

**SHELBY COUNTY HEALTH
DEPARTMENT**

FOOD AND SANITATION ORDINANCE

COUNTY OF SHELBY

STATE OF ILLINOIS

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SHELBY COUNTY
FOOD AND SANITATION ORDINANCE

An ordinance to protect the public's health; to set minimum standards for Food Service Establishments, Mobile Food Units, Temporary Food Establishments and Retail Food Stores to provide for their permitting and inspection; to provide for the enforcement of this ordinance and the fixing of penalties, fees and fines.

Be it ordained by the County Board of Shelby County, Illinois, as follows:

RULES AND REGULATIONS

The current and subsequent edition of the rules and regulations promulgated by the Illinois Department of Public Health pertaining to Food Service Establishments and Retail Food Stores are hereby adopted by reference. Three (3) copies of each shall be on file in the Shelby County Clerk's Office.

SHELBY COUNTY HEALTH DEPARTMENT
FOOD AND SANITATION ORDINANCE

SECTION I: DEFINITIONS:

- A. ADULTERATED shall mean the condition of a food (a) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (b) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established; (c) if it consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption; (d) if it has been processed, prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth or whereby it may have been rendered injurious to health; (e) if it is in whole or in part the product of a diseased animal which has died otherwise than by slaughter, (f) if it's container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

- B. ADEQUATE shall mean acceptable to the Regulatory Authority based on its determination as to conformance with appropriate standards and good public health practices.
- C. APPROVED shall mean acceptable to the Regulatory Authority based on its determination as to conformance with appropriate standards and proper public health procedures.
- D. BOARD OF HEALTH shall mean Shelby County, Illinois, Board of Health and/or its authorized representative(s).
- E. POTENTIALLY HAZRDOUS FOODS shall mean any foods that consist in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less under standard conditions; or food products in hermetically sealed containers processed to prevent spoilage.
- F. CRITICAL VIOLATIONS shall mean those violations which, if not corrected, are more likely to directly contribute to food contamination, illness or environmental degradation. Examples of critical violations include poor temperature control of foods such as improper cooking, cooling, holding, or reheating temperatures. Critical violations are identified by an asterisk (*) next to the violation on the inspection report and represent the highest category of non-compliance.
- G. FOOD SERVICE ESTABLISHMENT shall mean 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. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes taverns, and delicatessen type operations that prepare foods intended for individual portion service. The term 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, family or church functions where food is prepared or served for only the family's consumption or strictly to the congregation of the church, Retail Food Store, or the location of food vending machines.
- H. REGULATORY AUTHORITY shall mean the Shelby County Health Department its officer and/or designated Inspector (s) authorized by the Shelby County Board of Health.

- I. RETAIL FOOD STORE shall mean any store or section of an establishment where food and food products are offered to consumers and intended for, though not limited to, off premises consumption. The term includes delicatessens that offer prepared foods in bulk quantities only. The term does not include establishments which handle pre-package spirits, roadside markets that offer only fresh fruits and fresh vegetables for sale; Food Service Establishments; taverns or food and beverage vending machines.
- J. TEMPORARY FOOD ESTABLISHMENT shall mean a food establishment that operates at a fixed location for a period of time not more than 14 consecutive days in conjunction with a single event or celebration.
- K. MOBILE FOOD UNIT shall mean a vehicle mounted Food Service Establishment or Pushcart designed to be readily moveable that operates from an approved commissary or other fixed permitted Food Service Establishment which reports to such location for all supplies, cleaning and service operations. All Mobile Food Units shall be considered readily movable if they are contained within a boat, transported by boat trailer or on a vehicle with axles and wheels that allow such unit to be towed, pushed or driven legally on public roads.
- L. MOBILE FOOD UNIT COMMISSARY shall mean a catering establishment, restaurant, or any other place which is inspected, and permitted, as an approved establishment for the preparation of food, washing and sanitization of utensils and cookware, and the proper holding and storage of refrigerated and dry foods. A written commissary agreement shall be submitted to the Regulatory Authority annually in conjunction with the operation of any Mobile Food Unit.
- M. CATERING OPERATIONS shall mean any person or group of persons, that prepare and sell any type of foods to the general public. Caterers shall operate under a food service permit issued by the Shelby County Health Department.

