

#16-87

***Amendment to page 4, adding senior centers and churches as exempt from annual fees.

***Amendment date added to page 12, with new signatures.

MARSHALL COUNTY HEALTH ORDINANCE FOOD SAFETY

SECTION A GOAL:

The goal of this Ordinance is to assure the reduction or elimination of the risk for the transmission of communicable disease in the food service industry.

SECTION B SCOPE:

In the achievement of this goal, the Marshall County Food Safety Ordinance shall focus on the identification, reduction, and whenever possible, the elimination of factors in the food service operation which are critical to the creation of food borne illness. The implementation of the Food Safety Ordinance shall include defining and regulating food service establishments (including but not limited to taverns, bed and breakfast establishments, retail food stores, and temporary food establishments), the operation of such establishments, and requiring the license of such establishments within the limits of Marshall County.

SECTION C ADOPTION BY REFERENCE:

In addition to those provisions set forth herein, this Ordinance hereby adopts by reference the provisions set forth in the "State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750" and the provisions set forth in the "Public Area Sanitary Practice Code, Section 9 of 415 ILCS 55/9 and Section 2 20 ILCS 2305/2," "Food Handling Regulation Enforcement Act, 410 ILCS 625/3.1," "Bed and Breakfast Act," "Farmers Markets and Cottage Food Operations 625/4," "Smoke Free Illinois Act, 410 ILCS 82," "Illinois Plumbing License Law 225 ILCS 320," and any subsequent amendments or revisions thereto, one copy of each shall be on file in the office of the Marshall County Clerk.

SECTION D DEFINITIONS

1. **Adulterated** shall mean the condition of any food:

- a. if 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 by regulation or in excess of such tolerance if one has been established
- c. if it consists in whole or in part of any filthy, putrid or decomposed substance or it is otherwise unfit for human consumption
- d. if it has been processed, prepared, packed or held under unsanitary conditions

Marshall County Health Ordinance
Food Safety Ordinance

whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health

- e. if it is whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter
- f. if its containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health

2. **Applicant** means any person making application for a permit to the Marshall County Health Department

3. **Approved or approval** shall mean accepted or acceptable by the Health Department in accordance with applicable rules and regulations stated herein

4. **Authorized Representative** shall mean the legally designated Administrator of the Marshall County Health Department and shall include those persons designated by the Administrator to enforce the provisions of this Ordinance.

5. **Bed and Breakfast Establishment** shall mean an operator-occupied residence providing accommodations for a charge to the public with no more than five (5) guest rooms for rent, in operation for more than ten (10) nights in a twelve-month period; breakfast may be provided to the guests only; this term shall not include motels, hotels, boarding houses or food service.

6. **Continental Breakfast** breakfasts providing only non-potentially hazardous beverages, whole fruits, juices, and commercially prepared non-potentially hazardous baked good

7. **Food preparation** the handling, processing and/or serving of foods

8. **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 delicatessen type operations that prepare foods intended for individual portion service. The term does not include lodging facilities serving only a continental breakfast, retail food stores, or the location of food vending machines.

9. **Health Department** shall mean the Marshall County Health Department

10. **Health Officer** shall mean the Administrator of the Marshall County Health Department or his authorized representative.

11. **License** shall mean written authorization issued by the Health Department or its authorized representative

12. **Retail Food Store** means any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only whole fresh fruits and whole fresh vegetables for sale, food service establishments; or food and beverage vending machines.

*Marshall County Health Ordinance
Food Safety Ordinance*

13. **Temporary Food Establishment** shall mean a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration

14. **Vending Machine** shall mean any self-service device which upon insertion of a coin, coins or tokens or 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.

SECTION E LICENSES:

Beginning January 1, 2012 and every year thereafter, it shall be unlawful for any person or persons to operate a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment within the County of Marshall, State of Illinois, who does not possess a valid license issued by the Marshall County Health Department. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one person to another person, nor shall said license be applicable to any location, building, or place other than that for which it was issued. A valid license shall be posted in every food establishment so as to be clearly visible to all customers. A valid license is one that is not suspended, revoked, or expired.

1. **Issuance of Licenses:** Any person desiring to operate a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment, or to renew an expired license, shall make written application for a license on forms provided by the 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 all applicable laws adopted by reference in Section C of this Ordinance shall be eligible to receive or renew a food license. Such applications shall include at minimum:
 - a. the owner's/licensee's full legal name, mailing address, and telephone number
 - b. whether said owner/licensee is an individual, partnership, firm, or corporation
 - c. establishment name, address, telephone number, fax number, and email address
 - d. signature of applicant
 - e. type of establishment (i.e.: restaurant, retail store, tavern, school, mobile, bed and breakfast, deli, etc.)
 - f. hours of operation
 - g. hours of food preparation
 - h. manager's full legal name, mailing address, and telephone number
 - i. any other information deemed necessary for the proper review of the application by the Health Department
3. **Term:** The license shall be valid from July 1 through June 30 of each year, except temporary establishment licenses which shall have an expiration date of not longer than fourteen (14) consecutive days.
4. **Fees:** License fees shall be assessed annually for each licensed establishment and collected by the Health Department. License fees shall be based on the risk classification of the establishment.
 - a. The fee schedule is found in the Marshall County Health Department Environmental Health Fees Ordinance.
 - b. Provisions for annual license fees shall not apply to:

Marshall County Health Ordinance
Food Safety Ordinance

units of local government
public or private schools
senior centers or churches

c. Temporary Food Establishments fees:

i. Provisions for temporary food establishment license fees shall not apply to nonprofit organizations.

d. License fees will be non-refundable once a license has been issued by the Health Department.

e. Annual renewal of licenses shall be required for continued operation of the establishment. Any license holder desiring to renew his/her license shall make proper application on renewal forms provided by the Health Department and pay the appropriate annual fee.

f. Establishments failing to submit the appropriate fee and renewal application prior to the license expiration date shall be assessed a late payment penalty fee in addition to the appropriate license fee. Failure to submit the total fee required by the date of license expiration will result in an expired license and a request for cessation of food establishment operations by the Health Officer due to the lack of a valid license. The Health Officer shall remove a license, which has expired, from the establishment.

g. Any person who operates a food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment, whether it is a new facility or a change of ownership, prior to the issuance of a license from the Health Department will be assessed a penalty fee in addition to the annual license fee at the time of application.

5. **Classification of Establishments:** For every food establishment operating in Marshall County, the Marshall County Health Department shall assess the relative risks of creating a food borne illness. This classification shall result in the facility being placed into a license category as it relates to food safety.

These license categories are not meant to imply that any given establishment is less safe than others. The criteria in the *State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750* shall be utilized to determine risk.

The Health Department may reclassify a food establishment based upon its experience with the facility (e.g., inspection history, number and frequency of violations, etc.) if in the opinion of the Health Officer, a health hazard will not result from such reclassification.

6. **Temporary Food Establishments:** Food service establishments including food stands that operate at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration must obtain a Temporary Food Establishment license from the Health Department prior to beginning operation.

7. **License Suspension:** At any time the Health Officer determines that a license holder or operator is not in compliance with the provisions of this Ordinance, he/she shall issue a notice under the provisions of this Ordinance to the license holder or operator. Said notice shall state the nature of the violation and a reasonable time in which corrective action must be taken.

Marshall County Health Ordinance
Food Safety Ordinance

- a. In the event that such violation constitutes an immediate hazard to the public health, the aforesaid notice may also require the immediate suspension of the entire operation of the establishment or portions thereof. Any person to whom such notice is issued shall comply immediately therewith.
 - b. Any person whose license has been suspended may make application for a re-inspection for the purpose of reinstatement of the license. Within two (2) days following receipt of the written request, including a signed statement by the applicant that in his/her opinion, the conditions causing suspension of the license have been corrected, the Health Officer shall make a re-inspection. If the applicant is found to be in compliance with the Ordinance, the license shall be reinstated.
8. **Revocation:** The license may be permanently revoked for repeated violations of those provisions of this Ordinance, which in the opinion of the Health Officer creates the possibility of a direct health hazard to the public, or for interference with the Health Officer in the performance of his/her duties. Prior to such action, the Health Officer shall notify the license holder that the license is subject to revocation and advise that the license shall be permanently revoked at the end of ten (10) days following service of such notice via certified mail or hand delivered unless a request for a hearing is filed in accordance with provisions within this Ordinance within said ten (10) day period.
9. **Cessation of Operations:** Licenses for all establishments shall automatically be revoked should the license holder or operator cease operation for thirty (30) consecutive days without providing prior notice to the Health Department. The license holder must then make application for a new license in accordance with the provisions of this Ordinance.
10. **Exemptions:** The following shall be exempt from the provisions of this Ordinance:
- a. Establishments which have only non-perishable and/or non-potentially hazardous food and whose principle order of business is not to sell food for human consumption.
 - b. Temporary food establishments selling non-perishable and/or non-potentially hazardous foods.
 - c. Establishments which have only non-perishable and/or non-potentially hazardous food dispensed by vending machines.
 - d. Facilities licensed and inspected by the Illinois Department of Corrections.

SECTION F INSPECTIONS:

1. 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.
2. The Health Department shall provide consultation and/or on-site inspections for each temporary food establishment a minimum of one (1) time for each license issued; and shall make as many additional inspections or re-inspections as are necessary for the enforcement of this Ordinance.

Marshall County Health Ordinance
Food Safety Ordinance

3. **Right of Entry:** After the Health Officer presents official credentials and provides notice of the purpose of and an intent to conduct an inspection, the person in charge of the food establishment shall allow the Health Officer to determine if the food-service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment is in compliance with this Ordinance by providing access to the establishment, allowing inspection, and providing information and records specified in this Ordinance and to which the Health Officer is entitled according to law during the establishment's hours of operation or other reasonable times.
4. **Refusal of Entry:** If a person denies access to the Health Officer, the Health Officer shall:
 - a. Inform that person that:
 - i. The license holder is required to allow access to the Health Officer as specified in this Ordinance.
 - ii. Access for the purpose of inspection is a condition of the acceptance and retention of a food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment license to operate.
 - i. If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law.
 - b. If after the Health Officer presents credentials and provides notice, explains the authority upon which access is requested, and makes a final request for access, the person in charge continues to refuse access, the Health Officer shall provide details of the denial of access on an inspection report form.
 - c. If denied access to a licensed food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment for an authorized purpose, and after complying with the Ordinance, the Health Officer may issue, or apply for an issuance of, an inspection order to gain access as provided in law.
5. **Report:** Whenever an inspection of a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment is made, the findings shall be recorded on an inspection report.
 - a. The Health Officer shall document on an inspection report form the following information:
 - i. Administrative information about the food-service establishment's, retail food store's, temporary food establishment's, and/or bed and breakfast establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
 - ii. Specific factual observations of violative conditions or other deviations from this Ordinance that require correction by the license holder.
 - b. The Health Officer shall specify on the inspection report form the time frame for correction of the violations.

