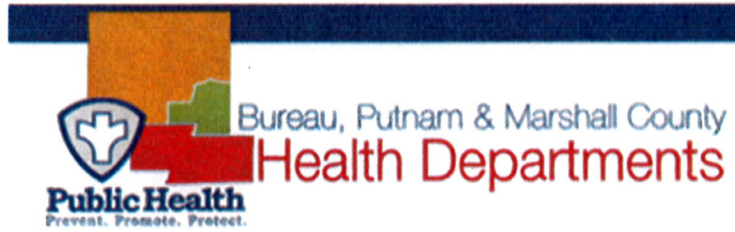


#18-82



MARSHALL COUNTY HEALTH ORDINANCE FOOD SANITATION ORDINANCE

SECTION 1: SCOPE

An ordinance defining and regulating food and beverage service establishments including, but not limited to: taverns and similar establishments providing food intended for consumption by the public, bed and breakfast establishments, temporary food establishment, seasonal establishments, mobile units, and food pantries and requiring the licensing of such establishments within Marshall County Illinois. Two copies of each Act or Code shall be kept on file in the office of the Marshall County Clerk.

SECTION 2: ADOPTION BY REFERENCE

In addition to those provisions set forth within, this ordinance hereby adopts by reference the current edition and subsequent revisions of, and shall be interpreted and enforced in accordance with the provisions set forth in the following: *Bed and Breakfast Act*, 50 ILCS 820/1 et seq; *Farmers Markets and Cottage Food Operations*; *Food Handling Regulation Enforcement Act*, 410 ILCS 625/3.1; *Illinois Department of Public Health Food Service Sanitation Code*, 77 IL Admn Code 750; *Illinois State Plumbing Code*, 225 ILCS 320; *Public Area Sanitary Practice Code*, Section 9 of 415 ILCS 55/9 and Section 2 20 ILCS 2305/2; *Smoke Free Illinois Act*, 410 ILCS 82.

SECTION 3: DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance:

A. **ADULTERATED** shall mean the condition of any food:

1. If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
2. If it bears or contains any added poisonous or deleterious substance for which no safe allowance has been established by regulation or in excess of such tolerances if one has been established.
3. If it contains in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
4. If it has been processed, prepared, baked or held under unsanitary conditions whereby it may have been rendered injurious to health.
5. If it is in whole or in part the product of a diseased animal or animal that has died otherwise than by slaughter.
6. If its containers are composed in whole or in part of any poisonous or deleterious substance which

may render the contents injurious to health.

- B. BOARD OF HEALTH** shall mean the Marshall County Board of Health or its authorized representative(s).
- C. CORE ITEM** includes a violation that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design or general maintenance.
- D. EXTENSIVELY REMODELED** shall mean any structural additions or alterations are made to existing establishments; such as, changes, modifications and extensions of plumbing systems, excluding routine maintenance.
- E. FOOD SERVICE ESTABLISHMENT (FSE)** shall mean any place where food is prepared, stored, packaged, served or vended and intended for consumption by the public. FSE 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. FSE also includes delicatessen type operations that prepare foods intended for individual portion service. FSE does not include lodging facilities serving only a continental breakfast, (a continental breakfast is one limited to only coffee, tea, and/or juice and commercially prepared sweet baked goods), private homes, or a closed family function where food is prepared or served for individual family consumption.
- F. HACCP PLAN** means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.
- G. HEALTH AUTHORITY** shall mean the person or persons who have been designated by the Marshall County Board of Health to administer the affairs of the Marshall County Health Department.
- H. HEALTH DEPARTMENT** shall mean the Marshall County Health Department, an agency of the Marshall County Board of Health.
- I. HEALTH DEPARTMENT ADMINISTRATOR** shall mean the individual selected by the Marshall County Board of Health to administer and enforce the policies, ordinances, resolutions, and laws of said board.
- J. IMMINENT HEALTH HAZARD** shall mean any condition or event which poses a particular immediate hazard to the public health such as fires, floods, total loss of refrigeration, total loss of potable water supply, backup of sewage in to an establishment, or evidence of recent food borne illness.