SECTION II: COMPLIANCE PROVISIONS AND ADOPTION BY REFERENCE:

In addition to those provisions set forth in Sections 1 through 3, this ordinance shall be interpreted and enforced in accordance with provisions set forth in the unabridged form of the most current State of Illinois, Department of Public Health, Division of Food, Drugs and Dairies, Rules and Regulations titled, “Food Service Sanitation Code” and “Retail Food Store Sanitation Code”, and any subsequent revisions.

SECTION III: AUTHORITY, JURISDICTION AND ADMINISTRATION:

- A. **AUTHORITY:** By the powers of the Shelby County Board, pursuant to Illinois Compiled Statutes, Chapter 55, Section 5/5-25013 to enact regulations which may be necessary or expedient for the promotion of health or the suppression of disease in Shelby County, Illinois.

- B. **JURISDICTION:** The Shelby County Health Department shall have jurisdiction throughout Shelby County, including all cities, villages, and townships, in the administration and enforcement of this ordinance including all regulations and amendments hereafter adopted unless otherwise specifically stated. Nothing herein contained shall be construed to restrict or abrogate the authority of any municipality in Shelby County to adopt more restrictive ordinances, or to enforce existing or revocation thereof, or to charge and collect a fee therefore; provided, that whenever inspection relating to health or sanitation is required, no such municipality shall issue or renew a license without first having obtained written approval from the Shelby County Health Department indicating compliance with the requirements of this ordinance.

- C. **ACCESS TO ESTABLISHMENTS:** The Regulatory Authority, after proper identification, shall be permitted to enter, at any reasonable time, any Food Service Establishment and/or tavern, Retail Food Store; or inspect any Temporary Food Establishment, Mobile Food Unit within the County of Shelby, State of Illinois, for the purpose to determine compliance with this ordinance. The Inspector shall be permitted to examine the records of the establishment and/or store to obtain pertinent information pertaining to food and supplies purchased, received, or used, and persons employed.

- D. **INSPECTION RECORDS:** Whenever the Regulatory Authority makes an inspection of a Food Service Establishment or Retail Food Store, Mobile Food Unit, or Temporary Food Establishment, he or she shall record their findings on a written or electronic inspection report form equivalent to the State of Illinois Department of Public Health Food Establishment Inspection Report. One (1) copy of the inspection report shall be furnished to the person in charge of the establishment. The inspection report shall set forth a weighted point value for each requirement. The rating score of the establishment or store shall be the total of the weighted point values for all violations, subtracted from one-hundred (100), and shall be shown on all copies of the report.

SECTION IV: PERMITS:

- A. **PERMIT:** It shall be unlawful for any person to operate a Food Service Establishment, Mobile Food Unit, Retail Food Store or Temporary Food Establishment within the County of Shelby, State of Illinois, who does not hold a

valid permit issued by the Regulatory Authority. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a permit. Retail Food Stores that have a Food Service Establishment within its premises, such as a deli or bakery, shall also hold a Food Service Establishment permit, in addition to its Retail Food Store permit. Each permit is independent and will be inspected by the Regulatory Authority as two separate operations involving two separate codes with the annual permit fees as listed on the fees schedule for each permit. A permit that requires a fee is non-refundable. Permits shall not be transferable from one person to another person, or place, or address. A valid permit shall be posted in a conspicuous place in every Food Service Establishment, Mobile Food Unit, Retail Food Store and Temporary Food Establishment.

- B. **DURATION OF PERMITS:** Permits for permanent Food Service Establishments, Mobile Food Units, or Retail Food Stores shall be issued on November 1 and shall be valid for twelve months with an expiration date of October 31 of each year. Permits for Temporary Food Establishments shall be issued for the specific time period involving a special event, celebration, or holiday not to exceed fourteen consecutive (14) days. Temporary permits are not transferable to another person, or persons, or place, or address.
- C. **ISSUANCE OF PERMITS:** Any person(s) desiring to operate a Food Service Establishment, Retail Food Store, Mobile Food Unit, or Temporary Food Establishment as defined or to renew a permit, shall make written application for a permit on forms provided by the Regulatory Authority. Such application shall include: establishment's name and permanent address of establishment, telephone number, establishment's mailing address; the applicant's full name, post office address, telephone number, whether applicant is an individual, partner, firm, or corporation. The names of partners, corporate owners, and residence addresses are also required together with the responsible partner's name and address, type of Food Service Establishment, Mobile Food Unit or Retail Food Store, and signature of the applicant(s).
- D. **TEMPORARY FOOD ESTABLISHMENT:** Applications shall include dates of the proposed operations, the location of event, and name(s) of owners or operators. Upon receipt of such an application, the Regulatory Authority at its discretion may perform an inspection of the Temporary Food Establishment to determine compliance with the provisions of this ordinance. When a review of the application reveals that the applicant(s) meets the requirements of this ordinance, and referenced minimum standards have been met, a permit shall be issued to the applicant(s) by the Regulatory Authority.

