

CHAPTER 18. HEALTH

ARTICLE 18-2. FOOD AND FOOD HANDLERS

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Section 18-2.1. Definitions

1. “BAKERY” means a separate food establishment or portion of a retail grocery store utilized for the preparation of baked goods.
2. “BANQUET KITCHEN” means a food service establishment or portion thereof that prepares a supply of food to groups of 20 or more persons for onsite consumption.
3. “BAR/LOUNGE/TAVERN” means service of alcoholic mixed drinks, beer or wine separate from the kitchen.
4. “CATERER” means a food establishment or portion thereof that prepares and conveys or has conveyed a supply of food to the consumer offsite for consumption.
5. “DELI” means a food establishment or portion of a retail grocery store where ready-to-eat foods, such as processed meats and salads, are offered or served.
6. “DEPARTMENT” means the DuPage County Health Department.
7. “DIRECTOR” means the Executive Director of the DuPage County Health Department or their designee.
8. “FEE EXEMPT” means the license or permit holder has the status of being: a) a non-governmental organization that has Illinois not-for-profit status that does not charge for services b) a temporary event operator that has Illinois not-for profit status that uses the event as a fundraising activity.
9. “FISH MARKET” means a food establishment or portion of a retail grocery store where fresh seafood is offered or served.
10. “FOOD/BEVERAGE KIOSK” means a free-standing structure with one or more open sides from which a person serves or prepares food or beverages.
11. “HEALTH AUTHORITY” means that person or persons designated by the DuPage County Board of Health to enforce this Ordinance.
12. “LICENSE FEE” means a renewable fee charged for the issuance of a license by the Dupage County Health Department.
13. “PERSON” means an individual or a firm, partnership, company, corporation, trustee, association, or public or private entity.
14. “RISK TYPE 1” means pre-packaged potentially hazardous foods (PHF) only. Limited preparation for non-potentially hazardous foods. Seasonal operations (less than six months).

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15. “RISK TYPE 2” means limited menu (one or two main items). Pre-packaged raw ingredients are cooked or prepared to order. Retail food operations excluding deli, seafood and/or vacuum packaging operations.
16. “RISK TYPE 3” means raw ingredients requiring minimal assembly. Products are cooked/prepared and served. Hot and cold holding of potentially hazardous foods is restricted to single meal service. Preparation processes requiring cooking, cooling and reheating are limited to one or two potentially hazardous food items. The category includes childcare facilities and schools.
17. “RISK TYPE 4” means extensive handling of raw ingredients. Preparation processes include the cooking, cooling and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of PHF. Advanced preparation for next day service is limited to no more than two items. Retail food store deli, seafood and vacuum packaging areas are included in this category.
18. “RISK TYPE 5” means extensive handling of raw ingredients. Preparation processes include the cooking, cooling and reheating of PHF. A variety of processes require hot and cold holding. Advance preparation for next day service includes 3 or more food items.
19. “RISK TYPE 1A” means limited to pre-packaged frozen foods and non-potentially hazardous foods.
20. “RISK TYPE 2A” means limited to not (hot) and cold holding of pre-packaged potentially hazardous foods and dispensed beverages.
21. “RISK TYPE 3A” means raw ingredients requiring minimal assembly. Products are cooked/prepared and served. Hot and cold holding of potentially hazardous foods is restricted to single meal service.
22. “RISK TYPE 1B” means food with minimal to no handling during preparation and service.
23. “RISK TYPE 2B” means potentially hazardous foods that have limited handling and assembly onsite prior to cooking or service of non-potentially hazardous foods that require extensive onsite preparation.
24. “RISK TYPE 3B” means potentially hazardous foods that have extensive preparation, assembly onsite prior to cooking or service.
25. “SERVICE FEE” means a fee charged for a service provided by the DuPage County Health Department which is not a renewable permit or license fee.
26. “SCHOOL MEALS” means a food establishment or portion thereof that prepares or conveys or has conveyed a supply of food to a school.
27. “SUPPLEMENTAL RESTAURANT” means a food establishment thereof, outside of the main kitchen, from which food or beverage is offered or served.

Section 18-2.2. Common Usage.

Terms not herein defined shall have the meaning customarily assigned to them.

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Section 18-2.3. Adoption by Reference.

The Illinois Department of Public Health, Division of Food and Drugs, booklets, “Food Service Sanitation and Rules and Regulations” and “Retail Food Store Sanitation Rules and Regulations” and any subsequent revisions thereto are hereby adopted by reference.

Section 18-2.4. Permits in General.

It shall be unlawful for any person to operate a food service establishment and/or retail food store within DuPage County in the State of Illinois, who does not possess a valid permit issued to him by the Health Authority. A valid permit shall be posted at all times so as to be clearly visible to all patrons.

Permits for permanent food service establishments and retail food stores shall be valid for one year following the date of issuance unless suspended or revoked as herein provided. Permits for temporary food service establishments and temporary retail food stores shall be valid only for the period of time designated for said temporary permit, but in no event shall said temporary permit exceed one (1) year from the date of issuance.

