

62
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1978 Food Service & Sanitation
Ordinance

KENDALL COUNTY HEALTH
DEPARTMENT

STATE OF ILLINOIS
COUNTY OF KENDALL
FILED
AUG 8 1978

Jean P. Prody 

8/8/78
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PROPOSED FOOD SERVICE AND SANITATION ORDINANCE

An ordinance defining food, potentially hazardous food, food-service establishment, temporary food-service establishment, regulatory authority, utensils, equipment, etc., providing for the sale of food from approved sources, wholesome, properly labelled food; establishing sanitation standards for food, food protection, food-service personnel, food-service operations, food equipment and utensils, sanitary facilities and controls, and other facilities; requiring permits; requiring state certified food managers for the operation of food-service establishments whose names and certificate numbers shall be maintained at the place of business, requiring the posting of permit, and choke-saving instructional placard on the premises; regulating the inspection of such establishments; providing for incorporation by reference of the 1975 Edition of the "Illinois Department Of Public Health Food Service Sanitation Rules and Regulations" and subsequent revisions and providing for the enforcement of this ordinance, and the fixing of penalties.

NOW, THEREFORE, BE IT ORDAINED, by the Kendall County Board as follows:

SECTION I. With regard to the rules and regulations to provide minimum sanitation procedures and controls to assure that foods served to the consuming public are safe, wholesome and prepared and served under sanitary conditions, the 1975 Editions Of The Illinois Department Of Public Health Food Service Sanitation Rules and Regulations and any subsequent revision, is hereby adopted by reference.

SECTION II. Permits, Inspection and Plan Review

1. Permits: It shall be unlawful for any person to operate a food establishment within the County of Kendall, or its police jurisdiction, who does not possess a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a permit. Conditional permits not to

exceed sixty (60) days may be granted to new establishments that are in substantial compliance. Permits for temporary food-service establishments shall be issued for a period of time not to exceed 14 days. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in every food-service establishment.

a. Issuance of Permits: Any person desiring to operate a food-service establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include: the applicant's full name, post office address and telephone number and whether such applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses shall be included; the location and type of the proposed food-service establishment; and the signature of the applicant or applicants. 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, the regulatory authority shall make an inspection of the food-service establishment to determine compliance with the provisions of this ordinance. When inspection reveals that the applicable requirements of this ordinance have been met, a permit shall be issued to the applicant by the regulatory authority.

b. Suspension of Permits: Permits may be suspended temporarily by the regulatory authority for failure of the holder to comply with the requirements of this ordinance.

Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of Section I of this ordinance, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a

hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder.

Notwithstanding the other provisions of this ordinance, whenever the regulatory authority finds insanitary or other conditions in the operation of a food-service establishment which, in his judgment, constitute a substantial hazard to the public health, he may without warning, notice, or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended, and all food-service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the regulatory authority, shall be afforded a hearing as soon as possible.

c. Reinstatement of Suspended Permits: An person whose permit has been suspended may, at any time, make application for reinspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the regulatory authority shall make a reinspection. If the applicant is complying with the requirements of this ordinance, the permit shall be reinstated.

d. Revocation of Permits: For serious or repeated violations of any of the requirements of this ordinance, or for interference with the regulatory authority in the performance of his duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the regulatory authority. Prior to such action, the regulatory authority shall notify the

permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of 5-days following service of such notice, unless a request for a hearing is filed with the regulatory authority, by the permit holder, within such 5-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

e. Hearings: The hearings provided for in this Section shall be conducted by the regulatory authority at a time and place designated by him. Based upon the record of such hearing, the regulatory authority shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the regulatory authority.

2. Inspection of Food-Service Establishments: At least once every six (6) months, the regulatory authority shall inspect each food-service establishment located in the County of Kendall, or its police jurisdiction, and shall make as many additional inspections and reinspections as are necessary for the enforcement of this ordinance.

a. Access to Establishments: The regulatory authority, after proper identification, shall be permitted to enter, at any reasonable time, any food-service establishment within the County Of Kendall, or its police jurisdiction, for the purpose of making inspections to determine compliance with this ordinance. He shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used, and persons employed.

b. Inspection Records; Permit Weight; Sanitation Scores: Whenever the regulatory authority makes an inspection of a food-service establishment, he shall record his findings on an inspection form provided for this purpose,

and shall furnish the carbon copy of such inspection report form to the permit holder or operator. Such form shall summarize the requirements of Section I of this ordinance and shall set forth demerit weight for each requirement. Upon completion of an inspection, the regulatory authority shall total the demerits for all requirements in violation. By subtracting this total demerits from 100, the net value becomes a sanitation score for the establishment.

c. Issuance of Notices: Whenever the regulatory authority makes an inspection of a food-service establishment and discovers that any of the requirements of Section I of this ordinance have been violated, he shall notify the permit holder or operator of such violation by means of an inspection report form or other written notice. In such notification, the regulatory authority shall:

(1) Set for the specific violations found, together with the sanitation score of the establishment.