SECTION V: INSPECTIONS OR REINSPECTIONS FOR NEW CONSTRUCTION, RECONSTRUCTION, NEW OWNERSHIP OR REOPENINGS:

- A. **PLAN REVIEW OF FUTURE CONSTRUCTION:** When a Food Service Establishment, Mobile Food Unit 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 Retail Food Store, properly prepared plans and specifications for such construction, remodeling or alterations showing layout, arrangement, and construction materials of work areas and the location, size, and type of fixed equipment and facilities shall be submitted to the Regulatory Authority with the required fee as set forth within the fee section of this ordinance for approval before such work begins. A pre-operational inspection will be performed to determine compliance with the regulations set forth in this ordinance, the Illinois “Food Service Sanitation Code” and the Illinois “Retail Food Store Sanitation Code”, before a permit to operate is issued by the Regulatory Authority.
- B. **REINSPECTION UPON REOPENING AND NEW OWNERSHIP:** Whenever a Food Service Establishment, Mobile Food Unit or Retail Food Store is closed and re-opened at a later date or is subject to a change in ownership, the establishment shall be subject to inspection as a new establishment and shall receive a pre-operational inspection and shall be required to comply with the regulations set forth in this ordinance, the Illinois “Food Service Sanitation Code” and the Illinois “Retail Food Store Sanitation Code”.

SECTION VI: OUTSIDE ESTABLISHMENTS: FOOD-SERVICE ESTABLISHMENTS OUTSIDE THE JURISDICTION OF THE REGULATORY AUTHORITY. Food from facilities outside the jurisdiction of the Regulatory Authority of the Shelby County shall conform to the provisions of this ordinance or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Regulatory Authority may accept reports from responsible authorities in other jurisdictions where such facilities are located and inspected.

SECTION VII: ENFORCEMENT PROCEDURES:

- A. **ENFORCEMENT:** The Shelby County Health Department shall be the enforcing Regulatory Authority and shall be in charge with the enforcement of the Shelby County Food and Sanitation Ordinance in accordance with the Illinois Food Services Sanitation Code and Illinois Retail Food Store Sanitation Code of which copies shall be available upon request to the Shelby County Health Department. In addition, when they are relative to sanitary practices in Food Service Establishments, Mobile Food Unit or Retail Food Stores, the “Illinois State Plumbing Code”, the National Electrical Code, the “Illinois Private Sewage Disposal Licensing Act and Code” and the “Illinois Water Well Construction Code” are adopted by reference. Permitted establishments shall comply with 410

ILCS 82/ Smoke Free Illinois Act and any subsequent amendments for revisions thereto.

- B. **INSPECTIONS:** Inspections will be performed in accordance with the Illinois Food Services Sanitation Code's category risk classification and inspection frequency and the Illinois Retail Food Store Sanitation Code. However, establishments will not have less than one inspection per year or as frequent as necessary to protect the public's health.
- C. **INSPECTION PROCEDURES: VIOLATION CORRECTION:** The Regulatory Authority shall establish a specific and reasonable period of time for the correction of the violations noted on the inspection report. The Permittee shall correct the violations within the specified period in accordance with the following provisions: When the violations are critical 4 or 5 point items, regardless of the rating score, such items shall be corrected within a period of time not to exceed 10 days. In the case of a Temporary Food Establishment critical violations of 4 or 5 points shall be corrected immediately but not to exceed 24 hours.
- 1) When the rating score on any establishment is eighty-five (85) or more, the Permittee shall correct all violations of one (1) or two (2) point weight as soon as possible, but in any event by the time of the next routine inspection.
 - 2) When the rating score of any establishment is at least seventy (70), but less than eighty-four (84), the Permittee shall correct all violations of one (1) or two (2) point weight as soon as possible, but in any event within a period not exceeding ten (10) days. A re-inspection will be performed by the Regulatory Authority within 7-10 days if necessary. The Regulatory Authority shall provide written notice of the need for re-inspection to the person in charge of said establishment written on the completed inspection report.
 - 3) When the rating score of any establishment is sixty-nine (69) or less, and the owner(s) or operator(s) cannot immediately correct critical items to elevate the establishments score, then the Permittee shall immediately cease operations at said inspected location until such time a re-inspection is performed by the Regulatory Authority reflecting substantial sanitary improvements as indicated by the re-inspection score.
- D. **INSPECTION REPORT-FAILED SCORE:** A failed score on an inspection report shall consist of a point score of 69 points or lower.
- E. **INFORMAL HEARINGS:** Informal hearings shall consist of a meeting to be conducted at the Shelby County Health Department at a designated time and designated date with the Permittee, with the Administrator and Director of

