

McDONOUGH COUNTY FOOD ORDINANCE

An ordinance regulating the inspection of food service establishments and retail food stores requiring a license for the operation of food service establishments and retail food stores; providing for the incorporation by reference of the standards of the Illinois Department of Public Health as set forth in the "Illinois Food Code" issued by that Department as promulgated by the Board of Health; and providing for the enforcement of this ordinance and fixing penalties.

THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF McDONOUGH, STATE OF ILLINOIS AS FOLLOWS:

SECTION A. DEFINITIONS

1. In addition to the definitions contained in the above codes, the definitions adopted by the McDonough County Board of Health and set forth as an addendum to this ordinance shall apply.

SECTION B. ADOPTION BY REFERENCE

1. The Illinois Department of Public Health, "Illinois Food Code" and any subsequent revisions of this shall be complied with as Section B of this ordinance.

SECTION C. ADOPTION BY RESOLUTION

1. Repealed November 28, 2001.

SECTION D. ENFORCEMENT PROVISIONS

1. **TEMPORARY REGISTRATION:** Any person desiring to operate a low risk food operation (as determined by a Sanitarian) not to exceed one (1) day between January 1 through June 30 and/or one (1) day between July 1 through December 31, shall complete a temporary registration form notifying the health authority of such an event. The temporary registration form will include the name of the group or organization, the location of the event, a proposed date of operation, proposed hours of operation, type of operation, type of facility to be used, foods to be served and the name, address, and telephone number of one (1) person associated with that function that may be contacted in case of an emergency. The food operation that meets the requirements for temporary registration will not be subject to inspection or license fees.
2. **LICENSE:** It shall be unlawful for any person to operate a food service establishment or retail food store within McDonough County in the State of Illinois, who does not possess a valid license issued to him/her by the health authority. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license. The McDonough County Board of Health will establish license fees in accordance with 55 ILCS 5/5-25013 and that are reasonable and necessary to provide the services and required activities. License fees are not refundable. Licenses are renewable annually and shall not be transferable from one person to another person or place. A valid license shall be posted in every food service establishment and retail food store in a place easily visible to the public.

3. **TEMPORARY LICENSE:** It shall be unlawful for any person to operate a temporary food service establishment, or temporary retail food store, within McDonough County in the State of Illinois, who does not possess a valid license issued to him/her by the health authority. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license. The McDonough County Board of Health will establish the temporary food service establishment and temporary retail food store license fees in accordance with 55 ILCS 5/5-25013. The licenses are renewable annually and shall not be transferable from one person to another person. A valid license shall be posted in every temporary food service establishment and temporary retail food store in a place easily visible to the public.
4. **THE PROCEDURES FOR ISSUANCE OF LICENSE, ISSUANCE OF TEMPORARY LICENSE, COMPLIANCE CONFERENCE, SUSPENSION OF LICENSE, REINSTATEMENT OF SUSPENDED LICENSE, REVOCATION OF LICENSE, HEARING, EXAMINATION AND CONDEMNATION OF FOOD OR EQUIPMENT SHALL BE:**

- a) **ISSUANCE OF LICENSE:** Any person(s) desiring to operate a food service establishment or retail food store shall make written application for a license on forms provided by the health authority. Such application shall include: the applicant's full name and post office address, and whether such applicant is an individual, firm, or corporation (if a partnership, the names of the partners, together with their addresses shall be included), the location and type of the proposed food service establishment or retail food store, certification information (if applicable), and the signature of the applicant(s). Upon receipt of such an application and license fee, the health authority shall review such application and issue a license upon approval.

License fees are approved by the Board of Health. The current license fees as of 2017 can be found in the addendum of this document.

- b) **ISSUANCE OF TEMPORARY LICENSE:** Any person(s), group, or organization desiring to operate a temporary food service establishment or temporary retail food store shall make written application for a license on forms provided by the health authority. Such application shall include: the applicant's full name and address and the location and type of the proposed temporary food service establishment or temporary retail food store.

