

ORDINANCE NO. 2014 –

AN ORDINANCE GOVERNING FOOD AND SANITATION

An Ordinance regulating the Sanitation of food-handling and food service establishments by adopting, by reference, the rules and regulations of the Illinois Department of Public Health which pertain to the sanitation of food service establishments, the sanitary vending of food and beverages, the sanitation of retail food stores, and providing for the issuance of permits for operation of food establishments, regulating the inspection of such establishments, fixing of penalties and reviewing of plans for proposed food establishments.

WHEREAS, the Iroquois County Board, pursuant to Chapter 410 of the Illinois Compiled Statutes, may do all acts, and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease in Iroquois County, Illinois; and

WHEREAS, the Iroquois County Board, pursuant to Chapter 410 of the Illinois Compiled Statutes, may incorporate by reference the provisions of any code or public record or portions of any code or public record as defined therein, without setting forth the provisions of such codes or public records in full, provided that at least THREE (3) copies of such code or public record which is incorporated or adopted by reference are filed in the office of the County Clerk for a period of FIFTEEN (15) days prior to adoption and are there kept available for public use, inspection, and examination.

NOW THEREFORE, BE IT ORDAINED by the County Board of Iroquois County, Illinois:

Part 1.

SECTION 1. ADOPTION BY REFERENCE OF ILLINOIS RULES AND REGULATIONS RELATIVE TO FOOD SERVICE SANITATION

The Food Service Rules and Regulations listed below, as promulgated by the State of Illinois Department of Public Health, Division of Food and Drugs, such as are now in force and effect or as may hereafter be revised or amended, are hereby adopted by reference:

- A. Food Service Sanitation
- B. Retail Food Store Sanitation

In addition, when they are relative to sanitary practice in a food establishment, the following Rules and Regulations as promulgated by the State of Illinois Department of Public Health, Division of General Sanitation, as are now in force and effect or as may hereafter be revised or amended are hereby adopted by reference:

- A. Illinois State Plumbing Code
- B. Illinois Private Sewage Disposal Licensing Act and Code
- C. Illinois Water Well Construction Code
- D. Water, Well and Pump Installation Contractor's License Code.

SECTION 2. DEFINITIONS

- A. Administrator shall mean the duly appointed executive of the Iroquois County Public Health Department and shall include the Acting Administrator or anyone to whom administrative responsibilities have been delegated.
- B. Adulterated food shall have the meaning as provided in Section 620/10, Chapter 410, of the Illinois Compiled Statutes.
- C. Board of Health shall mean the group of persons appointed by the Iroquois County Board to act in a supervisory and policy making capacity over the Iroquois County Public Health Department.
- D. Food-Service Establishment shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, industrial food establishment, private, public, or nonprofit organization or institution routinely serving food; a catering kitchen; a commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere to the public, and any other eating or drinking establishment or operation where food is served or provided for human consumption with or without charge.
- E. Public Health Department shall mean the Iroquois County Public Health Department.
- F. Health Authority shall mean the person or persons who have been designated by the Board of Health to administer the affairs of the Public Health Department.
- G. Mobile Unit shall mean any food service establishment capable of being moved from location to location without a fixed location but does not include vending machines.
- H. Perishable Food shall mean any food of such type or in such condition as may spoil.
- I. Potentially Hazardous Food shall mean any perishable food which consists of whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other food capable of supporting growth of infectious or toxigenic microorganisms.
- J. Retail Food Store shall mean retail grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, confectionery, nut store, retail bakery, or any other establishment, fixed or movable, where food, intended for human consumption off the premises is prepared, handled, transported, sold, or offered for sale at retail.
- K. Temporary Food-Service Establishment shall mean any food-service establishment which operates at a fixed location for a temporary period of time not to exceed two weeks in connection with a fair, carnival, circus, auction sale, flea market, public exhibition, or similar transitory gathering.
- L. Temporary Retail Food Store shall mean any retail food store which operates at a fixed location for a temporary period of time not to exceed two weeks.
- M. Vending Machine shall mean any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit-servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation. A vending machine dispensing potentially hazardous foods shall mean a machine which dispenses in part any perishable food which consists in whole or in part milk or milk products, eggs, meat, poultry, fish, shellfish, or other food capable of supporting growth of infectious toxigenic microorganisms.