Marshall County Health Ordinance
Food Safety Ordinance

- c. At the conclusion of the inspection and according to law, the Health Officer shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgement of receipt. In the case that violations of this Ordinance are found, this inspection report shall serve as official notice to the license holder or operator that the establishment is in violation of the provisions of this Ordinance.

6. Refusal to Sign Report: If a person refuses to sign the report, the Health Officer shall:

- a. Inform the person who declines to sign an acknowledgement of receipt of inspectional findings that:
 - i. an acknowledgement of receipt is not an agreement with findings,
 - ii. refusal to sign an acknowledgement of receipt will not affect the license holder's obligation to correct the violation(s) noted in the inspection report within the time frames specified, and
 - ii. a refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the Health Department's historical record for the food establishment, and;
 - v. make a final request that the person in charge sign an acknowledgement receipt of inspectional findings.

7. Correction of Violations: Enforcement procedures for the correction of violations of this Ordinance shall be carried out in accordance with procedures established by the Marshall County Board of Health.

- a. All "Critical" violations as noted on the inspection report will require immediate or twenty-four (24) hour correction and follow-up inspections will be conducted within one (1) working day. For the purposes of this Article, critical violations shall mean, but not limited to, those violations of the "State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750," and the "State of Illinois, Retail Food Store Sanitation Code 77 ILL. Adm. Code 760," and any subsequent amendments thereto, adopted by reference herein, that involve the following, but not limited to:
 - i. Time and Temperature Management
 - ii. Cross-Contamination
 - iii. Wholesomeness and Adulteration
 - i. Infected Employees
 - ii. Employee practices
 - iii. Facilities to maintain product temperature
- b. All other violations noted on the inspection report will be corrected according to a compliance schedule as determined by the Health Officer and the license holder.
- c. Verification and Documentation of Correction:

Marshall County Health Ordinance
Food Safety Ordinance

- i. After observing at the time of inspection of a correction of a critical violation or deviation, the Health Officer shall enter the violation and information about the corrective action on the inspection report.
 - ii. As specified in the Ordinance, after receiving notification that the license holder has corrected a critical violation, or at the end of the specified period of time, the Health Officer shall verify correction of the violation, and document the information on an inspection report.
- d. Except as specified in the Ordinance, the license holder shall correct all other violations by a date and time agreed to or specified by the Health Officer.
8. **Public Information:** The Health Department shall treat the inspection report as a public document and shall make it available upon request, as provided by law.
9. **Imminent Health Hazard**
 - a. Except as specified in this Ordinance, a license holder shall immediately discontinue operations and notify the Health Department if an imminent health hazard may exist because of an emergency including but not limited to fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health.
 - b. A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard, unless those areas can not operate in compliance with the code.
10. **Resumption of Operations:** If operations are discontinued as specified under the Ordinance or otherwise according to law, the license holder shall obtain approval from the Health Officer before resuming operations.

SECTION G EXAMINATION AND CONDEMNATION OF FOOD AND/OR EQUIPMENT:

1. Food may be examined or sampled by the Health Officer to determine freedom from adulteration or misbranding. The Health Officer may, upon written notice to the license holder, condemn or embargo any food, which he determines, or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Condemned or embargoed food may 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.

It shall be unlawful for any person to remove or alter a condemnation or embargo order, notice, or tag placed on food/or food containers by the Health Officer, and neither such food nor containers thereof shall be relabeled, replaced, reprocessed, altered, disposed of, or destroyed without the permission of the Health Officer, except an order by a Court of competent jurisdiction. If the license holder requests a hearing as provided within the provisions of this Ordinance, and on the basis of evidence produced at such hearing, the Health Officer may vacate the condemnation or embargo order.

2. Any potentially hazardous food found to be in the optimal temperature range of 42 to 134 degrees F for the growth of pathogenic food borne bacteria by the Health Officer during an inspection of an

Marshall County Health Ordinance
Food Safety Ordinance

establishment will be subject to immediate condemnation. The condemned food shall be held under embargo until it has been proved satisfactory for human consumption by a certified laboratory at the expense of the license holder if the food product is not voluntarily destroyed immediately.

3. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, display, or service of food, such equipment shall be taken out of use and a hold order placed on said equipment by the Health Officer. Such equipment may

not be put back into service until written permission is obtained from the Health Officer. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on equipment by the Health Officer. Such equipment will not be altered, disposed of, or destroyed without permission of the Health Officer except on an order of a Court of competent jurisdiction.

SECTION H ADULTERATED FOOD:

No food service establishment, retail food store, bed and breakfast establishment, or temporary food establishment shall offer for sale or keep for the purpose of selling or offering for sale, any food of any kind intended for human consumption which is adulterated for any reason, or violate any rule or regulation as provided herein.