The health authority shall make an inspection of the temporary food service establishment or temporary retail food store, to determine compliance with the provisions of this ordinance. When the inspection reveals that the applicable requirements of this ordinance have been met, a temporary license shall be issued to the applicant by the health authority.

- c) **COMPLIANCE CONFERENCE:** The compliance conference provided for in this section shall be conducted by the health authority at a time and place designated by him/her. Said conferences shall be conducted in accordance with McDonough County Health Department program policies as adopted by the health authority. Based upon the record of such compliance conference, the health authority shall give written notice to the license holder stating his/her findings and the enforcement action he/she deems necessary.

A three (3) tiered cumulative closure protocol has been established by the Board of Health for closure of licensed establishments that have repeated violations following a compliance conference.

- a. 1st Closure 48 hours (posted sign by Health Authority & \$3,000 fine)
- b. 2nd Closure 72 hours (posted sign by Health Authority &\$6,000 fine)
- c. 3rd Closure will result in a license suspension (facility closed), until a hearing is conducted by the Board of Health and a decision is finalized.

- d) **SUSPENSION OF LICENSE:** A license may be suspended temporarily by the health authority for failure of the license holder to comply with the requirements of this ordinance.

Whenever a license holder or operator has failed to comply with any notice issued under the provisions of Section D of this ordinance, the license holder or operator shall be notified in writing that the license is, upon service of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the health authority by the license holder. Notwithstanding the other provisions of this ordinance, whenever the health authority finds insanitary or other conditions in the operation of a food service establishment or retail food store, which in his/her judgment constitutes a substantial hazard to the public health, he/she may without warning, notice, or hearing, issue a written notice to the license holder or operator citing such conditions, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken and if deemed necessary, such order shall state that the license is immediately suspended and all food service or retail food store operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the health authority, shall be afforded a hearing as soon as possible.

- e) **REINSTATEMENT OF SUSPENDED LICENSE:** Once all violations have been addressed and fines paid in full, a Sanitarian will reinspect and the health authority will reinstate the license when appropriate.
- f) **REVOCAION OF LICENSE:** For serious or repeated violations of any of the requirements of this ordinance, or for interference with the health authority in the performance of his/her duties, the license may be permanently revoked after an opportunity for a hearing has been provided by the health authority.
- g) **HEARING:** The hearing provided for in this section shall be conducted by the Board of Health at a time and place designated by them. Said hearing shall be conducted in accordance with rules and policies as may be adopted by the Board of Health. Based upon the record of such hearing, the Board of Health shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the Board of Health.
- h) **EXAMINATION AND CONDEMNATION OF FOOD AND EQUIPMENT:** Food and equipment that are contributing to insanitary and unsafe food handling practices may be examined or sampled by the health authority. The health authority may, upon written notice to the owner or person in charge, place an embargo on any food or equipment. Under an embargo, food shall be permitted to be suitably stored. It shall be unlawful for any person to move or alter an embargo tag placed on food or equipment by the health authority. Embargoed items shall not be relabeled, repackaged or reprocessed, altered, disposed of, or destroyed without permission of the health authority, except on an order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided in Section D 4 g, the health authority may vacate the embargo. Alternatively, the health authority may, by written order, direct the owner or person in charge of food or equipment which was placed under the embargo to denature or destroy such food or bring the food or equipment into compliance with the provisions of this ordinance. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days.

- 5. **PLAN REVIEW OF FUTURE CONSTRUCTION:** When a food service establishment or retail food store is hereafter constructed or extensively remodeled or when an existing structure is converted for use as a food service establishment or a retail food store, adequately prepared plans and specifications for such construction, remodeling, or alteration, showing proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the location, size and type of fixed equipment and facilities, shall be submitted to the health authority for approval before such work is initiated. Whenever plans and specifications are required by Section D 5, of this ordinance to be submitted to the health authority, the health authority shall review the plans and specifications, and provide written notice to the applicant of corrections deemed necessary by the health authority for the enforcement of this ordinance.