SECTION 3. ENFORCEMENT

This Ordinance and the Rules and Regulations herein referenced shall be enforced by the Public Health Department or their duly authorized representative in accordance with the interpretations currently recognized as in the best interest of protecting the public health and safety.

SECTION 4. PENALTIES

A violation of any of the provisions of this Ordinance, excluding sections where penalties are otherwise provided by law, is punishable by a fine not less than \$100.00. Each day's violation constitutes a separate offense. The State's Attorney of Iroquois County shall bring such actions in the name of the People of the County of Iroquois or may bring action for an injunction to restrain such violation or to enjoin the operation of any such establishment causing such violation. All monies collected from fines under this Ordinance shall be deposited to the Public Health Department Fund.

SECTION 5. HEARING BEFORE THE HEALTH AUTHORITY

Unless otherwise specified, any person affected by any order or notice issued by the Health Authority in connection with the enforcement of any provision of this Food Sanitation Ordinance, or any incorporated Rule or Regulation herein may file in the office of the Public Health Department a written request for a hearing. The Administrator shall hold a hearing at a time and place designated by him/her within thirty (30) days of the date on which the written request was filed. The petitioner for the hearing shall be notified of the time and place of the hearing not less than five (5) days prior to the date on which the hearing is to be held. If, as a result of the hearing, the Administrator finds that strict compliance with the order or notice would cause undue hardship on the petitioner, and that the public health would be adequately protected and substantial justice done by varying or withdrawing the order or notice, the Administrator may modify or withdraw the order or notice and as a condition for such action may, where he deems it necessary, make requirements which are additional to those prescribed in the Iroquois County Food Sanitation Ordinance for the purpose of properly protecting the public health. The Administrator shall render a decision within ten (10) days after the date of the hearing which shall be reduced to writing and placed on file in the office of the Public Health Department as a matter of public record. Any person aggrieved by the decision of the Administrator may seek relief before a hearing before the Iroquois County Board of Health.

SECTION 6. HEARINGS BEFORE THE IROQUOIS COUNTY BOARD OF HEALTH

Any person aggrieved by the decision of the Administrator rendered as the result of a hearing held in accordance with Section five (5) above, or any person to whom the Health Authority refuses to issue a permit or the holder of any permit revoked by the Health Authority in accordance with the provisions set forth in this Ordinance may file in the office of the Public Health Department a written request for a hearing before the Board of Health. The time and place of the hearing shall be designated by the secretary of the Board of Health but shall be

within thirty (30) days of the date on which the written request was filed. The petitioner for the hearing shall be notified of the time and place of the hearing, but not less than five (5) days prior to the date on which the hearing is to be held. If, as a result of facts elicited at the hearing, the Board of Health finds that strict compliance with the decision of the Health Authority or Administrator would cause undue hardship on the petitioner, and that the public health would be adequately protected and substantial justice done by granting a variance from the decision of the Health Authority or Administrator, the Board of Health may grant a variance and as a condition for such variance may where it deems necessary, make requirements which are additional to those prescribed by the Iroquois County Food Sanitation Ordinance, all for the purpose of properly protecting the public health and safety. The Board of Health shall render a decision within ten (10) days after the date of the hearing which shall be reduced to writing and placed on file in the office of the Public Health Department and a copy thereof shall be served on the petitioner personally or by delivery to the petitioner by certified mail.

SECTION 7. PARTIAL INVALIDITY AND CONFLICT OF ORDINANCE

Should any section, paragraph, sentence, clause, or phrase of this Ordinance or the Rules and Regulations which are herein adopted by reference be declared unconstitutional or invalid for any reason, the remainder of said Ordinance and Rules and Regulations shall not be affected thereby. In any case where a provision of this Ordinance is found to be in conflict with any other Ordinance, the provision which in the judgment of the Board of Health establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

Part 2.