Environmental Health present. An informal hearing shall give the representatives of the permitted establishment and the representatives of the Health Department an opportunity to discuss violations of this ordinance. At the conclusion of the meeting, the Department shall send to the Permittee in writing (within 48 hours), its determination with respect to the violations of this ordinance and any code violations which remain. The Permittee shall then be notified of its right to a formal hearing to reinstate the permit before the Shelby County Board of Health.

F. FORMAL HEARINGS: After an informal hearing is conducted, and the Permittee has a continued suspension or revocation, the Permittee shall be allowed to request a formal hearing before the Shelby County Board of Health. The hearing shall be held at a time and place designated by the Shelby County Board of Health upon application by the Permittee. Based upon the record of the hearing, the Shelby County Board of Health shall make a finding and sustain, modify, or rescind the decision of the Administrator made at the informal hearing. The representatives of the Permittee and the Department shall have the right to present evidence at the formal hearing. All reliable evidence as determined by the President of the Shelby County Board of Health shall be considered by the Board. The decision of the Shelby County Board of Health shall be a final appealable order.

G. ENFORCMENT PROCEDURES:

1. The Shelby County Health Department shall take any legal action necessary to ensure the public safety including the right to seek injunctions, fines, and other legal remedies to ensure that Food Service Establishments, Mobile Food Units, Temporary Food Establishments and/or Retail Food Stores within the county do not operate at any time when they do not have a valid permit.
2. The Shelby County Health Department, the Regulatory Authority represented by its designees (inspectors) shall have the authority to place "Hold Orders" on food products to prevent their use to the detriment of the general public and shall have the authority to seize and order the Permittee to destroy foods which are stored or held in an unsafe manner or food(s) which appears, based upon inspection, to be adulterated or contaminated. The Shelby County Health Department inspector's authority shall extend to, but not be limited to, the following situations:
 - a. The appearance or condition of the food product indicates spoilage or contamination.
 - b. The refrigerated storage unit or hot holding unit were not maintaining sufficient product temperature, based upon the food product stored, to ensure safety of the food product for human consumption.

- c. The lack of proper storage of food products.
 - d. Suspected illness to the general population caused by contaminated or improperly temperature held potential hazardous foods.
3. It shall be unlawful for any person to move or alter a “Hold Order” placed on food by the Regulatory Authority. Neither such food nor containers thereof shall be used, served, re-labeled, repackaged, reprocessed, altered, disposed of, or destroyed without permission of the Regulatory Authority.
 4. In situations where the public health is endangered by a critical violation, or condition, the Shelby County Health Department, the Regulatory Authority, shall have the authority to close the Food Service Establishment, Mobile Food Unit, Temporary Food Establishment and/or Retail Food Store for up to 24 hours subject to review or violation correction. Such situations include, but are not limited to, the following conditions:
 - a. fire or fire damage
 - b. sewage back flow or contamination
 - c. polluted or unsanitary water
 - d. interrupted water to the establishment
 - e. sustained power loss
 - f. a suspected food borne illness outbreak

H. IMMEDIATE NOTICE OF SUSPENSION: If, upon inspection of a Permittee, the Regulatory Authority determines violations or conditions exist that can cause an imminent health hazard, or where sickness or illness constitutes a food borne illness outbreak that is traced to the Permittee, or in situations where the Permittee refuses an inspection upon request of the Regulatory Authority to investigate any potentially imminent health hazard, then Permittee may be served with a “written order” by the Regulatory Authority to immediately suspend the establishments permit until further notice as ordered by the Administrator of the Shelby County Health Department. Such notice of immediate suspension shall be presented to the Permittee in writing, advising the Permittee the right to an Informal Hearing within (7) seven days.

