MACON COUNTY FOOD SANITATION ORDINANCE

Whereas the Macon County Board, having received be considered a recommendation of the Board of Health of Macon County, deems it desirable and necessary to conduct a comprehensive retail food protection program to protect the citizens of Macon County from contracting foodborne diseases and to prevent disease transmission.

Section 1: Purpose

The purpose of this Ordinance is to prevent foodborne illnesses, to promote safe food handling and hygienic practices, and to protect consumers.

Section 2: Scope

This Ordinance provides requirements for the issuance; suspension and revocation of permits; inspections; review of plans; prohibiting the sale of unsound or mislabeled food; employee restrictions; and enforcement of this Ordinance by the Macon County Health Department. Definitions and standards for management, personnel, food operations, equipment, and facilities are also included in this Ordinance.

Section 3: Application

This Ordinance applies to those retail food establishments that are required to have permits that are issued by the Health Authority, as set forth herein.

Section 4: Adoptions by Reference

The provisions set forth in the 77 Illinois Administrative Code 750, and the rules and laws incorporated therein, as now in force or as may hereafter be revised or amended, are hereby adopted by reference and incorporated herein. In addition, food establishments are also subject to all other applicable ordinances of the Health Authority.

Section 5: Public Health Protection

The Health Authority shall promote its underlying purpose of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

Section 6: Definitions

In addition to the definitions contained in the laws, rules, and regulations referenced in Section 4, the following definitions shall apply in the interpretation and enforcement of this Ordinance.

ADULTERATED: The condition of any food

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

APPLICANT: Any person making application to the Health Authority for a permit.

APPROVED: Accepted by the Health Authority based on its determination as to conformance with principles, practices, and generally recognized standards that protect public health.

AUTHORIZED REPRESENTATIVE: Those persons designated by the Health Authority to enforce the provisions of this Ordinance.

BOARD: The Macon County Board of Health.

BUSINESS DAYS: Monday through Friday from 8:00 am to 4:30 pm, excluding holidays.

CATEGORY: A classification based on the Illinois Department of Public Health’s local health protection grant standards for conducting a food protection program. Each food establishment will be assessed to determine the relative risks of causing foodborne illness. The minimum number of routine inspections per year is determined by the food establishment’s risk classification.

CEASE AND DESIST ORDER: A written order issued by the Health Authority which directs the responsible person to immediately stop doing or allowing a specific action to occur. A cease and desist order may or may not include a direction to completely cease operations at a facility. A cease and desist order may include a timeframe to achieve compliance as long as there is not an imminent health hazard to public health and safety.

CERTIFIED FOOD PROTECTION MANAGER: An individual who has completed a minimum of 8 hours of an Illinois Department of Public Health-approved training program for food service sanitation manager certification, inclusive of the examination, and received a passing score on the examination set by the certification exam provider accredited under standards developed and adopted by the Conference for Food Protection or its successor organization, shall be considered to be a certified food service sanitation manager, and maintains a valid certificate.

CHANGE OF OWNERSHIP: A change in the permit holder. This means that the entity that is legally responsible for the operation of the food establishment, such as the owner or other person, has changed.

CODE or FOOD CODE: The administrative rules adopted by the Illinois Department of Public Health pertaining to food establishments. Found at 77 Illinois Administrative Code 750.

CORE ITEM: A provision in the Code that is not designated as a priority item or a priority foundation item; includes items that usually relate to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance.

CORE ITEM VIOLATION: A violation of a provision in this Ordinance whose application supports, facilitates, or enables one or more core items.

EMPLOYEE: Includes the permit holder, person in charge, a food employee, a person having supervisory or management duties, a person on the payroll, a family member, a volunteer, a person performing work under contractual agreement, or other person working in a food establishment.
FOOD: Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD HANDLER / FOOD EMPLOYEE: An individual working with unpackaged food, food equipment or utensils, or food contact surfaces. Does not include unpaid volunteers in a food establishment, whether permanent or temporary.