SECTION 1. PERMITS

It shall be unlawful for any person to operate a food service establishment, or retail food store, or a vending machine dispensing potentially hazardous foods, within the County of Iroquois, State of Illinois, who does not possess a valid permit issued to said person by the Iroquois County Board of Health. Only a person who complies with the requirements of this Ordinance and the rules and regulations herein adopted by reference shall be entitled to receive and retain such a permit. A separate permit must be obtained for each establishment and/or mobile unit. Permits shall not be transferable from one person to another person or place. A valid permit posted in a conspicuous public place in the food-service establishment shall be considered to be in compliance with the Food Sanitation Ordinance.

Permits for permanent food-service establishments and retail food stores shall expire December 31 of the year issued. Permits for temporary food-service establishments and temporary retail food stores shall be issued for a period of time not to exceed fourteen (14) days. All permits may be temporarily suspended by the Health Authority upon the violation by the holder of any of the terms of this Ordinance, or revoked after an opportunity for a hearing by the Board of Health upon serious or repeated violations. If a restaurant or retail food store closes for more than one month, a new permit must be obtained before the establishment may be reopened. If ownership of the establishment changes, the new owner(s) may not open the establishment until a new permit is obtained.

SECTION 2. ISSUANCE AND RENEWAL OF PERMITS

Any person desiring to operate a food-service establishment or retail food store in Iroquois County shall make written application for a permit to operate said establishment on forms provided by the Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, or corporation. If ownership is shared by two or more individuals, the names of the partners, or corporate authorities and agents, together with their addresses, shall be included. The location and type of the proposed food-service establishment or retail food store shall be given and the signature of the applicant, applicants or designee shall be required. If the application is for a temporary food-service establishment or temporary retail food store, it shall, in addition to the aforesaid information, include the inclusive dates of the proposed operation. All applications for a permit to operate a vending machine dispensing potentially hazardous foods shall also include the address of the establishment(s) in which machines are placed as well as the general location of each machine placed in or around the establishment.

The owner of the vending machine is responsible for each location where the machines are placed.

Upon receipt of such an application an inspection of the establishment or vending machine will be made by the Public Health Department to determine compliance with the provisions of this Ordinance. When inspection reveals that the applicable requirements of this Ordinance have been substantially met, a permit shall be issued to the applicant by the Board of Health or its representative.

SECTION 3. FEES

There shall be a fee as determined by the Board of Health and approved by the County Board for each initial permit issued to food service establishments or retail food stores inclusive of permanent and temporary permits. There shall be a fee determined by the Board of Health and approved by the County Board for each construction plan review. This fee shall be in addition to the fee charged for the initial permit. Thereafter, there shall be an annual permit fee determined by the Board of Health and approved by the County Board at the time of the permit renewal for each permanent permit issued to cover the cost of inspecting the establishment and issuing said permits. There shall be a re-inspection fee determined by the Board of Health and approved by the County Board to determine compliance with said code. These fees shall be collected by the Public Health Department and shall be deposited into the Public Health Department fund. There will be no annual permit fee for such permits to any school, tax-supported community organization or institution, religious organization or service club. However, the fee established for re-inspections shall be charged.

SECTION 4. RENEWAL PERMITS

Permits shall be renewed annually following the renewal inspection by the Health Authority. However, if the inspection for renewal of a permit reveals serious or repeated violations of this Ordinance, the permit will not be reissued and the Health Authority shall notify the permit holder

immediately thereof. Such notice shall state the reasons for not renewing the permit. Such notice shall also state that an opportunity for a hearing shall be granted to the permit holder at a time and place designated by the Public Health Department. Such hearing shall be held within thirty (30) days of the date of the notice. The notice referred to in this paragraph shall be delivered to the permit holder in person or may be sent by certified mail, addressee only.