SECTION I EMPLOYEE HEALTH:

When the Health Department has reasonable cause to suspect the possibility of disease transmission by any food service establishment, retail food store, bed and breakfast establishment, temporary food establishment, or an employee thereof, the Health Officer shall make such investigation as may be indicated, including the morbidity history of suspected employees and take appropriate action. The Health Officer may require any or all of the following measures:

1. The immediate exclusion of the employee from any food handling activities.
2. Restriction of the employee service to some area of the establishment where there will be no danger of transmitting disease.
3. Adequate medical and laboratory examinations of the employee and, if deemed necessary, other employees, and of his/her and/or their body discharges.
4. No employee shall be allowed to return to work in the establishment until the Health Officer certifies that the employee no longer presents a health hazard.

Any person to whom such an order is issued shall comply immediately therewith, failure to comply with such an order shall entitle the Health Officer to petition the Circuit Court for an order seeking compliance with any and all of the above measures. Pursuant to the Administrative search provisions of this Ordinance, the Health Officer shall be licensed to examine employee records to obtain pertinent information required to prevent the possibility of disease transmission.

SECTION J FOOD OUTSIDE JURISDICTION:

Marshall County Health Ordinance
Food Safety Ordinance

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

SECTION K PLAN REVIEW:

1. **When Plans Are Required:** Any person who owns/operates, or wishes to own/operate, a food service establishment, retail food store, and/or bed and breakfast establishment, shall submit to the Health Department properly prepared plans and specifications for review and approval before:
 - a. the construction of a food establishment;
 - b. the conversion of an existing structure for use as a food establishment;
 - c. the remodeling of a food establishment or a change of type of food establishment or food operation that plans and specifications are necessary to ensure compliance with this Ordinance.
 - d. the change of ownership if deemed necessary by the Health Department.
2. **Contents of the Plans and Specifications:** The plans and specifications for a food establishment shall include the following information to demonstrate conformance with Ordinance provisions:
 - a. intended menu;
 - b. anticipated volume of food to be stored, prepared, and sold or served;
 - c. proposed layout, mechanical schematics, construction materials, and finish schedules;
 - d. proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capabilities, and installation specifications;
 - e. Other information that may be required for the proper review of the proposed construction or remodeling.
3. **Plan Review Fee:** A non-refundable plan review fee must be paid at the time that the plan review is submitted to the Health Department. Refer to the Marshall County Health Department Environmental Health Fee Schedule for all fees.
4. **Approval of Plans:** The Health Officer shall approve the plan and specifications, if they meet the requirements of this Ordinance. No food service establishment, bed and breakfast establishment, or retail food store shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the Health Officer.
- 5.. **Pre-Opening Inspections:** Whenever plans and specifications are required by provisions of this Ordinance to be submitted to the Health Department, the Health Officer shall inspect the food service establishment, bed and breakfast, or retail food store prior to the beginning or resumption of operations to determine compliance with the approved plans and specifications and the requirements of this Ordinance prior to the issuance of a license to operate.

SECTION L VARIANCES:

The Health Department may grant a variance by modifying or waiving the requirements of this Ordinance if in the opinion of the Health Officer a public health hazard will not result from the issuance of the variance. If a variance is granted, the Health Department shall retain all pertinent information in its records for the establishment.

1. **Documentation of Proposed Variance and Justification:** Before a variance from a requirement of this Ordinance is granted, the following information must be provided by the person requesting the variance and approved by the Health Department:
 - a. A statement of the proposed variance of the Rules and Regulations citing relevant Ordinance section numbers;
 - b. An analysis of the rationale for how the potential public health hazards addressed by the relevant Ordinance sections will be alternatively addressed by the proposal.
2. **Conformance with Approved Procedures:** If the Health Department grants a variance as provided under this section, the license holder shall comply with the plans and procedures that are submitted and approved as a basis for the variance.
3. **Existing Construction and Equipment:** The Health Department may accept existing facilities or equipment that were in use before the effective date of this Ordinance and that do not fully meet all of the current code requirements for design and construction, if:
 - a. The facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
 - b. Food contact surfaces are in good repair and capable of being kept in a condition not prejudicial to public health.
 - c. The facilities and equipment shall be brought into substantial compliance with current rules and regulations upon change of ownership.

SECTION M ADDITIONAL REQUIREMENTS:

1. If necessary to protect against public health hazards or nuisances, the Health Department may impose specific requirements in addition to the requirements contained in this Ordinance that are authorized by law.
2. The Health Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Health Department file for the food establishment.

SECTION N AMENDMENTS TO ARTICLE:

Marshall County Health Ordinance
Food Safety Ordinance

This article can be changed by action of the Marshall County Board at any meeting provided all appropriate notice and hearing requirements have been met.

SECTION O PENALTIES:

Any person who violates any provision of this Ordinance shall be guilty of a Class B misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or other dispositions as provided in the United Code of Correction in effect now or hereafter amended. Each day upon which a violation occurs shall constitute a separate violation.


SECTION P EFFECTIVE DATE:

Passed and adopted this 8 day of September, 2011, by the Marshall County Board.

Amended April 27th, 2016

***Amended October 26th, 2016**

Board of Health President
County of Marshall, Illinois


Chairman of County Board
County of Marshall, Illinois

MARSHALL COUNTY HEALTH ORDINANCE

FOOD SAFETY

SECTION A GOAL:

The goal of this Ordinance is to assure the reduction or elimination of the risk for the transmission of communicable disease in the food service industry.

