

## **Henderson County Food Ordinance**

An ordinance defining and regulating the inspection of food service establishments and retail food stores; providing for the examination and condemnation of food; providing for the enforcement of Sections 750.10 through 750.1700 of the Illinois Food Service Sanitation Rules and Regulations, Illinois Food Store Rules and Regulation, Illinois Department of Public Health; and providing for the enforcement of this ordinance and affixing of penalties, and adopt by reference the Bed and Breakfast Act.

### **BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF HENDERSON, STATE OF ILLINOIS AS FOLLOWS:**

#### **Section A: RULES AND REGULATIONS**

The current edition of rules and regulations on file with the Secretary of State's Office promulgated by the Illinois Department of Public Health and subject to amendments and revisions pertaining to food service establishments and retail food stores are hereby adopted by reference. Three copies of each set shall be on file in the Henderson County Clerk's Office.

#### **Section B: DEFINITIONS**

In addition to the definitions contained in the above rules and regulations, the following definitions shall apply in the interpretation and enforcement of this ordinance:

1. **ADULTERATED** shall mean the condition of any food:
  - a) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
  - b) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or in excess of such tolerances if one has been established.
  - c) if it consists in whole or in part of any filthy, putrid, or decomposed substance or if it is otherwise unfit for human consumption.
  - d) if it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.
  - e) if it is in whole or in part the product of a diseased animal 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. **REGULATORY AUTHORITY** shall mean the Henderson County Health Department or an authorized representative thereof.
  3. **TEMPORARY FOOD SERVICE ESTABLISHMENT** means food service establishment that operates at a fixed location for a period of at least 2 days but not more than 14 consecutive days in conjunction with a single event or celebration.

### **Section C: ENFORCEMENT PROVISIONS**

1. **PERMIT:** It shall be unlawful for any person to operate a food service establishment or retail food store within the County of Henderson, State of Illinois, 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. Permits shall not be transferable from one person to another person or place. A valid permit shall be posted in a conspicuous place in every food service establishment.

Permits for permanent food-service establishments and retail food stores shall expire one year following the date of issuance. Permits for temporary food-service establishments and temporary retail food stores shall be issued for a period of time not to exceed 14 days.

- a) **Issuance of permits:** Any persons desiring to operate a food-service establishment or retail food store or to renew an expired permit shall make written application for a permit on forms provided by the Henderson County Health Department. Such application shall include the applicant's full name and post office address and whether such applicant is an individual, firm, corporation, or a partnership; the names and types of proposed food-service establishment or retail food store; and the signature of the applicant or applicants. If the application is for a temporary food-service establishment or temporary retail food store, it shall also include the inclusive dates of proposed operation.

Upon receipt of such an application, the Henderson County Health Department shall make an inspection of the 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 Henderson County Health

Department.

b) **Renewal of Permits:** Whenever the inspection for renewal of a permit reveals serious or repeated violations of this ordinance, the permit will not be issued and the Henderson County Health Department shall notify the applicant immediately thereof. Such notice shall state the reasons for not renewing the permit. Such notice shall also state that an opportunity for a hearing shall be provided for the applicant at a time and place designated by the Henderson County Board of Health. Such hearing shall be scheduled not later than 10 days from the date of the notice. The notice referred to in this paragraph shall be delivered to the applicant in person by the Henderson County Health Department or may be sent by registered mail, return receipt requested. A permit, which has expired, shall be removed from the establishment by the Henderson County Health Department.

c) **Suspension of permits:** Permits may be suspended temporarily by the Henderson County Health Department for failure of the permit 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 provision of Section C of the 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 is filed with the Henderson County Health Department by the permit holder.

Upon suspension of the permit, the permit shall be removed from the establishment by the Henderson County Health Department and returned to the Health Department. Notwithstanding the other provisions of this ordinance, whenever the Henderson County Health Department finds unsanitary or other conditions in the operation of a food service establishment or retail food store which in his/her judgment, constitute a substantial hazard to the public health, he/she 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 operations as a food-service establishment or retail food store are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Henderson County Health Department shall be afforded a hearing as soon as possible.

d) **Reinstatement of Suspended Permits:** Any person whose

permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the permit. Within 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 Henderson County Health Department shall make a reinspection. If the applicant is complying with the requirements of this ordinance, the permit shall be reinstated.

- e) **Revocation of Permits:** For serious or repeated violations of any of the requirements of this ordinance, or for interference with the Henderson County Health Department in the performance of his/her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Henderson County Board of Health. 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 Henderson County Health Department, by the permit holder, within such 5-day period. A permit may be suspended for a cause pending its revocation or a hearing relative thereto.
- f) **Hearings:** The hearings provided for in this ordinance shall be conducted by the Henderson County Board of Health at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer (Chairman of Board of Health) shall make provision for sufficient copies of the transcript. The Henderson County Board of Health shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Henderson County Health Department.
- g) **Application After Revocation:** Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.
- h) **Fees:** Annual Permit fees shall be established by the Henderson County Board of Health. The following fee for permit shall be required for food service establishments and retail food stores. This fee shall be collected by the Henderson County Health Department and shall be deposited into the Health Department fund. There will be no charges made for such permits to any schools, religious, voluntary or non-profit making community organizations and institutions.

## 2. INSPECTIONS

### a) **Frequency of inspections:**

**Class I** facilities shall receive three inspections per year, or two inspections per year if one of the following conditions is met:

- 1.) a certified food service manager is present at all times the facility is in operation or
- 2.) employees involved in food operations receive a HACCP training exercise, in-service training in another food-service sanitation area, or attend an educational conference on food safety or sanitation.