FOOD ESTABLISHMENT: Any food service establishment; tavern; bar; nightclub; commissary; catering kitchen; bakery; restaurant; retail food store, mobile food unit; sidewalk and street food vending unit; temporary food establishment; private, public or nonprofit organization or institution routinely serving food; and any other eating or drinking establishment or operation where food or drink is prepared, served, or provided for human consumption, on or off premises, with or without charge.

Food establishment does not include an establishment that offers only prepackaged foods that are not time/temperature controlled for safety; a produce stand that only offers whole, uncut fresh fruits and vegetables; a kitchen in a private home, such as a small family daycare provider or a bed and breakfast operation as defined in the Bed and Breakfast Act (50 ILCS 820) that prepares and offers food to guests.

FOOD PREPARATION: The handling, processing, and/or serving of foods.

HAZARD ANALYSIS and CRITICAL CONTROL POINT (HACCP): A systematic approach to identifying, evaluating, and controlling food safety hazards. Food safety hazards are biological, chemical, or physical agents that are reasonably likely to cause illness or injury in the absence of their control.

HEALTH AUTHORITY: The Public Health Administrator of the Macon County Health Department or his/her authorized representative.

HEALTH DEPARTMENT: The Macon County Health Department.

HOLD ORDER/EMBARGO: An order issued by the Health Authority that acts as a temporary isolation or quarantine of food or equipment that the Health Authority believes, or has reason to believe, is in violation of this Ordinance.

IMMINENT HEALTH HAZARD: Significant threat or danger to health that exists when there is sufficient evidence to show that a product, practice, circumstance, or event creates a situation that requires immediate correction of cessation of operation to prevent injury, based on:

1. The number of potential injuries; and/or
2. The nature, severity, and duration of the anticipated injury.

MENU LIMITATION: A modification or constraint imposed by the Health Authority on a food establishment’s food preparation based on the type of operation, menu items, or available equipment.

PERMIT: The document issued by the Health Authority that authorizes a person to operate a food establishment.

1. ANNUAL PERMIT: Valid from January 1 of the current year through December 31 of the current year.
2. SEASONAL PERMIT: Valid from March 15 of the current year through November 30 of the current year. Seasonal stands shall meet all applicable requirements for a food service establishment. Those standards unable to meet basic food safety requirements, including without limitation, a potable water source under pressure, hot water heating device, proper sewage disposal facilities, required handwashing facilities, and required utensil washing facilities, shall limit their menu to prepackaged foods only.
3. TEMPORARY PERMIT: Issued to a food establishment that operates at a fixed location for a period of time not to exceed more than 14 consecutive days in conjunction with a single event or celebration.
PERSON: An association, corporation, individual, partnership, other legal entity, government, or government subdivision or agency.

PERSON IN CHARGE: The individual present at a food establishment who is responsible for the operation at the time of inspection.

PLAN REVIEW: An evaluation process conducted by the Health Authority to determine whether minimum standards are met for sanitary design, facility layout, operational and product flow, menu processes and food handling procedures, construction, operation and maintenance of a food establishment and its premises.

PREMISES: The physical structure, its contents, and the contiguous land or property under the control of the permit holder.

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

PRIORITY FOUNDATION ITEM VIOLATION: A violation of a provision in this Ordinance whose application supports, facilitates, or enables one or more priority foundation items.

PRIORITY ITEM: A provision in the Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard; includes items with quantifiable measure to show control of hazards such as cooking, reheating, cooling, and hand washing.

PRIORITY ITEM VIOLATION: A violation of a provision in this Ordinance whose application supports, facilitates, or enables one or more priority items.

PUBLIC EVENT: Any event open to the public where food is prepared or served. An event open to the public that is advertised with fliers, banners, newspaper articles, radio or television announcements, internet postings, social media, or by other means is a public event and subject to regulation under this Ordinance. Any event that is not a public event shall be treated as private. The determination of whether an event shall be regulated as a public event is at the sole discretion of the Health Authority.

