

RESOLUTION 2018-17

ORDINANCE
MASON COUNTY FOOD SERVICE ORDINANCE

WHEREAS, pursuant to 55 ILCS 5/5-1052, a County Board may do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, it is in the best interests of the Citizens of Mason County to provide reasonable protection to the public from food borne illnesses; and

WHEREAS, pursuant to 55 ILCS 5/5-25013, the County Health Department has the authority and duty, within its jurisdiction, and professional and technical competence, to enforce and observe all State laws pertaining to the preservation of health, and all county and municipal ordinances.


NOW, THEREFORE, BE IT ORDAINED by the County Board of Mason County, State of Illinois, that the provisions of the Ordinance attached hereto and made a part hereof are hereby approved and to be enforced by the Mason County Health Department pursuant to 55 ILCS 5/5-25013.

PASSED, APPROVED, and ADOPTED by the County Board of Mason County this 13th day of March, 2018.



KENNETH WALKER, Chairman

ATTEST:



SUMMER R. BROWN, County Clerk

MASON COUNTY FOOD SERVICE ORDINANCE

Section A. Scope

An ordinance regulating food service establishments, retail food stores, mobile food service establishments, mobile retail service food stores, catering operations, and temporary food establishments, and requiring an annual or temporary permitting of food operations within the limits of Mason County, Illinois.

Section B. Adoption by Reference

- 1) 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, *Illinois Food Code* and any subsequent amendments of revisions thereto.
- 2) This Ordinance hereby, adopts, by reference, the Rules and Regulations set forth by the Mason County Board of Health and any subsequent amendments of revisions thereto.

Section C. General

- 1) Board of Health in these rules shall mean the Mason County Board of Health
- 2) Health Authority as used in these rules shall mean 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.
- 3) No person shall operate a food service establishment to include but not limited to: retail food store, mobile food service establishment, mobile retail store, or catering operation that 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 D. 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) All appropriate permit fees will be determined by the Mason County Board of Health.

- 3) 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.
- 4) Upon receipt of such application, the health authority shall conduct an inspection of the food service establishment to determine compliance with the provisions of this Ordinance and the Rules and Regulations adopted by the Board of Health. 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.
- 5) 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.
- 6) 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 a year.
- 7) 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.
- 8) 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. Fees, renewal due dates, late fees, and closure dates shall be determined by the Board of Health.
- 9) 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 E. Classification

Food service establishments will be classified using criteria adopted in the current Illinois Food Code and any subsequent amendments or revisions thereto in addition to the rules and regulations set forth by the Mason County Board of Health.

Section F. Inspections

- 1) Inspection frequency for food service establishments will be based on classification and requirements adopted in the current Illinois Food Code and any subsequent amendments of revisions thereto in addition to the rules and regulations set forth by the Mason County Board of Health..
- 2) The health authority, after proper identification, shall be permitted to enter any food service establishment within Mason County for the purpose of conducting inspections to determine compliance with the Ordinance and rules and regulations set forth by the Board of Health. 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.
- 3) 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 the Illinois Department of Public Health. The completed inspection report form is a public document that shall be made available for public disclosure. .
- 4) The health authority shall make as many additional inspections and reinspections as deemed necessary to protect the public's health, for the enforcement of this Ordinance and the rules and regulations set forth by the Board of Health.

Section G. 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 this Ordinance and regulations adopted by the Board of Health 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 establishment fees will be determined by the Mason County Board of Health.
- 4) Inspection frequency of temporary food establishments will be determined by the Mason County Board of Health and in accordance with any requirements of the Illinois Department of Public Health.

Section H. 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 domestic residence for the direct sale by the owner or family member
- 2) 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 non-profit organization for fundraising purposes.
- 3) In order to qualify as a home kitchen operation, the following conditions as defined in the Food Handling Regulation Enforcement Act 410 ILCS 625/3.6 and all subsequent revisions or amendments thereto 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.
- 4) All home kitchen operations in Mason County may be required to register with the Mason County Health Department on forms provided by the Health Authority prior to operation. Forms shall include the name of the operator. The address of the home kitchen operation, and a list of food to be sold.
- 5) 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.

- 6) 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 I. Enforcement

1. Any person who shall violate or refuse to obey, any rule or regulation of the Board of Health, shall be guilty of a Class B misdemeanor. All fines collected under the provisions of this Division shall be paid into the county treasury of the county in which the suit is brought, to be used for county purposes, and it shall be the duty of the State's Attorney in the respective counties to prosecute all persons violating, or refusing to obey, the rules of said local boards of health. (55 ILCS 5/5-20003)
2. Enforcement activities shall follow those set forth in the Board of Health Rules and Regulations Section K: Enforcement.
3. Order To Cease Food Operations: The health authority may order the immediate cessation of operation of a food service establishment upon notice to the permit holder, the person in charge at the food establishment or by posting of said notice at the public entrance to the food establishment.
 - a. Order 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.
 - b. 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) 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, the person in charge at the food establishment or by posting of said notice at the public entrance to the food establishment.
 - a. No permit may be revoked except after an opportunity for a hearing before the BOH has been granted
 - b. 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.
 - i. The permit will be suspended pending its revocation at a hearing relative thereto.
- 6) 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.

- a. 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.
 - b. 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
- 7) 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.
- 8) 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.
- 9) Investigation: When the Health officer has a reasonable cause to suspect possibility of disease transmission from any food-service establishment 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:
- a. The immediate exclusion of the employee from all food service establishments,
 - b. The immediate closure of the food-service 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 establishment where there would be no danger of transmitting disease,
 - d. Adequate medical and laboratory examinations of the employee or other employees and of his and their body discharges.