SECTION B SCOPE:

In the achievement of this goal, the Marshall County Food Safety Ordinance shall focus on the identification, reduction, and whenever possible, the elimination of factors in the food service operation which are critical to the creation of food borne illness. The implementation of the Food Safety Ordinance shall include defining and regulating food service establishments (including but not limited to taverns, bed and breakfast establishments, retail food stores, and temporary food establishments), the operation of such establishments, and requiring the license of such establishments within the limits of Marshall County.

SECTION C ADOPTION BY REFERENCE:

In addition to those provisions set forth herein, this Ordinance hereby adopts by reference the provisions set forth in the "State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750" and the provisions set forth in the "Public Area Sanitary Practice Code, Section 9 of 415 ILCS 55/9 and Section 2 20 ILCS 2305/2," "Food Handling Regulation Enforcement Act, 410 ILCS 625/3.1," "Bed and Breakfast Act," "Farmers Markets and Cottage Food Operations 625/4," "Smoke Free Illinois Act, 410 ILCS 82," "Illinois Plumbing License Law 225 ILCS 320," and any subsequent amendments or revisions thereto, one copy of each shall be on file in the office of the Marshall County Clerk.

SECTION D DEFINITIONS

1. **Adulterated** shall mean the condition of any food:
 - a. if 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 by regulation or in excess of such tolerance if one has been established
 - c. if it consists in whole or in part of any filthy, putrid or decomposed substance or it is otherwise unfit for human consumption
 - d. if it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health

Marshall County Health Ordinance
Food Safety Ordinance

- e. if it is whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter
- f. if its containers are composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health

- 2. **Applicant** means any person making application for a permit to the Marshall County Health Department
- 3. **Approved or approval** shall mean accepted or acceptable by the Health Department in accordance with applicable rules and regulations stated herein
- 4. **Authorized Representative** shall mean the legally designated Administrator of the Marshall County Health Department and shall include those persons designated by the Administrator to enforce the provisions of this Ordinance.
- 5. **Bed and Breakfast Establishment** shall mean an operator-occupied residence providing accommodations for a charge to the public with no more than five (5) guest rooms for rent, in operation for more than ten (10) nights in a twelve-month period; breakfast may be provided to the guests only; this term shall not include motels, hotels, boarding houses or food service.
- 6. **Continental Breakfast** breakfasts providing only non-potentially hazardous beverages, whole fruits, juices, and commercially prepared non-potentially hazardous baked good
- 7. **Food preparation** the handling, processing and/or serving of foods
- 8. **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 delicatessen type operations that prepare foods intended for individual portion service. The term does not include lodging facilities serving only a continental breakfast, retail food stores, or the location of food vending machines.
- 9. **Health Department** shall mean the Marshall County Health Department
- 10. **Health Officer** shall mean the Administrator of the Marshall County Health Department or his authorized representative.
- 11. **License** shall mean written authorization issued by the Health Department or its authorized representative
- 12. **Retail Food Store** means any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only whole fresh fruits and whole fresh vegetables for sale, food service establishments; or food and beverage vending machines.
- 13. **Temporary Food Establishment** shall mean a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration

Marshall County Health Ordinance
Food Safety Ordinance

14. **Vending Machine** shall mean any self-service device which upon insertion of a coin, coins or tokens or 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.

SECTION E LICENSES:

Beginning January 1, 2012 and every year thereafter, it shall be unlawful for any person or persons to operate a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment within the County of Marshall, State of Illinois, who does not possess a valid license issued by the Marshall County Health Department. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one person to another person, nor shall said license be applicable to any location, building, or place other than that for which it was issued. A valid license shall be posted in every food establishment so as to be clearly visible to all customers. A valid license is one that is not suspended, revoked, or expired.

1. **Issuance of Licenses:** Any person desiring to operate a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment, or to renew an expired license, shall make written application for a license on forms provided by the 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 all applicable laws adopted by reference in Section C of this Ordinance shall be eligible to receive or renew a food license. Such applications shall include at minimum:
 - a. the owner's/licensee's full legal name, mailing address, and telephone number
 - b. whether said owner/licensee is an individual, partnership, firm, or corporation
 - c. establishment name, address, telephone number, fax number, and email address
 - d. signature of applicant
 - e. type of establishment (i.e.: restaurant, retail store, tavern, school, mobile, bed and breakfast, deli, etc.)
 - f. hours of operation
 - g. hours of food preparation
 - h. manager's full legal name, mailing address, and telephone number
 - i. any other information deemed necessary for the proper review of the application by the Health Department
3. **Term:** The license shall be valid from July 1 through June 30 of each year, except temporary establishment licenses which shall have an expiration date of not longer than fourteen (14) consecutive days.
4. **Fees:** License fees shall be assessed annually for each licensed establishment and collected by the Health Department. License fees shall be based on the risk classification of the establishment.
 - a. The fee schedule is found in the Marshall County Health Department Environmental Health Fees Ordinance.
 - b. Provisions for annual license fees shall not apply to:
 - units of local government
 - public or private schools
 - senior centers or churches

Marshall County Health Ordinance
Food Safety Ordinance

c. Temporary Food Establishments fees:

- i. Provisions for temporary food establishment license fees shall not apply to nonprofit organizations.
- d. License fees will be non-refundable once a license has been issued by the Health Department.
- e. Annual renewal of licenses shall be required for continued operation of the establishment. Any license holder desiring to renew his/her license shall make proper application on renewal forms provided by the Health Department and pay the appropriate annual fee.
- f. Establishments failing to submit the appropriate fee and renewal application prior to the license expiration date shall be assessed a late payment penalty fee in addition to the appropriate license fee. Failure to submit the total fee required by the date of license expiration will result in an expired license and a request for cessation of food establishment operations by the Health Officer due to the lack of a valid license. The Health Officer shall remove a license, which has expired, from the establishment.
- g. Any person who operates a food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment, whether it is a new facility or a change of ownership, prior to the issuance of a license from the Health Department will be assessed a penalty fee in addition to the annual license fee at the time of application.