(2) Establish a specific and reasonable period of time for the correction of violations found, in accordance with the following provisions:

(a) Regardless of the sanitation score all critical sanitary violations (ie 4 and 5 demerit point items) and/or those of a procedural nature shall be corrected immediately. In any event, such items must be corrected within a period of time not to exceed 10 days.

(b) When the sanitation score of the establishment is 80 or above, all 1 or 2 demerit point items be corrected by the time

of next routine inspection.

(c) When the sanitation score of the establishment is between 60 and 79, all 1 or 2 demerit point items must be corrected within a period of time not to exceed 30 days.

(d) When the sanitation score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. If no improvement is made within 10 days, the permit is immediately suspended.

(e) In the case of temporary food-service establishments, violations must be corrected within a specified period of time not to exceed 24 hours. Failure to comply with such notice shall result in immediate suspension of the permit.

(3) State that failure to comply with any notice issued in accordance with the provisions of this ordinance may result in immediate suspension of the permit.

(4) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the regulatory authority within the period of time established in the notice for correction.

d. Service of Notices: Notices provided for under this section shall be deemed to have been properly served when the original of the notice or copy of the inspection form has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of such notice shall be filed with the records of the regulatory authority.

3) Examination and Condemnation of Food: Food may be examined or sampled by the regulatory authority as often as may be necessary to determine freedom from adulteration or misbranding. The regulatory authority may, upon written notice to the owner or person in charge, place a hold order to any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated, or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on food by the regulatory authority, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the regulatory authority, except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in subsection II, i.e., and on the basis of evidence produced at such hearing, or on the basis of his examination in the event of written request for a hearing, is not received within ten (10) days, the regulatory authority may vacate the hold order, or may by written order direct the owner or person in charge of the food which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this ordinance: Provided, that such order of the regulatory authority to denature or destroy such food or bring it into compliance with the provisions of this ordinance shall be stayed if the order is appealed to a court of competent

jurisdiction within three (3) days.

(4) Plan Review of Future Construction: When a food-service establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food-service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangement, and construction materials of work areas, and the location, size, and type of fixed equipment and facilities, shall be submitted to the regulatory authority for approval before such work is begun.

(5) Procedure When Infection is Suspected: When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food-service establishment employee, the regulatory authority shall secure a morbidity history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The regulatory authority may require any or all of the following measures:

(a). the immediate exclusion of the employee from all food-service establishments;

(b) the immediate closure of the food-service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;

(c) restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and

(d) adequate medical and laboratory examinations of the employees, of other employees, and of his and their body discharges.

SECTION III: Choke-Saving Posters: Each food-service establishment in Kendall County shall have posted in a conspicuous location that is visible to patrons and employees on the premises, but which location need not be in the actual dining areas, instructions concerning at least one method of first aid assistance to choking persons. An example is the Heimlich Maneuver.

SECTION IV PENALTIES: Any person who violates any of the provisions of this ordinance shall be guilty of a class B misdemeanor. In addition, thereto, such a person may be enjoined from continuing such violations. Each day upon which such violations occur constitutes a separate violation.

SECTION V FEES: The annual fee for a permit to operate a food-service establishment in Kendall County shall be the multiplication product of fifty (50) cents and the seating capacity in the establishment from a minimum of fifteen (15) dollars to a maximum of fifty (50) dollars.

Fee payment is renewable on the anniversary of the current permit. Application for renewal of permit must be submitted thirty (30) days prior to expiration of the current permit. Permit fee for a temporary food-service establishment shall be ten (10) dollars and the permit application shall be submitted at least forty-eight (48) hours prior to the planned opening.

School, religious, voluntary or non-profit making community organizations and institutions will not be charged a permit fee but a permit is required.

SECTION VI UNCONSTITUTIONALITY CLAUSE: Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional

or invalid for any reason, the remainder of said ordinance shall not be affected thereby.

SECTION VII REPEAL AND DATE OF EFFECT: This ordinance shall be in full force and effect upon its adoption, and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

BE IT FURTHER RESOLVED that this Kendall County Food and Sanitation Ordinance be printed in book or pamphlet form and published by authority of the Kendall County Board.

ADOPTED AND APPROVED THIS 8 DAY OF August 1978.

Robert S. Cherry
Chairman, Kendall County Board

Ayes:

Nayes:

Attest: John P. Brady
Kendall County Clerk