K. LICENSEE shall mean an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

L. MOBILE FOOD UNIT shall mean a vehicle-mounted food service establishment designed to be readily movable that meets the requirements set forth in the IL Food Service Sanitation Code (77 Ill. Adm. Code 750).

M. ORDINANCE shall mean the Marshall County Food Sanitation Ordinance.

N. POT LUCK shall mean an event that meets all of the following conditions:

People are gathered to share food at the event; There is no compensation provided to people for bringing food to the event; There is no charge for any food or beverage provided at the event; The event is not conducted for commercial purposes; It is generally understood by the participants at the event that neither the food nor the facilities have been inspected by the State or a local certified public health department; The event is not held on public property.

O. PRIORITY ITEM means a violation that contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury. This includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, and handwashing.

P. PRIORITY FOUNDATION ITEM includes violations that require the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, labeling.

Q. PUSHCART shall mean a non-self-propelled vehicle limited to serving non- time/temperature control for safety food_or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

R. TEMPORARY FOOD ESTABLISHMENT shall mean a food service establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

All other definitions shall be as contained in the "Illinois Food Service Sanitation Code (77 Ill. Adm. Code)" promulgated by the State of Illinois Department of Public Health. The term "regulatory authority" contained in said rules and regulations shall mean the "Marshall County Health Department".

SECTION 4: LICENSE REQUIREMENT

It shall be unlawful for any person to operate a food service establishment or temporary food establishment in Marshall County who does not possess a valid food license issued by the Marshall County Health Department. Only a person who complies with the requirements of this Ordinance, including payment of permit fees, recheck fees, and fines originating from enforcement of the Food Sanitation Code, and the Smoke Free Illinois Act, shall

be eligible to receive or renew a food license. Fees for licenses shall be required for all food service establishments operating in Marshall County unless otherwise stated in Section 4.1 C. Fees are established by the Marshall County Board of Health and listed in the Marshall County Health Department Environmental Health Fees Ordinance. A food license is not transferable from one person to another person, nor shall a license be transferable to any location, buildings, or places other than that for which it is issued. A valid license shall be posted in every food establishment so as to be clearly visible to the public.

SECTION 4.1: ISSUANCE OF LICENSES

A. FEES. Annual license fees shall be assessed for each permitted establishment and collected by the Health Department.

1. License fees shall be based on the risk classification of the establishment. The fee schedule is found in the Marshall County Health Department Environmental Health Fees Ordinance.
2. License fees will be non-refundable and shall expire on June 30th of each year.
3. License fees shall be prorated from the 1st day of the month that the license is issued for establishments opening or changing licensee.

B. Any person desiring to operate a new food service establishment, or renew an expired license, shall make written application for a license on forms provided by the health department. If the application is for a temporary food service establishment, it shall also include the inclusive dates of the proposed operation. Upon receipt of such an application and all applicable fees, the Health Authority shall make any necessary inspections of the establishment to determine compliance with the provisions of this ordinance. Once it is determined that the applicable requirements have been met, a license shall be issued to the applicant by the Health Authority.

C. The following establishments are exempt from license fees:

1. Roadside stands operated primarily for the sale of fruits and vegetables.
2. Farmers' Markets offering only produce and other non-Time/Temperature Control for Safety Food. And that comply with the State of Illinois Sanitation Guidelines for Farmers' Markets and the State of Illinois Cottage Food Act. Cottage Food Operations may not be exempt from registration fees.
3. Farmers' Markets shall comply with State of Illinois Sanitation Guidelines for Farmers' Markets and the State of Illinois Cottage Food Act.
4. Temporary food stands operating less than 3 days, not-for-profit temporary food stands, and temporary food stands selling non-perishable and/or non-Time/Temperature Control for Safety

foods.

5. Establishments which have only non-perishable and/or non-Time/Temperature Control for Safety food. Food dispensed by vending machines, public and private schools, units of local governments, senior citizen centers, churches, single day functions at private clubs, and food pantries.
6. All food establishments defined in this Ordinance shall otherwise still be subject to food-borne illness and consumer complaint investigations and shall be afforded food sanitation education and consultation upon request.

