection. The findings shall be recorded on an inspection form approved by the Board of Health and IDPH. The completed inspection report form is a public document that shall be made available for public disclosure.
- 6) The health authority shall make as many additional inspections and re-inspections as deemed necessary to protect the public's health and for the enforcement of the Ordinance and these rules and regulations

### **Section H. Temporary Food Establishments**

- 1) All temporary food stands shall possess a valid permit issued by the health authority. A temporary food service establishment shall mean any food service establishment that operates at a fixed location for a period of time no more than 14 consecutive days in conjunction with a single event or celebration.
- 2) Only a person who complies with the requirements of the Ordinance and these rules and regulations shall be entitled to receive and retain a temporary food permit. Permits shall not be transferable from one person to another, nor shall said permit be applicable to any locations or events other than that for which they were issued.

- 3) Temporary Food stands that are for profit shall be inspected one time per calendar year.
- 4) Temporary Food stands that are non-profit may not be inspected if it is a one day event. If the event is several days in conjunction with a celebration or if the non-profit stand operates for multiple one-day events, the stand shall be inspected one time per calendar year.
- 5) The health authority shall make as many additional inspection and re-inspections to temporary food stands as deemed necessary for the enforcement of the Ordinance and these rules and regulations.

### **Section I. Home Kitchen**

- 1) A home kitchen operation is defined as a person who produces or packages non-potentially hazardous food in a kitchen of that person's primary residence for the direct sale by the owner or family member, or for sale by a religious, charitable, or non-profit organization, stored in the residence in which the food is made.
- 2) In order to qualify as a home kitchen operation, as defined in the Food Handling Regulation Enforcement Act 410 ILCS 625/3.6 and all subsequent revisions or amendments thereto the following conditions must be met:
  - a. Monthly gross sales may not exceed one thousand (\$1,000) dollars.
  - b. Only non-potentially hazardous baked goods may be sold.
    - i. Baked goods 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.
  - c. A notice is provided to the purchaser that the product was produced in a home kitchen.
  - d. The food package is affixed with a label or other written notice is provided to the purchaser that includes: the common or usual name of the food product, allergen labeling as specified in federal labeling requirements by the FDA
  - e. The food is sold directly to the consumer.
  - f. The food is stored in the residence where it is produced or packaged.
- 3) All home kitchen operations within Mason County may be required to register with the MCHD on forms provided by the Health Authority prior to operation. Forms shall include the name of the operator, the address of the home kitchen operations, and a list of foods to be sold.

- 4) Upon receipt of a complaint involving products produced by a home kitchen operation or upon the outbreak of a disease that may be connected to a home kitchen operation, the health authority may inspect the home kitchen involved. The health authority shall request consent to inspect a home kitchen during daylight hours. In the absence of consent, the board of health shall obtain an administrative search warrant to inspect a home kitchen.
- 5) In the event of a disease outbreak reasonably connected to a home kitchen operation, the health authority shall request the home kitchen operation to cease food sales to the public until the board of health has determined that operations may continue. In the absence of voluntary compliance, the health authority may seek a court order for cessation of a home kitchen operation.

## **Section J. Fees**

- 1) Annual Permit Fees
  - a. Annual Permit fees are not pro-rated.
  - b. Category I - \$150.00
  - c. Category II - \$100.00
  - d. Category III - \$50.00
- 2) Re-inspection Fees
  - a. 1<sup>st</sup> re-inspection \$50
  - b. Each additional re-inspection \$125
- 3) Renewal Late Fees/Reinstatement Fees
  - a. Annual Permit Late Fee is paid in addition to the applicable annual permit fee
    - i. January 1- January 15: \$25.00
    - ii. January 16- January 31: \$50.00
  - b. Reinstatement Fee is paid in addition to the annual permit fee
    - i. Food establishment without a valid annual food and drink application on file by February 1<sup>st</sup> must cease all food operations and a notice of closure will be placed on the food establishment by the Health Authority until a \$100 reinstatement fee is submitted.
- 4) Plan Review Fees
  - a. Plan Review fee is paid in addition to the applicable annual permit fee

- b. Plan Review Fee - \$150.00
- 5) Temporary Food Permit Fees
- a. Profit Organizations
    - i. 1-4 days - \$20.00
    - ii. 5-8 days - \$30.00
    - iii. 9-14 days - \$40.00
  - b. Non-Profit Organizations and permits for the benefit of a non-profit organization:
    - i. Permit fees are waived
  - c. Late Fee
    - i. A late fee of \$25 is charged in addition to the applicable permit fee if the application is not received prior to the event. Late fees apply to non-profit organizations as well.
- 6) Bake Sale, Cottage Food, Home Kitchen
- a. MCHD does not charge for bake sales, cottage food operations, or home kitchen operations though registration is required.