REMODEL: The repair, construction, alteration or installation of new equipment, modification of existing equipment or fixtures, change in floor plan layout, the addition of more seating and/or toilet rooms, extensive changes in surface finishes or lighting, expansion to new space, or significant changes to use of space or equipment.

Generally a remodel does not include redecorating; cosmetic refurbishing; cleaning surfaces; altering seating design; minimal repairs of finished surfaces; “like for like” equipment exchanges; equipment or infrastructure minimal repair, service or maintenance; and/or additions to equipment that require no installation or modification of existing fixtures (such as countertop plug in equipment).

A remodel requires a plan review to be performed and approval granted prior to construction and operation of any new or remodeled establishment when one or more of the following criteria, at the sole discretion of the Health Authority, are met:

1. Requires a permit from the building authority having jurisdiction;
2. Menu item exchange or additions with the need for different process, preparation method, equipment or service;
3. Extensive equipment changes;
4. Extensive utility changes or repairs;
5. Extensive repairs after an incident e.g. fire or flood;
6. Conversion of a building/space/operation from a non-food establishment to a food establishment;
7. Equipment changes that alter capacity or location that may result in a reduction of the food establishment capabilities;
8. Change of ownership; or

REPEAT VIOLATION: A violation noted on the previous inspection report that is observed again on the next routine inspection on the same piece of equipment, same area of facility, or same practice.

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD: (Formerly known as potentially hazardous foods.) A food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

VARIANCE: A written document issued by the Health Authority that authorizes a modification or waiver of one or more requirements of this Ordinance. Any such modification or waiver is at the sole discretion of the Health Authority.

WHOLESALE: In sound condition, clean, free from adulteration or contamination, and otherwise suitable for human consumption.

Section 7: Administration

7.1 General Permit Requirements

It shall be unlawful for any person to operate a food establishment within the jurisdiction of Macon County who does not possess a valid permit issued to that person. Only a person who complies with the requirement of this Ordinance shall be entitled to receive and retain such a permit.

Permits shall not be transferrable from person to person; permits shall not be applicable to any location, building, or place other than that for which the permit was originally issued.

Changes may occur after a food establishment is permitted. Changes that invalidate a permit include change of ownership of the permit holder, a change in the physical location of the establishment, a change in the type of operation, a change in menu that requires the addition of equipment and/or structural modifications of the food establishment, a change in menu that requires a food preparation process that was not contemplated when the permit was issued, or a change in menu where animal meat is to be served raw or undercooked.

The Health Authority must be notified within thirty (30) days of any change of information on the permit application, or the permit holder will be subject to prosecution pursuant to Section 11 of this Ordinance. Additionally, a permit may be subject to suspension or revocation pursuant to section 7.9 or 7.10 of this Ordinance.

The Health Authority shall solely determine if a change invalidates a valid permit.

7.2 Permit Categories

The Health Authority shall assess the risks of a foodborne illness for every food establishment operating within Macon County. The Health Authority shall use this assessment in classifying a food establishment for purposes of a category.

The Health Authority shall apply the criteria in the Food Code to determine the category for a food establishment. If a health hazard will not result from recategorization or if recategorization will provide better protection for the public, the Health Authority may reclassify a food establishment based on inspection history; the number, frequency and severity of violations; and corrective action. The basis for this decision shall be documented, and a copy will be retained in the food establishment's file.
1. "Category 1 Food Establishment" means a food establishment that presents a high relative risk of causing a foodborne illness based upon the large number of food handling operations typically implicated in foodborne outbreaks and/or the type of population served by the facility.

2. "Category 2 Food Establishment" means a food establishment that presents a moderate relative risk of causing foodborne illness based upon few handling operations typically implicated in foodborne illness outbreaks.