D. Prior to approval of an application for a license, the Health Authority shall inspect the establishment, to determine compliance with the requirements of this Ordinance. Upon request by the Health Authority, the licensee of the mobile food unit or pushcart shall bring the unit to the Health Department for inspection and/or licensing. All Food Service Establishments, including temporary events, mobile food units, and push carts shall meet the requirements of this Ordinance. The licensee of the mobile food unit shall submit to the Health Department at least annually a list of locations where they will be vending.

E. A food service license renewal application and fee received after the June 30th expiration date shall be assessed additional fees as indicated in the Marshall County Health Department Environmental Health Fees Ordinance including, but not limited to late fees, annual license fees, reinstatement fees, and any fines imposed by the State's Attorney. In addition to late fees, when a food service license renewal application and fee is past due, the establishment license may be suspended and notice sent to the State's Attorney's office for further administrative action.

SECTION 4.2: RENEWAL OF LICENSE

Whenever the inspection for renewal of a license reveals serious or repeated violations of this Ordinance, the license shall not be issued and the Health Authority shall notify the applicant immediately thereof. Such notice shall state the reasons for not renewing the license. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant at the time and place designated by the Health Authority shall remove a license, which has expired from the establishment.

SECTION 5: PLAN REVIEW

A. Whenever a food service establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service establishment or retail food store, or there is a change in licensee, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the health authority on plan review forms provided by the health Authority for review along with proper fees, menus, floor plans including location of all equipment and plumbing, proof of pest control services, a zoning verification letter from the appropriate zoning board, whether it be city or county indicating that it is properly zoned for its intended use, and any additional information deemed necessary to complete the plan review. The plans and specifications shall be approved before construction, remodeling, or conversion is

begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, the type and model of proposed fixed equipment and facilities. All applicable food service equipment shall be of a quality as approved by the National Sanitation Foundation (N.S.F.) or equivalent. New equipment, which is approved for a certain use by N.S.F., shall be automatically approved by the health authority. Other applicable equipment or used equipment shall be evaluated or otherwise approved by the health authority. The health authority shall approve the plans and specifications if they meet the requirements of this ordinance. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the health authority.

- B. Whenever plans and specifications are required by Section 5(a) of this Ordinance to be submitted to the health authority, the health authority shall inspect the food service establishment prior to the start of operations to determine compliance with the requirements of this Ordinance.

SECTION 6: INSPECTIONS

The health authority shall inspect each food service establishment as specified in the Illinois Administrative Code Chapter 1, Subsection h, Section 615.310, (b)(4)(A-C). Additional inspections of any establishment shall be performed as often as deemed necessary by the health authority.

SECTION 6.1: ACCESS

The health authority, after proper identification, shall be permitted to enter, at any reasonable time, any food service establishment within Marshall County 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 to obtain information pertaining to food and supplies purchased, received, or used, pest control services, and persons employed

SECTION 6.2: REPORT OF INSPECTIONS

Whenever an inspection of a food service establishment, bed and breakfast establishment, and retail food store is made, the findings shall be recorded on an inspection report form. The inspection report form shall summarize the requirements of this Ordinance. Inspection remarks shall be written to reference, by item number, the item violated and shall state the correction to be made. A printed or electronic copy of the completed inspection report form shall be furnished to the person in charge of the establishment within 72 hours of the inspection. The completed inspection report is a public document that shall be posted in plain sight of anyone entering the establishment, such as next to the establishment's food service license or liquor license. Failure to post completed inspection reports is a violation of this ordinance.

SECTION 7: ENFORCEMENT, TIME FRAME FOR CORRECTION OF VIOLATIONS

A. The completed inspection report form shall specify a reasonable period of time for the correction of violations found; correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

1. If the Health Authority determines an imminent health hazard exists, including but not limited to complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service or sales operations.
2. A permit holder shall at the time of inspection correct a violation of a Priority item or Priority Foundation item and implement corrective actions for a HACCP plan provision that is not in compliance with its CRITICAL LIMIT.
3. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Health Authority may agree to or specify a longer time frame, not to exceed: 72 hours after the inspection, for the permit holder to correct violations of a Priority item or 10 calendar days after the inspection for the permit holder to correct violations of a Priority Foundation item or HACCP plan deviation. Should a compliance re-inspection be required, a recheck fee will be collected.
4. The permit holder shall correct CORE ITEMS by a date and time agreed to by or specified by the health authority according to the Department's Enforcement Procedure.
5. In the case of temporary food service establishments, all violations shall be corrected immediately or no later than 24 hours. If violations are not corrected no later than **24** hours, the establishment shall immediately cease food service operations until authorized to resume by the Health Authority. A recheck fee may apply based on this Department's recheck policy.