Section 18-2.5. Issuance of Permits.

Any person desiring a permit to operate a food service establishment or retail food store, or any person desiring to renew such a permit, shall make written application on forms provided by the Health Authority. Such application shall include, but not be limited to, the following:

1. The full name and post office address(es) of the person(s) applying, and whether such applicant is an individual, partnership or corporation.
2. The name, location and type of the proposed food service establishment or retail food store.
3. The signature of the applicant(s).

If the application is for a temporary food service establishment or temporary retail food store, it shall also specify the dates of the proposed operation.

Upon receipt of such application, the Health Authority shall make an inspection of the food service establishment to determine compliance with the provisions of this ordinance. If the inspection reveals that the applicable requirements of this Ordinance have been met, a permit shall be issued by the Health Authority.

Section 18-2.6. Permit Fee.

The fee to be charged for the issuance of a permit shall be in accordance with Section 18-1.2.

Section 18-2.7. Renewal of Annual Permits.

An application must be completed annually prior to the expiration date of the permit. Whenever an inspection or the record reveal(s) a serious or repeated violation of this ordinance, the permit may not be renewed and the Health Authority shall, within a reasonable time, so notify the applicant in writing. Such notice shall state that an opportunity for a hearing shall be provided for the applicant at a reasonable time and place designated by the Health Authority. Such a hearing

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shall be scheduled not less than seven (7) days nor later than twenty-one (21) days from the date of the notice. The notice referred to in this paragraph shall be delivered to the applicant in person by the Health Authority or may be sent by registered or certified mail.

Section 18-2.8. Suspension of Permits.

Whenever the Health Authority determines that a food service establishment or retail food store fails to comply with the provisions of this Ordinance and any rules and regulations herein adopted or any notice issued hereto, the permit therefore may be suspended. The person in charge shall then be advised in writing of the intended suspension, the reason therefore and the effective date of such suspension. Any time prior to the effective date of such suspension, the person in charge may file with the Health Authority a written request for a hearing to show cause why such suspension should not ensue. Notwithstanding any other provision of this Ordinance, whenever the Health Authority finds any condition in the operation of a food service establishment or retail food store which, in his judgment, constitutes a substantial hazard to the public health, he shall immediately and without warning or hearing notify the person in charge of said condition and suspend the permit. All food service operations shall then be immediately discontinued.

Section 18-2.9. Reinstatement of Suspended Permits.

Any person whose permit has been suspended may apply in writing for a reinstatement of the permit when the conditions causing the suspension have been corrected and a written plan to address monitoring of those issues for which the permit was suspended is submitted and approved by the Health Authority. When the Health Authority has verified that said corrections and a written plan to assure continued compliance have been satisfactorily completed, said permit shall be reinstated.

Section 18-2.10. Revocation of Permits.

The Health Authority may revoke any permit for serious or repeated violations of this Ordinance, or for interference with the Health Authority in the performance of his duties. Prior to such action, the Health Authority shall notify in writing the person in charge advising him of the intended revocation, the reason and effective date of such permanent revocation. Any time prior to revocation, the person in charge may file with the Health Authority a written request for a hearing to show cause why such revocation should not ensue.

Application for a permit, following revocation, shall require a plan review and compliance with all current applicable Rules and Regulations.

Section 18-2.11. Hearing.

The hearings provided for in this section shall be conducted by the Health Authority (other than the person making the field inspection) at a time and place designated by him. Based upon the record of such hearing, the Health Authority shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. The decision of the Health Authority shall be furnished to the permit holder in writing and said decision shall be final.

Section 18-2.12. Inspection of Food Service Establishments & Retail Food Stores.

The Health Authority shall inspect each food service establishment and retail food store located within the County of DuPage, State of Illinois, in accordance with the Illinois Department of Public Health Local Health Protection Grant Rules and shall make as many additional inspections as necessary for the enforcement of this Ordinance.

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Section 18-2.13. Access to Establishments.

The Health Authority, after showing proper identification, shall have access at any reasonable time to a facility regulated by this Ordinance. The Health Authority shall be permitted to examine all areas and records of the facility which are reasonably necessary to its inspection or investigation. Denial of access as herein provided shall be deemed an interference with the Health Authority in the performance of its duties, provided that the Health Authority has presented proper identification, if requested.

Section 18-2.14. Inspection Records.

Whenever the Health Authority makes an inspection, it shall record its findings on an inspection report form provided for that purpose. The original copy of each said report shall be given to the person in charge. The most recent inspection report shall be posted in a conspicuous place of the establishment, acceptable to the Health Authority.

Section 18-2.15. Inspection Reports.

Whenever the Health Authority makes an inspection of a food service establishment or retail food store and discovers that any of the requirements of this Ordinance have been violated, it shall notify the person in charge of such violations in writing. In such inspection report notification, the Health Authority shall:

1. Set forth the specific violations found.
2. Establish a reasonable time period within which such violations shall be corrected.
3. State that an opportunity for appeal from any inspection reports will be provided for if a written request is filed with the Health Authority within the period of time established in Section 18-2.15 (B) herein, but not exceed fourteen (14) days from the date of the inspection report.