3. "Category 3 Food Establishment" means a food establishment that presents a low relative risk of causing a foodborne illness based upon few or no food handling operations typically implicated in foodborne illness outbreaks.

These license categories are not meant to imply that any given establishment is more or less safe than others. The criteria in the Food Code shall be utilized to determine risk.

7.3 Permit Posting

Every food establishment shall prominently and conspicuously post a valid permit for public view.

7.4 Issuance

Any person desiring to operate a food establishment or to renew an expired permit Macon County shall make written application for a permit on forms provided by the Macon County Health Department, accompanied by a permit fee, if required, in an amount set forth by the Macon County Board of Health.

1. When Plans are Required: A permit applicant or permit holder shall submit to the Health Authority properly prepared plans and specifications for review and approval before any of the following can occur:
   a. The construction of a food establishment;
   b. The conversion of an existing structure for use as a food establishment;
   c. The remodel of a food establishment; or
   d. A change of type of food establishment or food operation if the Health Authority determines that plans and specifications are necessary to ensure compliance with this Ordinance.

2. Application for Permit: After approval of the plans proposed for the permit by a food establishment, the Health Authority shall conduct an inspection of the premises. If the Health Authority finds that the food establishment is in compliance with the provisions of this Ordinance, and upon receipt of a completed application, and associated fee, the Health Authority shall issue a permit authorizing the food establishment to operate.

3. Annual Renewal of Permits: For continued operation of the food establishment, annual renewal of the permit is required. Any permit holder desiring to renew a permit shall apply on the renewal forms provided by the Macon County Health Department, and pay all money due. A renewal permit is not renewable if the permit holder has failed to remit outstanding fines owed to the Macon County Health Department, or has failed to correct repeat priority, priority foundation, and core violations ordered by the Macon County Health Department, a local agency, or by a court.
   a. Any permit holder who has not paid their annual fee for their annual renewal of permit by January 1 of the renewal year shall be considered to be operating a food service establishment without a valid permit. A late penalty fee of $50 shall be assessed for permit renewal payments received after January 1 of the permit renewal year. The late penalty shall be increased to $100 for payments received after January 15 of the permit renewal year. Any food service establishment operating on or after February 1 of the renewal year without a renewed, valid permit shall discontinue operation or be subject to prosecution pursuant to Section 11 of this Ordinance. The late fee penalty beginning February 1 shall be increased to $200.
b. All permits shall be automatically suspended should the permit holder cease operation of the food establishment for thirty (30) consecutive days or longer if the Health Authority is not given written notice prior to the cessation of operation.

c. The Health Authority will assess an additional fee, in an amount set by the Macon County Board of Health, for expedited processing of permit and renewal applications.

4. Seasonal Permits are those permits issued to a food service establishment that operates only from March 15 through November 30, serving a limited menu for a limited time based on seasonal needs.
   a. Seasonal stands electing to serve TCS foods shall meet all applicable requirements for a food service establishment. Those standards unable to meet basic food safety requirements, such as but not limited to, a potable water source under pressure, hot water heating device, proper sewage disposal facilities, required hand washing facilities, and required utensil washing facilities, shall limit their menu.

5. Denial of Application of Permits: If an application for a permit to operate is denied, the Health Authority shall provide the application with a written notice that includes:
   a. The specific reasons and code citations for the permit denial; and
   b. The actions, if any, that the applicant must take to qualify for a permit.

6. Change of Ownership: If a person is purchasing an existing food establishment, a change in ownership plan review is required prior to issuing a new permit. For any determination of what constitutes a change in permit holder, please contact the Health Authority. To assist in the transition of business, the Health Authority will allow an open and operating food establishment to change ownership without interruption of business provided that the following conditions are met:
   a. A plan review for the new permit holder is submitted within 30 days of the execution of the change of owner documents;
   b. The food establishment stays within the same category as the previous permit;
   c. The food establishment has not been physically altered, equipment has not been removed or added, and the food establishment has not been closed for extensive remodeling or for other reasons;
   d. The food establishment has not changed the menu in a manner that requires new food preparation processes, procedures, and/or equipment; or
   e. The time to correct all violations cited in a change of ownership inspection does not exceed ninety (90) business days from date of that change of ownership inspection.