The plan review fee shall be set by the McDonough County Board of Health in accordance with 55 ILCS 5/5-25013, and shall be assessed to new food service establishments or retail food stores. The plan review fee is payable upon receipt of the plans by the health authority and is not refundable. A license holder remodeling an existing food service establishment or retail food store that has a valid license shall be required to submit plans and specifications, but shall be exempt from the plan review fee.

6. **PREOPERATIONAL INSPECTION:** At least ten (10) days prior to the start of operation the health authority shall be notified by the license holder or person in charge, and the health authority shall schedule a preoperational inspection of such facility within three (3) working days of the date of notification. The health authority shall perform the preoperational inspection of the food service establishment or retail food store to determine compliance with the approved plans and specifications and within the requirements of this ordinance. 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.
7. **INSPECTIONS:** The health authority shall inspect and regulate each establishment as specified in the Illinois Administrative Code Chapter 1, Subsection h, Section 615.310, and any subsequent revisions thereto as follows:
 - a) **Category/ Risk 1 Facilities** shall receive three (3) inspections per year, or two (2) inspections per year if one of the following conditions is met:
 - i. a certified food service manager is present at all times the facility is in operation; or
 - ii. employees involved in food operations receive HACCP training exercise, in-service training in another food service sanitation area, or attend an educational conference on food safety or sanitation.
 - b) **Category/ Risk 2 Facilities** shall receive one (1) inspection per year.
 - c) **Category/ Risk 3 Facilities** shall receive one (1) inspection every other year.

Additional inspections of the establishment shall be performed as often as deemed necessary by the health authority for the enforcement of this ordinance.
 - d) A temporary food service establishment or temporary retail food store shall be inspected a minimum of once every calendar year or as often as the health authority deems necessary for the enforcement of this ordinance.
 - e) **Access to establishments:** The health authority, after proper identification, shall be permitted to enter, at any reasonable time, any establishment within McDonough County in the State of Illinois, for the purpose of making an inspection to determine compliance with this ordinance. The health authority shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used, and persons employed.
 - f) Any food establishment desiring to incorporate time alone as a public health control shall have a written procedure preapproved by the health authority.
 - g) **Inspection records:** Whenever the health authority makes an inspection, the findings shall be recorded on an inspection report form provided for this purpose, and the health authority shall furnish a copy of such inspection report form to the license holder or person in charge. Said license holder or person in charge shall have the inspection report posted at the entrance in a place easily visible to the public. Failure to post the inspection report

in a conspicuous location will result in a fine set forth by the McDonough Board of Health and/ or suspension of the license.

- h) Food establishments outside the jurisdiction of the health authority: Food from establishments outside the jurisdiction of the health authority of the County of McDonough, State of Illinois, may be sold in the County of McDonough, State of Illinois, if such food establishments conform to the provisions of this ordinance or to substantially equivalent provisions. To determine extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities in other jurisdictions where such food establishments are located.
8. REINSPECTION OF FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD SERVICE ESTABLISHMENTS, AND TEMPORARY RETAIL FOOD STORES: The health authority shall perform reinspections as deemed necessary for the enforcement of this ordinance. Section D 7 e and g shall apply to reinspections as it applies to inspections.
 9. ISSUANCES OF NOTICES: Whenever the health authority makes an inspection and discovers that any of the requirements of Section A, Section B, or Section D of this ordinance have been violated, the license holder or person in charge shall be notified of such violations by means of an inspection report form or other written notice. In such written notice the health authority shall:
 - a) Set forth the specific violations found.
 - b) Establish a specific and reasonable period of time for the correction of the violations found.
 - c) Determine course of administrative action deemed necessary.
 10. SERVICE OF NOTICES: Notices provided for under this section shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered personally to the license holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the license holder. A copy of such notices shall be filed with the records of the health department.
 11. PENALTIES: Any person who shall violate any of the provisions of this ordinance shall be guilty of a petty offense and, upon conviction thereof, shall be punished by a fine as set forth by the McDonough County Board of Health. In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.
 12. UNCONSTITUTIONALITY CLAUSE: Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.
 13. REPEAL AND DATE OF EFFECT: This ordinance shall be in full force and effect from and after January 1, 1988. At this time, all resolutions and parts of resolutions in conflict with this ordinance are hereby repealed.