SECTION 5. SUSPENSION OF PERMITS

Permits may be suspended temporarily by the Health Authority for failure of the permit holder to continue to comply with the requirements of this Ordinance. Permits may be suspended for failure to receive a score of 85 or above during routine inspections. Whenever a permit holder has failed to comply with any notice issued under the provisions of this Ordinance, the permit holder 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 Public Health Department by the permit holder.

Upon suspension of the permit, the permit shall be removed by the Health Authority or its representative and the establishment shall cease operations. Notwithstanding the other provisions of this Ordinance, whenever unsanitary or other conditions in the operation of a food-service establishment or retail food store exists which, in the judgment of the Health Authority constitute a substantial hazard to the public health, the Administrator may direct the Health Authority to issue a written notice to the permit holder 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 may state that the permit is immediately suspended and all operations as a food-service, establishment or retail food store are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply, but upon written petition to the Public Health Department there shall be a hearing before the Administrator as soon as possible but no later than five (5) days. If the suspension is upheld by the Administrator, the permit holder may petition for a hearing before the Board of Health in the same manner as outlined in Section 6, of part 1. Before such hearings are held and decided however, the County Sheriff's Office shall be notified of each establishment that has had its permit to operate suspended and shall enforce the initial ruling of the Health Authority.

SECTION 6. EXAMINATION AND CONDEMNATION OF FOOD

Food may be examined or sampled by the Board of Health as often as may be necessary to determine freedom from adulteration or misbranding.

A. Hold Orders

The Health Authority may, upon written notice to the owner or person in charge, place a hold order on any food which it 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.

1. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the Health Authority, and neither such food nor containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Health Authority, except on order by a court of competent jurisdiction.

- B. Post-Hearing Actions. After the owner or person in charge has had a hearing as provided for in Section 5, Part 2 herein, and on the basis of evidence produced at such hearing, or on the basis of its examination in the event a written request for a hearing is not received within five (5) days, the Administrator 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. However, such order of the Administrator to denature or destroy such food or bring it into compliance with the provisions of this Ordinance shall be stayed if the order is appealed to a court of competent jurisdiction as provided by law.

SECTION 7. REINSTATEMENT OF SUSPENDED PERMITS

Any person whose permit has been suspended by the Health Authority or Public Health Department may at any time make application for a re-inspection for the purpose of reinstatement of the permit. Within 24 hours following receipt of a written request which shall include a statement signed by the permit holder, that in his opinion, the conditions causing suspension of the permit have been corrected, a re-inspection shall be made by the Health Authority or its representative. If the permit holder is complying with the requirements of this Ordinance or is making reasonable progress in meeting those requirements and no imminent public health hazards exist, the permit shall be reinstated.

SECTION 8. REVOCATION OF PERMITS

For repeated critical violations observed during routine inspections, or for interference with the duly appointed representative of the Health Authority in the performance of his/her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the due process provided by this Ordinance. 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 five (5) days following service of such notice, unless a request for a hearing is filed with the Public Health Department by the permit holder within such five (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

SECTION 9. CONSTRUCTION PLAN REVIEW

When a food service establishment or retail food store within Iroquois County is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food service establishment or retail food store, properly prepared plans and specifications for such construction, remodeling, or alteration showing building layout, room arrangement, construction materials of food preparation and serving areas, and the location and type of fixed equipment, toilet facilities, plumbing and sewage disposal systems shall be submitted to the Health Authority for approval before beginning such work. The Health Authority will provide recommendations and consultation to the owner to prevent any misunderstanding by the owner as to what is required to prevent errors which may result in additional cost to the owner.

Part 3.**SECTION 1. INSPECTION OF FOOD-SERVICES AND RETAIL FOOD STORES**

At least once every six months the Health Authority or its representative shall inspect each food service establishment and retail food store located in the County of Iroquois, State of Illinois and shall make as many additional inspections and re-inspections necessary for the enforcement of this Ordinance.

A. Access to the Establishment

The Health Authority, after proper identification, shall be permitted to enter at any reasonable time any food service establishment or retail food store within the County of Iroquois 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 which contain pertinent information relative to food and supplies purchased, received, or used, and persons employed.