## **Section K. Enforcement**

- 1) Compliance Inspections shall be conducted based on classification of facility
- a. Routine inspections are performed to identify violations and establish the appropriate corrective measures and schedule.
  - b. Follow-up inspections to confirm compliance with stated correction schedules shall be completed. Concentration on the priority and priority foundation violations previously cited is the primary purpose of the follow-up inspection, however, if new, serious violations are present, the inspector shall document the violations on the inspection report form and, if necessary, conduct additional follow-up inspections to confirm compliance
- 2) Documentation of Violations
- a. Assessment is based on the presence of violations at the time of the inspection as well as the history of violations and enforcement. Inspection reports shall convey violations clearly and concisely.



- b. The person in charge shall be informed of the compliance expectations and time frame upon which the violations shall be corrected. Violations cited during an inspection shall be categorized with regard to severity or type and are classified as follows:
  - i. Core Violations: those violations identified as core in the FDA Food Code. Core violations must be corrected in a time frame agreed upon by the Health Authority, but no later than 90 days.
  - ii. Priority foundation violations: those violations identified as priority foundation in the FDA Food Code. Priority foundation violations must be corrected immediately, within 30 days of the inspection or other specified time frame as determined by the Health Authority
  - iii. Priority violations: those violations identified as priority in the FDA Food Code. Priority violations must be corrected immediately, within 7 days of the inspection, or other specified time frame as determined by the Health Authority
  - iv. Imminent or substantial hazard: a condition at a food establishment that the Health Authority determines requires immediate action at the time of the inspection to prevent endangering the health of people.

### 3) Inspection History

- a. In addition to the violation type, the food establishment's history, with regard to violations and enforcement activities is evaluated as follows:
  - i. Continuous Repeat Violations: are documented and uncorrected at three (3) consecutive inspections
  - ii. Recurring Repeat Violations: are documented at four (4) consecutive inspections, but corrected after each documentation
  - iii. Chronic Violations: are the same priority or priority foundation violations that are documented in three out of five routine inspections (chronologically conducted inspections)

### 4) Flag Establishment File for review

- a. Inspections of food establishments that display conditions that warrant enforcement action shall be brought to the attention of the Administrator for review. Based on the violation and enforcement history of the establishment, there shall be a decision on the method of enforcement that shall be carried out with the facility.
- b. Conditions that may warrant a review include:
  - i. A continuous repeat priority or priority foundation violation cited during the inspection

- ii. A recurring repeat priority or priority foundation violation cited during the inspection
  - iii. A continuous repeat core violation cited during inspection
  - iv. A chronic priority or priority foundation violation is cited during the inspection
  - v. Repeat lack of a Certified Food Manager during the inspection
- c. When notified of an establishment in need of enforcement review, the Administrator has the option of choosing:
- i. No Action
  - ii. A Follow-up inspection
  - iii. An enforcement action
- d. A final enforcement decision is based upon the violation category, violation history of the facility, and LEHP recommendation. Documentation of the enforcement decision and any actions taken shall be placed in the food service establishment file.

5) Determining the status of the Food Establishment

- a. At the conclusion of each inspection, the status of the establishment shall be determined. Food service establishments shall fall into one of the following status categories:
- i. No Follow-up Required: no uncorrected priority or priority foundation violations exist and core violations may exist but are not at a level requiring enforcement review
  - ii. Follow-up required: the facility is awaiting a follow-up inspection as a result of violations
  - iii. Enforcement: The facility is flagged for enforcement, and/or enforcement action has been initiated
  - iv. Closure: Imminent Health Hazards exist that cannot be abated
  - v. Legal Review/Action Pending: the facility has entered the legal review process.

6) Determine appropriate enforcement action

- a. The Health Authority shall determine consistent and progressive enforcement action for a food service establishment when an enforcement action is warranted.

## 7) Implement enforcement action

- a. Based upon the severity or type of violation, the inspection history, the following enforcement actions are possible:
  - i. Follow-up inspection: with a mandated or agreed upon correction schedule
  - ii. Warning letter: letter from the Health Authority to licensee citing violation (s) and setting a compliance date for correction of violation (s)
  - iii. Order to cease food service operations: order by the Mason County Health Department for immediate cessation of operation of a food service establishment. This order is issued when:
    1. An operator does not possess a food service license. Operations may not resume until the operator is in full compliance with all licensing requirements and a license has been issued to operate a food service establishment.
    2. A situation of imminent danger to public health is present at a food service establishment that cannot be corrected at time of inspection.
    3. Continued non-compliance with these rules and regulations, the Ordinance, and the Illinois Food Code.
    4. The Order can be issued prior to an office consultation. An order to cease food service operation can be lifted after a follow-up inspection at the request of the food establishment shows compliance or after Enforcement Activities are completed to achieve compliance.
    5. A follow- up inspection must occur prior to the food service establishment resuming operations. Operation may not resume until compliance with this section is achieved and the facility receives approval to re-open by MCHD.
  - iv. Office consultation: This shall be a meeting between the licensee and the Health Officer to clarify expectations for food protection and explain the consequences of failure to maintain food safety standards. The meeting offers the food service establishment the opportunity to demonstrate their plan for addressing food safety issues. (See Appendix A for details of an office consultation). Possible outcomes from an office consultation are:
    1. Risk control plan
    2. Compliance agreement
    3. Follow-up inspection to verify corrections and compliance with violation reviewed at the office consultation
    4. Mandatory attendance at a food safety training class
    5. Informal Hearing
    6. Formal Hearing