B. Failure of the permit holder or operator to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for hearing on the inspection findings or the time frame for corrections or both will be provided if a written request for hearing is received, a hearing shall be held within thirty (30) days of receipt of the request.

C. Whenever a food service establishment or facility referred to in Section 1 is required under the provisions of Section 7 above to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

SECTION 8: EXAMINATION AND CONDEMNATION OF FOOD AND EQUIPMENT

A. Food may be examined or sampled by the Health Authority to determine freedom from adulteration or mislabeling. The Health Authority may, upon written notice to the owner or person in charge condemn or embargo any food, which the Health Authority believes to be unwholesome or otherwise adulterated or

mislabeled. Condemned or embargoed food shall be permitted to be suitably stored, unless storage is not possible without risk to the public health; in which case, immediate destruction shall be ordered and accomplished.

- B. It shall be unlawful for any person to move or alter a condemnation or embargo order, notice, or tag placed on food/or food containers by the Health Authority. Neither shall food or the containers 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 this Ordinance, and on the basis of evidence produced at such hearing, or on the basis of examination in the event of written request for a hearing is not received within ten (10) days, the Health Authority may vacate the hold order or may by written notice, direct the owner or person in charge of food which was placed under the hold order to denature or destroy such food or bring it into compliance with the provisions of the Ordinance. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days.
- C. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsuitable for use, or unsanitary, such equipment shall be taken out of use and an embargo placed on said equipment by the Health Authority. 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 an embargo placed on equipment by the Health Authority. Such equipment shall not be 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 this Ordinance, and on the basis of the evidence produced at such hearing or on the basis of examination of the event of a written request for a hearing is not received within ten (10) working days, the Health Authority may vacate the hold order or may, by written notice, direct the owner or person in charge of the equipment which was placed under the hold order to remove such equipment or bring it 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.

SECTION 9: PROCEDURE WHEN INFECTION IS SUSPECTED

When the Health Authority has reasonable cause to suspect possible disease transmission by an employee of a food service establishment referred to in Section 1 and 3, it may secure a morbidity history of the suspected employee or make any other investigation 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 employment in a food service establishment.
- B. The immediate closing of the food service establishment concerned until, in the opinion of the Health Authority, no further danger of disease outbreak exists;

- C. Restriction of the employee's services to some area of the establishment where there will be no danger of transmitting disease;
- D. Thorough clinical or medical examinations by a physician and laboratory testing of the employee or other employees and of his or their body discharges.

SECTION 10: FOOD SERVICE ESTABLISHMENTS OUTSIDE OF MARSHALL COUNTY

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

SECTION 11: SUSPENSION OF LICENSE

Licenses may be suspended temporarily by the health authority for failure of the licensee to comply with the requirements of this ordinance and with notices or citations issued for violation of the Smoke Free Illinois Act, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health.

- A. Whenever a license holder or operator has failed to comply with any notice issued under the provisions of this Ordinance, the license holder or operator shall be notified in writing that the license is, upon service of a 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 Department Administrator by the license holder within ten (10) days. Upon suspension of the license, all operations as a food service establishment or retail food store are to be discontinued at the direction of the Health Authority. The Health Authority shall remove the license from the establishment.
- B. Notwithstanding the other provisions of this Ordinance, whenever the Health Authority finds unsanitary or other conditions in the operation of a food service establishment which in his/her judgment, constitute a substantial health hazard, 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, specifying the time period within such action shall be taken, and if deemed necessary, such order shall state that the license is immediately suspended, and all operations as a food service establishment, are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therein, but upon written petition to the Health Authority shall be afforded a hearing as soon as possible.