If the provisions above are not met, then the food establishment shall close, and the new owner will be required to apply for a new permit, including completing the plan review process before the food establishment may reopen.

7.5 Fees

Pursuant to the Counties Code, 55 ILCS 5/5-1115, the Macon County Board of Health shall establish fees and amounts that are reasonable and necessary to provide the services and required activities of the Health Department in enforcing this Ordinance. A fee schedule shall be forwarded to the County Board for approval and may not be increased without the approval of the County Board.

All fees are non-refundable and non-transferable.

7.6 Food Establishments Outside the Jurisdiction of the Health Authority

Food from food establishments outside the jurisdiction of the Health Authority may be allowed if such food establishments conform to the provisions of this Ordinance, or equivalent provisions, and can provide proof of a valid permit from the applicable public health authority.
7.7 Plan Reviews

No food establishment shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the Health Authority.

1. Plan review: The Health Authority shall conduct a plan review whenever a food establishment:
   a. Is newly constructed or remodeled;
   b. Is in a facility converted for use as a food establishment; or
   c. Undergoes change of ownership.

2. The Health Authority shall advise the food establishment within fourteen (14) business days of the Health Authority’s receipt of plans with specifications that they are approved or that specified revisions must be made.

3. The Health Authority, at its sole discretion, may waive a plan review based on the information provided in the application for a new permit.

7.8 Pre-Operational Inspections

Prior to the issuance, or reinstatement, of a permit to operate, every food establishment shall be inspected by or obtain approval from the Health Authority before beginning or resuming operations in order to determine compliance with approved plans, specifications, corrective actions, and the requirements of this Ordinance.

7.9 Permit Suspension

If at any time the Health Authority determines that a permit holder or operator is not in compliance with the provisions of this Ordinance, the Health Authority shall issue a notice to the permit holder or operator. The notice shall state the nature of the violation and a reasonable timeframe in which corrective action must be taken.

Whenever a permit holder has failed to comply with any notice issued under the provisions of this Ordinance, the Health Authority may serve the permit holder or operator with a notice stating that the permit is suspended and operations are to cease immediately or as otherwise ordered by the Health Authority.

Notwithstanding the other provisions of this Ordinance, whenever the Health Authority finds unsanitary or other conditions in the operation of a food establishment, or a temporary food establishment, which in the Health Authority’s judgment, constitutes a substantial hazard to public health, it 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 stating that the permit is immediately suspended.

Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Authority, shall be afforded a hearing as soon as possible.

1. Hearings provided for in this section shall be conducted by the Health Authority at a time and place designated by the Health Authority. Based upon the record of such hearings, the Health Authority shall make findings and shall sustain, modify, or rescind an official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Health Authority.

2. All decisions of the Health Authority enforcing this Ordinance may be appealed to the Macon County Board of Health in the manner set forth by this Section 7.9. Review of the final administrative decision of the Macon County Board of Health may be had in the Circuit Court of Macon County, Illinois, pursuant to the provisions of the Administrative Review Law (735 ILCS 5/3-101, et seq.).

A permit holder whose permit has been suspended may at any time during the suspension of said permit make a signed, written request for an inspection for the purpose of the reinstatement of the permit, stating how the
conditions leading up to the suspension were corrected. Within 24 hours following receipt of said written request, the Health Authority shall inspect the premises, and shall reinstate the permit if the permit holder is in compliance with this Ordinance.

A fee set forth by the Macon County Board of Health for permit reinstatement shall be applied to all food service establishments required to cease food service operations. The reinstatement fee shall be paid in full to the Health Authority prior to resuming operations.

Two suspensions during a period of twelve (12) consecutive months shall constitute grounds for revocation of a permit.