I. SUSPECTED DISEASE INSPECTION PROCEDURES: When the Regulatory Authority has reasonable cause to suspect possibility of disease transmission from any Food Service Establishment, Mobile Food Unit, Temporary Food Establishment or Retail Food Store employee, it shall secure a morbidity history of the suspected employee or make any other investigation as may be indicated, and take appropriate action. The Regulatory Authority may require any or all of the following measures:

- 1) Immediate exclusion of the employee from any food handling activities upon notification by the Regulatory Authority.
- 2) Immediate closure of the establishment, until in the opinion of the Regulatory Authority, no further danger of disease outbreak and risk to the public exists upon notification by the Regulatory Authority.
- 3) Restriction of the employee's services to some area of the establishment where there will be no danger of food contact or disease transmission.
- 4) Adequate medical and laboratory examination including, but not limited to, blood and body discharges of the employee and/or other employees of the establishment.

J. **FOOD SERVICE SANITATION MANAGER(s) CLASS:** The Regulatory Authority will immediately order any Food Service Sanitation Manager to attend a food service sanitation training course (approved by the Illinois Department of Public Health) when there is no certified manager present in a high risk or medium risk establishment.

- 1) New high risk or medium risk Food Service Establishments: A new Food Service Establishment may open without the required certified Food Service Sanitation Manager present. Said Food Service Sanitation Manager must be enrolled in an approved course to be completed within three months. Documentation of course completion must be provided at the end of course (90 days post initial establishment opening date).
- 2) Loss of Certified Food Service Sanitation Manager(s): A Food Service Establishment which has lost a certified Food Service Sanitation Manager because of turnover, etc., has three months to replace that individual with another certified Food Service Sanitation Manager (90 days post initial date of absence of previous Food Service Sanitation Manager). Follow-up will be scheduled upon notification of staff change by the Regulatory Authority to verify that a certified Food Service Sanitation Manager has replaced the one who left.
- 3) Failure to abide by the above requirements for certified Food Service Sanitation Managers may result in suspension of permit by the Regulatory Authority.

K. FOOD HANDLERS(s) CLASS: The Regulatory Authority will immediately order any food handler to attend a food handler training course approved by the Illinois Department of Public Health within sixty (60) days when, in the judgment of the Regulatory Authority, the work habits of said food handler constitute a hazard to public health.

- 1) Said food handler must attend the required training course approved by the Illinois Department of Public Health within sixty (60) days of the Regulatory Authority order.
- 2) The establishment must provide documented proof of completion of said training course by the employee to the Regulatory Authority within ninety (90) days of the order to attend such training.

SECTION VIII: FEES:

The following schedules shall apply to permits issued for Food Service Establishments, Mobile Food Units, Temporary Food Establishments and Retail Food Stores in Shelby County as categorized by the Shelby County Health Department.

A. For-Profit Full Year Operating Permits: (Permanent/Mobile)

- | | |
|---|----------|
| 1. Category I - High Risk Establishments | \$250.00 |
| 2. Category II - Medium Risk Establishments | \$200.00 |
| 3. Category III - Low Risk Establishments | \$175.00 |
| 4. Late fee after 7 days of permit due date | \$ 25.00 |

B. For-Profit Six months operation or less: (Permanent/Mobile)

- | | |
|---|----------|
| 1. Category I - High Risk Establishments | \$125.00 |
| 2. Category II - Medium Risk Establishments | \$100.00 |
| 3. Category III - Low Risk Establishments | \$ 85.00 |
| 4. Late fee after 7 days of permit due date | \$ 25.00 |

C. Non For-profit: (Permanent/Mobile)

- | | |
|---|---------|
| 1. Category I - High Risk Establishments | \$ 0.00 |
| 2. Category II - Medium Risk Establishments | \$ 0.00 |
| 3. Category III - Low Risk Establishments | \$ 0.00 |

D. Temporary Food Establishments \$ 0.00

E. Plan Review (New or Renovated) \$ 75.00

SECTION IX – PENALITIES

Any person who violates any provision of this ordinance or any rules and regulations adopted herein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1500.00 for each day on which such violation occurs. In addition thereto, such person may be enjoined from continuing such violations. The State's Attorney of Shelby County shall prosecute all violations of the Shelby County Food and Sanitation Ordinance.

SECTION X – REPEAL AND DATE OF EFFECT


This ordinance shall be in full force and effect immediately upon its adoption as provided by law.

SECTION XI – CONSTITUTIONALITY CLAUSE

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

Approved this 14th day of August, 2013

Recorded this 14th day of August, 2013



Jessie Dore

Shelby County Clerk

[Signature]

Chairman, Shelby County Board
Bruce Cannon