- v. Informal Hearing: this shall be a meeting between the licensee and the Health Authority. This is the first step to issuance of a formal notice of the MCHD's intent to suspend or revoke a food service establishment license. (See Appendix A for details of an informal hearing.) Possible outcomes from an informal hearing are:
  1. Risk control plan
  2. Compliance agreement
  3. Mandatory attendance at a food safety training class
  4. Formal Hearing

Follow-up inspection to verify correction and compliance with violations reviewed at the informal hearing will be conducted. If at the time of the follow-up inspection the violation under review has not been corrected the facility license will be suspended.

- vi. Formal Hearing: a hearing to determine if a food service license should be revoked, or to determine if the food service license should be reinstated . (See Appendix A and B (optional) for a description of the formal hearing process and hearing procedure.) Possible outcomes from a formal hearing:
  1. Compliance agreement-food service license reinstated
  2. Follow-up inspection to verify corrections and compliance with violations reviewed at the formal hearing
  3. Food service license limitation
  4. Food service license revocation

## 8) Additional Tools

- a. These tools may be used in conjunction with an inspection and/or enforcement action, but not in place of an enforcement action. These tools are not considered enforcement action in and of themselves. However, they may be useful in achieving compliance when used in combination with an enforcement action
  - i. License Limitation: The Mason County Health Department may place restrictions on a food service license, limiting the preparation of food for the purpose of protecting public health. A licensee must be provided an opportunity for an administrative hearing on the issue of the imposition of the license limitation. A licensee may at any time request a re-inspection of the food service establishment for removing the limitation and reinstating the full license.
  - ii. License Suspension: The health authority may temporarily suspend the permit of a food establishment upon notice to the permit holder.
    1. Permit suspension shall result in the immediate cessation of all food service operations, including the use or sale of any food, in whole or in part, intended for human consumption.
  - iii. License Revocation: The health authority may, for serious or repeated violations of the Ordinance, these rules and regulations or for interference with the health

authority in the performance of the official duties, revoke a permit upon notice to the permit holder

1. No permit may be revoked except after an opportunity for a hearing before the BOH has been granted
  2. 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 (10) days following service of such notice unless a written request for a hearing is filed with the BOH by the permit holder within such ten (10) day period.
  3. The permit may be suspended for cause pending its revocation of a hearing relative thereto.
- iv. Embargo: the Mason County Health Department may issue an order to prevent the use of damaged equipment, or to hold food to be sold, held for sale, or exposed for sale in violation of state laws and regulations, or suspected of being in violation of state laws and regulations. Follow-up is required to record disposition of product.
1. It shall be unlawful for any person to remove or alter a condemnation or embargo order, notice or tag placed on food/or food containers by the health authority, and neither such food nor containers thereof shall be relabeled, replaced, reprocessed, altered, disposed of or destroyed without the permission of the health authority, except with an order by a court of competent jurisdiction.
  2. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, storage, display or service of food, such equipment shall be taken out of use and a hold order placed on said equipment 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 remove or alter a hold order, notice or tag placed on equipment by the health authority
- v. Risk Control Plan: In conjunction with an inspection report, the Mason County Health Department may instruct the food service establishment to complete risk control plans and indicate the corrective actions that shall be taken for each of the priority and/or priority foundation violations cited. A follow-up inspection is required to verify correction of violations.
- vi. Injunction: The Mason County Health Department may apply to the court to grant a temporary or permanent injunction restraining any person from violating specified provision of Illinois Food Code and other applicable laws.
- vii. Stop Work Order: Order by the Mason County Health Department for immediate cessation of construction, alterations, and conversions occurring at a food service

establishment until plans, specification and any required fees are submitted and the Mason County Health Department rescinds the Stop Work Order.