B. Inspection Records

Whenever the Health Authority makes an inspection he/she shall record his/her findings on an inspection report form provided for this purpose, and shall furnish the copy of such inspection report form to the permit holder at the time of the inspection.

C. Issuance of Notices

Whenever the Health Authority makes an inspection of an establishment and discovers that any of the requirements of this Ordinance have been violated, he shall notify the permit holder or establishment manager of such violations by means of the inspection report form and/or other written notice. In such notification, the Health Authority shall:

1. Set forth the specific violations found
2. Establish a specific and reasonable period of time for the correction of the violations found
3. State that the failure to comply with any notice issued in accordance with the provisions of this Ordinance may result in immediate suspension of the permit
4. State that an opportunity for appeal from any notice or inspection finding will be provided if a written request for a hearing is filed with the Public Health Department within the period of time established in notice of correction

D. Service of Notices

Notices provided for under this section shall be deemed to have been properly served when the copy of the inspection report or other notice has been delivered personally or by mail to the permit holder or manager of the establishment. If the notice is to be sent by mail, it shall be sent to the last known address of the permit holder, certified mail addressee only. A copy of such notice shall be filed with the Public Health Department.

E. Re-inspections

Re-inspections shall be conducted when a food service establishment and retail store are found to have a repeat critical violation observed during a routine inspection. Critical violations are listed as item numbers 1,3,4,7,11,12,20,27,28,30,31,35,41, and 45 on the inspection form. Re-inspections will NOT include the following:

1. Routine operational inspections,
2. Inspections requested by the facility management,
3. Educational visits,
4. Operational equipment checks (e.g., temperatures, food storage temperatures).
5. Equipment consultations (e.g., placement, type, approval),
6. Construction surveys,
7. Disaster surveys (e.g., fire, flood, power outage),
8. Food borne illness investigations, or
9. Complaint-based investigations.

SECTION 2. EXAMINATION AND CONDEMNATION OF 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 manager of the establishment place a hold order on any food which it determines, or has probable cause to believe to be unwholesome, or otherwise adulterated or misbranding. Under a hold order, food shall be permitted to remain on the premises provided that it is suitably stored and not served.

It shall be unlawful for any person to remove 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, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Health Authority, except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in this Ordinance and on the basis of evidence produced at such hearing or on the basis of an examination in the event a written request for a hearing is not received within five (5) days, the Health Authority may vacate the hold order or, 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 bring it into compliance with the provisions of this Ordinance.

SECTION 3. FOOD-SERVICE ESTABLISHMENTS OUTSIDE JURISDICTION OF THE IROQUOIS COUNTY BOARD OF HEALTH

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

SECTION 4. PERSONNEL HEALTH AND DISEASE CONTROL

No person while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, diarrhea, or any other acute respiratory infection, shall work in any area of the food service establishment or retail food store in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he/she shall notify the Public Health Department immediately.

SECTION 5. PROCEDURE WHEN INFECTION IS SUSPECTED

When the Health Authority has reasonable cause to suspect the possibility of disease transmission from any person working in a food service establishment or retail food store, the Health Authority shall secure a morbidity history of the suspected person or make such other investigations as may be indicated and 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 and retail food stores;
- B. The immediate closure of the establishment until, in the opinion of the Health Authority, no further danger of the disease outbreak exists;
- C. Restriction of the employee's services to some of the establishment where no danger of transmitting disease outbreak exists;
- D. Adequate medical and laboratory examination or testing of the person or other employees, and of his/her and their body discharges.

SECTION 6. CITATION AND EFFECTIVE DATE

- A. Citation. This Ordinance shall be known and may be cited as an "Ordinance Governing Food Service in Iroquois County, Illinois
- B. Effective Date. This Ordinance shall be in full force and effect beginning July 1, 2014.

Adopted by the County Board this _____ day of _____, 20____.

Chairman, Iroquois County Board

/s/_____
County Clerk, Iroquois County