**Class II** facilities shall receive one inspection per year.

**Class III** facilities shall receive one inspection every two years.

The Henderson County Health Department shall inspect each food service establishment and retail food store within the County of Henderson, Illinois, and shall make as many additional inspections as are necessary for the enforcement of this ordinance.

b) **Right of Entry** - The Henderson County Health Department, after proper identification, shall be permitted to enter at any reasonable time any food-

service establishment or retail food store in the County of Henderson, State of Illinois, for the purpose of making inspections to determine compliance with this ordinance. We shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received, or used and person employed.

c) **Report of Inspection** - Whenever an inspection of food-service establishments or retail food store is made, the findings shall be recorded on an inspection report that is substantially equivalent to that of the State of Illinois Department of Public Health Retail Food Establishment Inspection Report. One copy of the inspection report from should be furnished to the person in charge of the establishment. The complete inspection available for public disclosure to any person who requests it. The inspection report form shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point values for all violations subtracted from 100 shall be shown on all copies of the report.

### d) **Correction of Violations:**

1. The timing and procedure for the correction of all violations noted during

an inspection shall be as provided in the Henderson County Health Department Food Service Rules, Regulations, and Enforcement Procedures approved by the Henderson County Board of Health.

2. The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for a hearing on the Inspection findings or the time limitations or both will be provided if a written request is filed with the Henderson County Health Department within 10 days following cessation of operations. If a request for hearing is received, a hearing shall be held within 20 days of receipt of the request.

3. **EXAMINATION AND CONDEMNATION OF FOOD AND/OR EQUIPMENT**

- a) **Food** - Food may be examined or sampled by the Henderson County Health Department as may be necessary to determine freedom from adulteration or misbranding. The Henderson County Health Department may, upon written notice to the owner or person in charge, place a hold order on 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 move or alter a hold order notice or tag placed on food by the Henderson County Health Department. Neither such food nor the containers thereof shall be relabeled, repackaged or reprocessed, altered, disposed of, or destroyed without permission of the Henderson County Health Department, except on an order by court of competent jurisdiction. After the owner or person in charge has had a hearing as provided in Section c.1.f., 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 10 days, the Henderson County Health Department may vacate the hold order or may, by written order, 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

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provisions of this ordinance. Such order shall be stayed if the order is appealed to a court of competent jurisdiction within three days.

- b) 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 a hold order placed on said times by the Henderson County Health Department. Such equipment may not be put back into service until written permission is obtained from the Henderson County Health Department. It shall be unlawful for any person to move or alter a hold order notice or tag placed on equipment

by

the Henderson County Health Department. Such equipment will not be altered, disposed of or destroyed without permission of the Henderson County Health Department except on an order in a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided in Section c.1.f. and on the basis of the evidence produced at such hearing or on the basis of examination in the event of a written request for a hearing is not received within ten days, the Henderson County Health Department 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 days.

**4. PROCEDURE WHEN INFECTION IS SUSPECTED**

When the Regulatory Authority has reasonable cause to suspect possibility of disease transmission from any food-service establishment employee, it shall secure a morbidity history of the suspected employee or make any other investigation as may be indicated, and take appropriate action. The Henderson County Health Department may require any or all of the following measures:

- A.) immediate exclusion of the employee from any food handling activities.
- B.) immediate closure of the establishment concerned until in the opinion of the Henderson County Health Department, no further danger of disease outbreak exists.

**5. FOOD HANDLERS CLASSES**

The Henderson County Health Department may order any food handler to attend an immediate food handler training course when, in the judgment of the Henderson County Health Department, the work habits of said food handler constitutes a hazard to public health. Fees may be charged by the Henderson County Health Department to offset the cost of the course.

**Section D: FOOD ESTABLISHMENTS OUTSIDE JURISDICTION OF HEALTH AUTHORITY**

Food from establishments outside the jurisdiction of the Henderson County Health Department of the County of Henderson, State of Illinois, may be sold in the County of Henderson, State of Illinois, 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 Henderson County Health Department may accept reports from responsible in other jurisdictions where such food establishments are located.

**Section E: PLAN REVIEW OF FUTURE CONSTRUCTION**

1. Whenever a food service establishment or retail food store is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Henderson County Health Department for review and approval before construction, remodeling or conversion is begun. The plans and specifications of proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Henderson County health Department shall approve the plans and specifications, if they meet the requirements of the Ordinance. No food service establishment or retail food store shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Henderson County Health Department.
2. **Pre-operational Inspection** - Whenever plans and specifications are required by Section E.1 of this ordinance to be approved the Department shall inspect the food service establishment or retail food store prior to the start of operations, to determine compliance with the approved plans and specifications and with the requirements of this ordinance.

#### **Section F: PENALTIES**

Any person who violates any provision of this ordinance, or any rules and regulations adopted herein shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than 5\$ or more than \$100. In addition thereto, such person may be enjoined from continuing such violations. Each day upon which such violations occur shall constitute a separate offense.

#### **Section G: REPEAL AND DATE OF EFFECT**

1. This ordinance shall be in full force and effect one day after its adoption as provided by law; and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.
2. Except in those instances where an immediate and severe hazard to public health exists, the enforcement provision as stated in Section C.2.d. shall not become effective inventory inspection of each establishment or one (1) year following the effective date of this ordinance, whichever represents the earliest date.

#### **Section H: UNCONSTITUTIONAL CLAUSE**

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