Section 18-2.16. Service of Notices.

Notices provided for under this section shall be deemed to have been properly served when a copy of the notice has been delivered personally or has been sent by registered or certified mail to the person in charge at the address of the business affected. A copy of such notice shall be filed with the records of the Health Authority.

Section 18-2.17. Examination and Condemnation.

Samples of food and related products may be examined, sampled or obtained by the Health Authority as often as necessary to determine possible adulteration, misbranding or bacteriological contamination. The Health Authority, at its sole discretion, pending such examination, may by its written order cause to be held, removed, destroyed, or denatured any food which the Health Authority determines to be unwholesome, adulterated or misbranded. Failure or refusal to comply with the Health Authority order hereunder shall constitute a serious violation of this Ordinance.

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Section 18-2.18. Food Establishments Outside Jurisdiction of DuPage County.

Food prepared for human consumption outside of DuPage County and transported into DuPage County shall conform to the standards and provisions of this Ordinance. To determine the extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities where such establishments are located.

Section 18-2.19. Review of Construction or Remodeling Plans.

When a food service establishment or retail food store is to be constructed or remodeled or when an existing structure is to be converted to use as a food service establishment or retail food store, properly prepared plans and specifications shall be submitted to the Health Authority and approved in writing before such work is begun. Said plans shall be drawn to scale and shall show locations of all equipment.

Plans must include the following in order to receive approval:

- 1 Specifications of construction materials and equipment by manufacturer and model number.
- 2 Floor plans and food service equipment layouts.
- 3 Plumbing plans and layouts.
- 4 Room and area finish schedules for floors, coved surfaces, walls, doors, and ceilings.
- 5 Mechanical kitchen ventilation exhaust plans.
- 6 A copy of the menu.

Section 18-2.20. Rules & Regulations for Food Service Establishments.

This Ordinance shall be regulated by the Health Authority in accordance with the current “Food Sanitation Rules and Regulations” as established by the Illinois Department of Public Health, and any subsequent revisions. Copies of said Rules and Regulations shall be on file in the County Clerk’s Office and the offices of the Health Authority. Copies may be purchased at the office of the Health Authority.

Section 18-2.21. Rules & Regulations for Retail Food Stores.

This Ordinance shall be regulated by the Health Authority in accordance with the current “Retail Food Store Sanitation Rules and Regulations” as established by the Illinois Department of Public Health, and any subsequent revisions. Copies of said Rules and Regulations shall be on file in the County Clerk’s Office and in the offices of the Health Authority. Copies may be purchased.

Section 18-2.22. Repeal and Date of Effect.

This Ordinance shall be in full force and effect immediately following its adoption and publication as provided for by law and in accordance with the law, and at that time all ordinances and parts of ordinances that conflict with this Ordinance are hereby repealed.

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Section 18-2.23. Conflict of Ordinance, Effect on Partial Invalidity.

- 1 In any case where a provision of this Ordinance is found to be in conflict with a provision of any building, fire, safety, or health ordinance, or other code, existing on effective date of this Ordinance, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- 2 If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such invalidation shall not affect the remaining portions of this Ordinance which shall remain in full force and effect. To this end provisions of this Ordinance are hereby declared to be joint and severable.

Section 18-2.24. Penalties.

Whoever violates any of the provisions of this Ordinance or refuses to comply with any lawful order or requirement of the Health Authority duly made in writing as provided herein shall be guilty of a Class B misdemeanor; and each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Health Authority shall constitute a distinct and separate offense.

Section 18-2.25. Variances.

- 1 When circumstances exist which merit an alternate method of compliance with the requirements of this Ordinance, an applicant may request that the Director grant a variance. Such request shall be made in writing and shall supply any pertinent information which might support the request or which the Director may require. The Director may grant the variance provided it does not conflict with the stated purpose of this Ordinance.
- 2 A variance shall not be granted for more than one specific dimension.
3. Department shall respond to all variance requests in writing within ten (10) working

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Section 18-34 to 18-40. Reserved

Enacted Ordinance EXEC-107-77, June 28, 1977.
Amended Resolution EXEC-107A-77, September 9, 1977.
Amended Resolution CS-H-01-81, March 18, 1981.
Amended Ordinance HHS-ORD-03-85, December 17, 1985.
Amended Ordinance HHS-ORD-04-87, August 1, 1987.
Amended Ordinance OHS-001-94, December 28, 1993.
Amended Ordinance OHS-001-00, January 25, 2000.
Amended Ordinance OHS-001-01, December 11, 2001.
Amended Ordinance OHS-001-02, August 27, 2002.
Amended Ordinance OHS-001a-02, January 28, 2003.
Amended Ordinance OHS-001b-02, March 11, 2003.

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State Law Reference – 55 ILCS 5/5-25001 et seq. and 70 ILCS 905/3 et seq.