5. **Classification of Establishments:** For every food establishment operating in Marshall County, the Marshall County Health Department shall assess the relative risks of creating a food borne illness. This classification shall result in the facility being placed into a license category as it relates to food safety.

These license categories are not meant to imply that any given establishment is less safe than others. The criteria in the *State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750* shall be utilized to determine risk.

The Health Department may reclassify a food establishment based upon its experience with the facility (e.g., inspection history, number and frequency of violations, etc.) if in the opinion of the Health Officer, a health hazard will not result from such reclassification.

6. **Temporary Food Establishments:** Food service establishments including food stands that operate at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration must obtain a Temporary Food Establishment license from the Health Department prior to beginning operation.

7. **License Suspension:** At any time the Health Officer determines that a license holder or operator is not in compliance with the provisions of this Ordinance, he/she shall issue a notice under the provisions of this ordinance to the license holder or operator. Said notice shall state the nature of the violation and a reasonable time in which corrective action must be taken.

- a. In the event that such violation constitutes an immediate hazard to the public health, the aforesaid notice may also require the immediate suspension of the entire operation of the establishment or portions thereof. Any person to whom such notice is issued shall comply immediately therewith.

*Marshall County Health Ordinance
Food Safety Ordinance*

- b. Any person whose license has been suspended may make application for a re-inspection for the purpose of reinstatement of the license. Within two (2) days following receipt of the written request, including a signed statement by the applicant that in his/her opinion, the conditions causing suspension of the license have been corrected, the Health Officer shall make a re-inspection. If the applicant is found to be in compliance with the Ordinance, the license shall be reinstated.
- 8. **Revocation:** The license may be permanently revoked for repeated violations of those provisions of this Ordinance, which in the opinion of the Health Officer creates the possibility of a direct health hazard to the public, or for interference with the Health Officer in the performance of his/her duties. Prior to such action, the Health Officer shall notify the license holder that the license is subject to revocation and advise that the license shall be permanently revoked at the end of ten (10) days following service of such notice via certified mail or hand delivered unless a request for a hearing is filed in accordance with provisions within this Ordinance within said ten (10) day period.
- 9. **Cessation of Operations:** Licenses for all establishments shall automatically be revoked should the license holder or operator cease operation for thirty (30) consecutive days without providing prior notice to the Health Department. The license holder must then make application for a new license in accordance with the provisions of this Ordinance.
- 10. **Exemptions:** The following shall be exempt from the provisions of this Ordinance:
 - a. Establishments which have only non-perishable and/or non-potentially hazardous food and whose principle order of business is not to sell food for human consumption.
 - b. Temporary food establishments selling non-perishable and/or non-potentially hazardous foods.
 - c. Establishments which have only non-perishable and/or non-potentially hazardous food dispensed by vending machines.
 - d. Facilities licensed and inspected by the Illinois Department of Corrections.

SECTION F INSPECTIONS:

- 1. 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.
- 2. The Health Department shall provide consultation and/or on-site inspections for each temporary food establishment a minimum of one (1) time for each license issued; and shall make as many additional inspections or re-inspections as are necessary for the enforcement of this Ordinance.
- 3. **Right of Entry:** After the Health Officer presents official credentials and provides notice of the purpose of and an intent to conduct an inspection, the person in charge of the food establishment shall allow the Health Officer to determine if the food-service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment is in compliance with this Ordinance by providing access to the establishment, allowing inspection, and providing information and records specified in this

Marshall County Health Ordinance
Food Safety Ordinance

Ordinance and to which the Health Officer is entitled according to law during the establishment's hours of operation or other reasonable times.

4. Refusal of Entry: If a person denies access to the Health Officer, the Health Officer shall:

- a. Inform that person that:
 - i. The license holder is required to allow access to the Health Officer as specified in this Ordinance.
 - ii. Access for the purpose of inspection is a condition of the acceptance and retention of a food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment license to operate.
- i. If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law.
- b. If after the Health Officer presents credentials and provides notice, explains the authority upon which access is requested, and makes a final request for access, the person in charge continues to refuse access, the Health Officer shall provide details of the denial of access on an inspection report form.
- c. If denied access to a licensed food service establishment, retail food store, temporary food establishment, and/or bed and breakfast establishment for an authorized purpose, and after complying with the Ordinance, the Health Officer may issue, or apply for an issuance of, an inspection order to gain access as provided in law.

5. Report: Whenever an inspection of a food service establishment, retail food store, temporary food establishment, or bed and breakfast establishment is made, the findings shall be recorded on an inspection report.