ADDENDUM TO FOOD ORDINANCE

DEFINITIONS:

BOARD OF HEALTH: means the McDonough County Board of Health.

CATEGORY/ RISK 1: means that a facility presents a high relative risk of causing foodborne illness based on the large number of food handling operations typically implicated in foodborne outbreaks and/or the type of population served by the facility. The following criteria shall be used to classify Category/ Risk 1 facilities:

- a. whenever cooling of time/temperature control for safety foods occurs as part of the food handling operations at the facility;
- b. when time/temperature control for safety foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;
- c. if time/temperature control for safety foods which have been previously cooked and cooled must be reheated;
- d. when preparing time/temperature control for safety food for off-premises service for which time-temperature requirements during transportation, holding, and service are relevant;
- e. whenever complex preparation of foods, or extensive handling of raw ingredients with hand contact for ready-to-eat foods, occurs as part of the food handling operations at the facility;
- f. if vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or
- g. whenever serving immunocompromised individuals, where these individuals comprise the majority of the consuming population.

CATEGORY/ RISK 2: means that a facility presents a medium relative risk of causing foodborne illness based upon few food handling operations typically implicated in foodborne illness outbreaks. The following criteria shall be used to classify Category/ Risk 2 facilities:

- a. when time/temperature control for safety foods are prepared hot or cold and held hot or cold for less than 12 hours before serving;
- b. if preparing foods for service from raw ingredients uses only minimal assembly; and
- c. foods served at an establishment that require complex preparation (whether canned, frozen, or fresh prepared) are obtained from approved food processing plants, (Category/Risk 1) food service establishments or retail food stores.

CATEGORY/ RISK 3: means a facility presents a low relative risk of causing foodborne illness based upon few or no food handling operations typically implicated in foodborne illness outbreaks. The following criteria shall be used to classify Category/ Risk 3 facilities;

- a. only pre-packaged foods are available or served in the facility, and any time/temperature control for safety foods available are commercially pre-packaged in an approved food processing plant;
- b. only limited preparation of non- time/temperature control for safety foods and beverages, such as snack foods and carbonated beverages, occurs at the facility; or
- c. only beverages (alcoholic or non-alcoholic) are served at the facility.

CATERING OPERATION: means a food establishment in which food is handled or prepared for the purpose of transporting to another location for service by the caterer to the end consumer.

HEALTH AUTHORITY: means the McDonough County Health Department or an authorized representative thereof.

LICENSE FEE:

Category/Risk 1.....\$500	Mobile/Risk 1.....\$150	Satellite/Risk 1.....\$125
Category/Risk 2.....\$438	Mobile/Risk 2.....\$125	Satellite/Risk 2.....\$100
Category/Risk 3.....\$ 375	Mobile/Risk 3.....\$100	Satellite/Risk 3.....\$75
Seasonal/Risk 1.....\$250	Temporary (1 event).....\$40	
Seasonal/Risk2.....\$219	Temporary (2 event).....\$60	
Seasonal/Risk3.....\$187.50		

MISBRANDED: shall mean labeled or having labeling which is false or misleading in any particular; or any other meaning ascribed under the Illinois Food, Drug and Cosmetic Act.

REINSPECTION: means a follow up inspection to determine the status of violations that were recorded during the routine inspection, a complaint investigation or the previous reinspection.

RETAIL FOOD STORE: means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only, grocery stores, convenience marts, mobile food stores and specialty food stores. The term does not include establishments which handle only prepackaged spirits; produce stands that offer only whole, uncut fresh fruits and vegetables for sale; an establishment that offers only commercially packaged, non-potentially hazardous foods; bake sales; food service establishments; or food and beverage vending machines.

ROUTINE INSPECTION: means an inspection that is performed for the enforcement of this ordinance.

Amended May 17, 2017