SECTION 12: REINSTATEMENT OF SUSPENDED LICENSE

Any person whose license has been suspended may at any time make application for re-inspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing the suspension of the license have been

corrected, the Health Authority shall make re-inspection. If the applicant is found to be in compliance with the requirements of this Ordinance, the reinstatement fee shall be collected and then the license shall be reinstated.

SECTION 13: REVOCATION 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 duties, the license may be permanently revoked. An opportunity for a hearing shall be provided by the Health Department Administrator. Prior to such action, the Health Department Administrator shall notify the license holder in writing, stating the reasons for which the license is subject to revocation, and advising that the license shall be permanently revoked at the end of five (5) calendar days following service of such notice, unless a request for a hearing is filed with the Health Department Administrator by the license holder, within such a five (5) day period. A license may be suspended for a cause pending its revocation or a hearing relative thereto. Whenever a revocation of a permit has become final, the holder of the revoked permit may make a written application for a new permit after five (5) days.

SECTION 14: NOTICES

A notice provided for in this Ordinance is properly served when it is delivered to the holder of the license or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the license. A copy of the notice shall be filed in the records of the Health Department. A completed inspection form or a letter is considered proper forms of notice.

SECTION 15: HEARING BEFORE THE HEALTH DEPARTMENT ADMINISTRATOR

Any person affected by any order or notice issued by the Health Department in connection with the enforcement of any section of this Ordinance may file in the office of the Health Department a written request for a hearing. The Health Department Administrator shall hold a hearing at a time and place designated by him/her. 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. Proceedings of the hearing shall be recorded. Within ten (10) days after the date of the hearing, the Health Department Administrator shall make a final finding based upon the complete hearing record. The decision shall sustain, modify, or rescind any notice or order considered in the hearing. The Health Department shall furnish a written report of the hearing to the petitioner. Any person aggrieved by the decision of the Health Department Administrator may seek relief through a hearing before the Board of Health.

SECTION 16: HEARING BEFORE THE BOARD OF HEALTH

Any person aggrieved by the decision of the Health Department Administrator, rendered as a result of a hearing held in accordance with Section 12,14,or 16, may file in the office of the Health Department a written request for a hearing at a time and place designated by the Board of Health. 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. Proceedings of the hearing shall be recorded. Within ten (10) days after the date of the hearing, the Board of

Health shall make a final finding upon the complete hearing record. The decision shall sustain, modify, or rescind any notice or order considered in the hearing. The Health Department shall furnish a written report of the hearing to the petitioner.

SECTION 17: PENALTIES

Any person who violates any provision of this Ordinance shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100.00, but not to exceed a maximum of \$500.00. Each day shall constitute a separate offense.

SECTION 18: INJUNCTIONS

The State's Attorney of Marshall County may bring action for an injunction to restrain any violation of this Ordinance or to enjoin the operations of any such establishment causing such violation.

SECTION 19: CONFLICT OF ORDINANCE

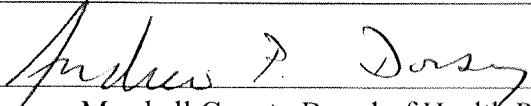
In any case where the provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, health ordinance, or code of Marshall County existing on the effective date of this Ordinance, the provision which, in the judgment of the Health Authority, established the higher standards for the promotion and protection of the health and safety of the people shall be deemed to prevail, and such ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.

SECTION 20: SEPARABILITY OF PROVISIONS

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect and, to this end, the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE:

This Ordinance shall be in full force and effective immediately upon its passage and adoption as provided by law. The MARSHALL COUNTY HEALTH ORDINANCE, FOOD SANITATION ORDINANCE, PASSED, APPROVED, AND ADOPTED this 6th day of September 2011 by the Marshall County Board, amended April 27th, 2016, amended October 17th, 2011 is hereby repealed. **PASSED, APPROVED, AND ADOPTED** _____, 2018



Andrew Dorsey, Marshall County Board of Health President



Gary Kroschen, Chairman of the County Board of the County of Marshall, Illinois

12 ayes

0 nays

0 Absent

9/13/18

Bill M Kenyon
Co. Clerk : Recorder