- a. The Health Officer shall document on an inspection report form the following information:
 - i. Administrative information about the food-service establishment's, retail food store's, temporary food establishment's, and/or bed and breakfast establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
 - ii. Specific factual observations of violative conditions or other deviations from this Ordinance that require correction by the license holder.
- b. The Health Officer shall specify on the inspection report form the time frame for correction of the violations.
- c. At the conclusion of the inspection and according to law, the Health Officer shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgement of receipt. In the case that violations of this Ordinance are found, this inspection report shall serve as official notice to the

Marshall County Health Ordinance
Food Safety Ordinance

license holder or operator that the establishment is in violation of the provisions of this Ordinance.

- 6. Refusal to Sign Report:** If a person refuses to sign the report, the Health Officer shall:
- a. Inform the person who declines to sign an acknowledgement of receipt of inspectional findings that:
 - i. an acknowledgement of receipt is not an agreement with findings,
 - ii. refusal to sign an acknowledgement of receipt will not affect the license holder's obligation to correct the violation(s) noted in the inspection report within the time frames specified, and
 - ii. a refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the Health Department's historical record for the food establishment, and;
 - v. make a final request that the person in charge sign an acknowledgement receipt of inspectional findings.
- 7. Correction of Violations:** Enforcement procedures for the correction of violations of this Ordinance shall be carried out in accordance with procedures established by the Marshall County Board of Health.
- a. All "Critical" violations as noted on the inspection report will require immediate or twenty-four (24) hour correction and follow-up inspections will be conducted within one (1) working day. For the purposes of this Article, critical violations shall mean, but not limited to, those violations of the "State of Illinois, Food Service Sanitation Code 77 ILL. Adm. Code 750," and the "State of Illinois, Retail Food Store Sanitation Code 77 ILL. Adm. Code 760," and any subsequent amendments thereto, adopted by reference herein, that involve the following, but not limited to:
 - i. Time and Temperature Management
 - ii. Cross-Contamination
 - iii. Wholesomeness and Adulteration
 - i. Infected Employees
 - ii. Employee practices
 - iii. Facilities to maintain product temperature
 - b. All other violations noted on the inspection report will be corrected according to a compliance schedule as determined by the Health Officer and the license holder.
 - c. Verification and Documentation of Correction:
 - i. After observing at the time of inspection of a correction of a critical violation or deviation, the Health Officer shall enter the violation and information about the corrective action on the inspection report.
 - ii. As specified in the Ordinance, after receiving notification that the license holder has corrected a critical violation, or at the end of the specified period of time, the Health

Marshall County Health Ordinance
Food Safety Ordinance

Officer shall verify correction of the violation, and document the information on an inspection report.

- d. Except as specified in the Ordinance, the license holder shall correct all other violations by a date and time agreed to or specified by the Health Officer.
8. **Public Information:** The Health Department shall treat the inspection report as a public document and shall make it available upon request, as provided by law.
9. **Imminent Health Hazard**
 - a. Except as specified in this Ordinance, a license holder shall immediately discontinue operations and notify the Health Department if an imminent health hazard may exist because of an emergency including but not limited to fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health.
 - b. A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard, unless those areas can not operate in compliance with the code.
10. **Resumption of Operations:** If operations are discontinued as specified under the Ordinance or otherwise according to law, the license holder shall obtain approval from the Health Officer before resuming operations.

SECTION G EXAMINATION AND CONDEMNATION OF FOOD AND/OR EQUIPMENT:

1. Food may be examined or sampled by the Health Officer to determine freedom from adulteration or misbranding. The Health Officer may, upon written notice to the license holder, condemn or embargo any food, which he determines, or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Condemned or embargoed food may 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.

It shall be unlawful for any person to remove or alter a condemnation or embargo order, notice, or tag placed on food/or food containers by the Health Officer, and neither such food nor containers thereof shall be relabeled, replaced, reprocessed, altered, disposed of, or destroyed without the permission of the Health Officer, except an order by a Court of competent jurisdiction. If the license holder requests a hearing as provided within the provisions of this Ordinance, and on the basis of evidence produced at such hearing, the Health Officer may vacate the condemnation or embargo order.
2. Any potentially hazardous food found to be in the optimal temperature range of 42 to 134 degrees F for the growth of pathogenic food borne bacteria by the Health Officer during an inspection of an establishment will be subject to immediate condemnation. The condemned food shall be held under embargo until it has been proved satisfactory for human consumption by a certified laboratory at the expense of the license holder if the food product is not voluntarily destroyed immediately.

Marshall County Health Ordinance
Food Safety Ordinance

3. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, display, or service of food, such equipment shall be taken out of use and a hold order placed on said equipment by the Health Officer. Such equipment may not be put back into service until written permission is obtained from the Health Officer. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on equipment by the Health Officer. Such equipment will not be altered, disposed of, or destroyed without permission of the Health Officer except on an order of a Court of competent jurisdiction.

SECTION H ADULTERATED FOOD:

No food service establishment, retail food store, bed and breakfast establishment, or temporary food establishment shall offer for sale or keep for the purpose of selling or offering for sale, any food of any kind intended for human consumption which is adulterated for any reason, or violate any rule or regulation as provided herein.