7.10 Permit Revocation

The Health Authority may permanently revoke a permit for serious or repeated violations of this Ordinance, or for interference with the Health Authority in the performance of its duties. The Health Authority shall notify the permit holder of its intent to revoke the permit, stating the reason for the action and that the permit shall be revoked at the end of five (5) business days following the serving of the notice. Said revocation shall remain valid pending a hearing request submitted by the permit holder in writing to the Health Authority within the five (5) day period.

Section 8: Inspections

8.1 Frequency

At a minimum, the Health Authority shall inspect each food establishment within the jurisdiction of the Macon County Health Department as determined in 77 Illinois Administrative Code 615.310.

Temporary food establishments may or may not be inspected as determined by the Health Authority.

All categories and types of food establishments shall be inspected as many times as the Health Authority deems necessary to enforce the provisions of this Ordinance.

The Health Authority shall not perform routine inspections of those food establishments operated by the State of Illinois.

Nothing in this section shall prohibit the Health Authority from conducting investigations or inspections of a special or emergency nature or routine inspections at the request of Illinois Department of Public Health.

8.2 Right of Entry

The Health Authority shall have the right to enter any food establishment or any temporary food establishment at any reasonable time for the purpose of conducting inspections to determine compliance with this Ordinance. The Health Authority shall properly identify themselves prior to initiating an inspection.

8.3 Refusal of Entry

If a person denies access to the Health Authority, the Health Authority shall inform the person that:

1. The permit holder is required to allow access to the Health Authority;
2. Access is a condition of acceptance and retention of a permit to operate; and
3. If access is denied, the Health Authority will take such legal action as required.
If the person in charge denies the Health Authority access to a permitted food establishment pursuant to 8.2 of this Ordinance, the Health Authority may gain access in a manner provided by law. In addition, the Health Authority may issue a cease and desist order, or seek a temporary restraining order, or other relief, to cease the food establishments operations until the inspection is conducted.

8.4 Examination of Records

The Health Authority may examine the records of a food establishment to obtain information including, but not limited to, food and supplies purchased, food and food supplies received, and persons employed in such establishments.

8.5 Inspection Report

Whenever an inspection of a food establishment is conducted to determine compliance with the Ordinance, the findings shall be recorded on the inspection report form provided by the Health Authority.

The inspection report form shall constitute a legal notice of violations of this Ordinance.

One (1) copy of the inspection report shall be furnished to the operator or person in charge of the food establishment and a copy of the inspection report will be available in the food establishment's file at the Health Authority.

The inspection report is a public document, subject to the Illinois Freedom of Information Act (5 ILCS 140/1, et seq.).

8.6 Determining the Status of the Food Service Establishment

At the conclusion of the inspection, the status of the food service establishment shall be determined and it shall be placed into one of the following categories:

1. No Follow-Up Required: No uncorrected priority or priority foundation violations exist. Core violations may exist but the quantity does not warrant enforcement review. A limited number of repeat violations may have been observed during the inspection.

2. Follow-Up Required: A follow-up visit shall be completed at a date noted on the report to verify the timely correction of the outstanding priority or priority foundation violations.

3. Enforcement Action Required: Violations observed during the routine inspection warrant further review or enforcement action by the Health Authority. Enforcement action may include, but is not limited to, a follow-up inspection, a warning letter from the Health Authority, a scheduled formal hearing, a completed long term plan of action by the permit holder, or the immediate suspension of food operations.

4. Closure: Immediate closure of the establishment will occur if an imminent health hazard exists to the public health.

It is at the discretion of the Health Authority to establish the severity of enforcement protocol based upon observations and violations noted during the inspection.

8.7 Correction of Violations

The Health Authority shall establish a specific and reasonable time for the correction of observed violations. The permit holder shall correct the violations within the period specified in accordance with the following provisions:
1. Core Violations: Must be corrected in a time frame agreed upon by the Health Authority but no later than the next routine inspection.