- viii. Procedure When Infection Is Suspected: When the Health officer has a 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 Authority shall secure a morbidity history of the suspected employee, or make sure other investigations as may be indicated, then take appropriate action. The Health Authority may require any or all of the following measures:
1. The immediate exclusion of the employee from all food service establishments, retail food stores, mobile food service establishments or mobile food stores
  2. 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 Authority, no further danger of disease outbreak exists
  3. Restriction of employee's services to some area of the establishment where there would be no danger of transmitting disease
  4. Adequate medical and laboratory examinations of the employee or other employees and of his and their body discharges.

## **Appendix A**

### **Office Consultation, Informal and Formal Hearing Enforcement Actions**

#### Office Consultation

An office or phone consultation is held to determine corrective action and a schedule necessary to create compliance with the Illinois Food Code and other applicable laws. An office or phone consultation may be held for any of the following reasons:

1. Failure to comply with an order to correct recurring or continuous repeat core, priority foundation or priority violations;
2. Failure to meet the minimum requirements of the Illinois Food Code and other applicable laws;
3. Failure to complete a risk control plan in the time frame required.

The licensee shall be notified of the time, place, date, and reason for the office or phone consultation.

#### Informal Hearing

An informal hearing is held to determine corrective action and a schedule necessary to create compliance with the Illinois Food Code and other applicable laws. An informal hearing may be held for any of the following reasons:

1. Failure to comply with an order to the MCHD to correct recurring or continuous repeat core, priority foundation or priority violations.
2. Failure to meet the minimum requirements of the Illinois Food Code and other applicable laws.
3. Failure to comply with a compliance agreement or risk control plan agreed upon in an office or phone consultation.
4. Failure to participate in a scheduled office or phone consultation.

The licensee shall be notified of the time, place, and date for the informal hearing in a written notice. The notice should state the reasons for the hearing; advise the licensee of his/her right to representation at the hearing; and allow the licensee to request a change of date or time up to 48 hours prior to the original hearing date and time.

#### Formal Hearings

Formal Hearings are held for any or all of the following reasons:

1. Interfering with an agent of the Health Officer in the performance of his/her official duties
2. Failure to comply with the compliance agreement or the risk control plans agreed upon in the informal hearing;
3. A written request from a food service establishment licensee.

The licensee shall be notified of the time, place, and date for the formal hearing in a written notice. The notice should state the reasons for the hearing; advise the licensee of his/her right to representation at the hearing; and allow the licensee to request a change of date or time up to 48 hours prior to the original hearing date and time.

## Appendix B Formal Hearing Procedure

1. Introduction of those present

2. Review authority for Formal Hearing:

Moderator to reference and quote from State Administrative Procedures Act, Section 92  
*“Before the commencement of proceedings for the suspension, revocation of license application denial, an agency shall give notice, personally or by mail to the licensee of the facts or conduct which warrants the intended action. The licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license.”*

3. Review Purpose of Formal Hearing:

Moderator- Read the following to the owner/representative

*“The purpose of this Formal Hearing is to review the Mason County Health Department, Environmental Health division allegations of violation(s) of the Illinois Food Code 77 Ill. Adm. Code 750, as amended, and associated administrative rules which comprise the Illinois Food Code and other applicable laws.”*

*“The hearing provides an opportunity to you, as the respondent, to provide us with your answers to the violations listed in the most recent facility inspection report which was dated \_\_\_\_\_ and signed by the division representative.”*

(Ask if the owner received a copy)

*“This hearing also gives you an opportunity to show cause, if you have any, why the Mason County Health Department should not revoke or suspend your food service establishment license. I see on the Notice of Formal Hearing that you have been advised that you may have legal counsel present and witnesses on your behalf.”*

(Ask if the owner has been so notified)

*“It may be possible to resolve this matter today at this hearing. However, failure on your part to demonstrate compliance with the statute and administrative rules may result in one of the following actions: License Revocation, License Suspension, or License Limitation.*

(Ask owner if this is understood)

4. Proceed with Formal Hearing:

Moderator- Read the following:

*“I would like to proceed by first having staff provide background information with regard to this matter and specifically review the violations contained in the inspection reports leading to this hearing.*

*I shall then call on you to respond to those allegations and to provide us with the reasons why you feel you are in compliance with applicable laws and regulations.”*

*If something is unclear, do not hesitate to ask questions of staff from the Mason County Health Department.*

5. Proceed with discussion of items in the inspection report.



6. Allow for summary comments from staff or owner, if desired.
7. Possible outcomes from a formal hearing;
  - a. Cease food operations order is rescinded.
  - b. Compliance agreement.
  - c. Follow-up inspection to verify corrections and compliance with violations reviewed at the formal hearing.
  - d. Food service license limitation
  - e. Food service license suspension
  - f. Food service license revocation.
8. Close conference after review and agreement on outcome. Make sure there is a clearly defined outcome with compliance dates and consequences for non-compliance.
9. Thank you for attending.