SECTION I EMPLOYEE HEALTH:

When the Health Department has reasonable cause to suspect the possibility of disease transmission by any food service establishment, retail food store, bed and breakfast establishment, temporary food establishment, or an employee thereof, the Health Officer shall make such investigation as may be indicated, including the morbidity history of suspected employees and take appropriate action. The Health Officer may require any or all of the following measures:

1. The immediate exclusion of the employee from any food handling activities.
2. Restriction of the employee service to some area of the establishment where there will be no danger of transmitting disease.
3. Adequate medical and laboratory examinations of the employee and, if deemed necessary, other employees, and of his/her and/or their body discharges.
4. No employee shall be allowed to return to work in the establishment until the Health Officer certifies that the employee no longer presents a health hazard.

Any person to whom such an order is issued shall comply immediately therewith, failure to comply with such an order shall entitle the Health Officer to petition the Circuit Court for an order seeking compliance with any and all of the above measures. Pursuant to the Administrative search provisions of this Ordinance, the Health Officer shall be licensed to examine employee records to obtain pertinent information required to prevent the possibility of disease transmission.

SECTION J FOOD OUTSIDE JURISDICTION:

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

SECTION K PLAN REVIEW:

Marshall County Health Ordinance
Food Safety Ordinance

1. **When Plans Are Required:** Any person who owns/operates, or wishes to own/operate, a food service establishment, retail food store, and/or bed and breakfast establishment, shall submit to the Health Department properly prepared plans and specifications for review and approval before:
 - a. the construction of a food establishment;
 - b. the conversion of an existing structure for use as a food establishment;
 - c. the remodeling of a food establishment or a change of type of food establishment or food operation that plans and specifications are necessary to ensure compliance with this Ordinance.
 - d. the change of ownership if deemed necessary by the Health Department.
2. **Contents of the Plans and Specifications:** The plans and specifications for a food establishment shall include the following information to demonstrate conformance with Ordinance provisions:
 - a. intended menu;
 - b. anticipated volume of food to be stored, prepared, and sold or served;
 - c. proposed layout, mechanical schematics, construction materials, and finish schedules;
 - d. proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capabilities, and installation specifications;
 - e. Other information that may be required for the proper review of the proposed construction or remodeling.
3. **Plan Review Fee:** A non-refundable plan review fee must be paid at the time that the plan review is submitted to the Health Department. Refer to the Marshall County Health Department Environmental Health Fee Schedule for all fees.
4. **Approval of Plans:** The Health Officer shall approve the plan and specifications, if they meet the requirements of this Ordinance. No food service establishment, bed and breakfast establishment, or retail food store shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the Health Officer.
- 5.. **Pre-Opening Inspections:** Whenever plans and specifications are required by provisions of this Ordinance to be submitted to the Health Department, the Health Officer shall inspect the food service establishment, bed and breakfast, or retail food store prior to the beginning or resumption of operations to determine compliance with the approved plans and specifications and the requirements of this Ordinance prior to the issuance of a license to operate.

SECTION L VARIANCES:

The Health Department may grant a variance by modifying or waiving the requirements of this Ordinance if in the opinion of the Health Officer a public health hazard will not result from the issuance of the variance. If a

Marshall County Health Ordinance
Food Safety Ordinance

variance is granted, the Health Department shall retain all pertinent information in its records for the establishment.

1. **Documentation of Proposed Variance and Justification:** Before a variance from a requirement of this Ordinance is granted, the following information must be provided by the person requesting the variance and approved by the Health Department:
 - a. A statement of the proposed variance of the Rules and Regulations citing relevant Ordinance section numbers;
 - b. An analysis of the rationale for how the potential public health hazards addressed by the relevant Ordinance sections will be alternatively addressed by the proposal.
2. **Conformance with Approved Procedures:** If the Health Department grants a variance as provided under this section, the license holder shall comply with the plans and procedures that are submitted and approved as a basis for the variance.
3. **Existing Construction and Equipment:** The Health Department may accept existing facilities or equipment that were in use before the effective date of this Ordinance and that do not fully meet all of the current code requirements for design and construction, if:
 - a. The facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
 - b. Food contact surfaces are in good repair and capable of being kept in a condition not prejudicial to public health.
 - c. The facilities and equipment shall be brought into substantial compliance with current rules and regulations upon change of ownership.

SECTION M ADDITIONAL REQUIREMENTS:

1. If necessary to protect against public health hazards or nuisances, the Health Department may impose specific requirements in addition to the requirements contained in this Ordinance that are authorized by law.
2. The Health Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Health Department file for the food establishment.

SECTION N AMENDMENTS TO ARTICLE:

This article can be changed by action of the Marshall County Board at any meeting provided all appropriate notice and hearing requirements have been met.

SECTION O PENALTIES:

*Marshall County Health Ordinance
Food Safety Ordinance*

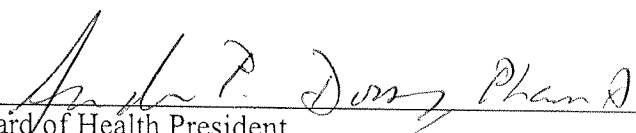
Any person who violates any provision of this Ordinance shall be guilty of a Class B misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or other dispositions as provided in the United Code of Correction in effect now or hereafter amended. Each day upon which a violation occurs shall constitute a separate violation.

SECTION P EFFECTIVE DATE:


Passed and adopted this 8 day of September, 2011, by the Marshall County Board.

Amended April 27th, 2016

Amended October 26th, 2016



Board of Health President
County of Marshall, Illinois



Chairman of County Board
County of Marshall, Illinois