2. Priority Foundation Violations: Must be corrected immediately, within 5 business days of inspection, or other specified time frame designated by the Health Authority.

3. Priority Violations: Must be corrected immediately, within forty-eight (48) hours, or other specified time frame designated by the Health Authority.

A food establishment may be required under the provisions of this Ordinance to cease all or a portion of its operations. A food establishment shall not resume operations until such time as the Health Authority grants authorization to resume operations.

Approval of a compliance schedule that extends beyond the time limits specified under this Section may be approved by the Health Authority so long as no imminent public health hazard exists or may result from the extension of the compliance schedule.

For any follow-up inspections due to priority violations, a fee set forth by the Macon County Board of Health will be assessed.

Failure to comply with any time limits for correction will require the permit holder to immediately cease operations at the food service establishment. Whenever a permit holder is required under the provisions of this Section to cease operations, the permit holder shall not resume operations until such time that a follow-up inspection has been made and the Health Authority confirms that the conditions responsible for the cessation of operations no longer exist.

Receipts indicating work completed as well as pictures or videos showing correction may be used as documentation of correction. Provisions from Section 7.9 of this Ordinance must be followed to request a follow-up inspection.

If an imminent health hazard exists, the food establishment shall immediately cease food preparation operations until such hazard is corrected and the Health Authority grants authorization to resume operations.

8.8 Refusal to Sign

If the person in charge refuses to sign an acknowledgment of receipt of an inspection report, the Health Authority shall inform the person who declines to sign the acknowledgement that:

1. Acknowledgement of receipt does not indicate agreement with the inspection findings;

2. Refusal to sign an acknowledgement of receipt will not affect the permit holder’s obligation to correct the violation(s) noted in the inspection report within the timeframes specified; and

3. A refusal to sign an acknowledgement of receipt will be noted on the inspection report.

8.9 Examination and Condemnation of Food and Equipment

Food may be examined and/or sampled by the Health Authority as often as it deems necessary for enforcement of this Ordinance.

The Health Authority may place a hold order on any food item which it determines or has probable cause to believe:

1. Originates from an unapproved source;

2. Is adulterated, misbranded, or is not wholesome or not honestly presented;

3. Is not labeled according to law, or, if the food is raw molluscan shellfish, is not tagged or labeled according to law; or

4. Is otherwise not in compliance with this Ordinance.
Placing a Hold Order for Food:

1. Food subject to a hold order shall be identified by the common name, the label information, a container description, the quantity, the Health Authority’s information, and a location.
2. Food shall be allowed to be suitably stored. If storage is not possible without risk to the public health, then the Health Authority shall require the denaturing or destruction of the food.
3. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on food or food container by the Health Authority.
4. It shall be unlawful for any person to sell, give or donate, use (re-label, repack, reprocess, alter) denature, dispose, destroy, or remove food that is the subject of a hold order from the food establishment without the written release of the Health Authority, except on order by a court of competent jurisdiction.

Removing a Hold Order for Food:

1. A permit holder or person in charge may dispose of or destroy the food subject to a hold order in presence of the Health Authority. Such disposal or destruction will be documented.
2. The permit holder or person in charge has the right to a hearing regarding the hold order and may request a hearing with the Health Authority by submitting a written request within 7 calendar days of the hold order being issued. The hearing process is described in 7.9 Permit Suspension.
3. After the permit holder or person in charge has had a hearing and on the basis of evidence produced at such hearing, the Health Authority may vacate the hold order if evidence is clear and convincing that no danger to the public will ensue if the hold order is vacated.
4. In the event that a written request for a hearing is not received within seven (7) calendar days of the hold order being issued, the Health Authority may direct the permit holder or person in charge to bring the food into compliance with the provisions of this Ordinance or order the food to be denatured or destroyed.

Placing a Hold Order for Equipment:

The Health Authority may place a hold order on equipment which it determines or has probable cause to believe:

1. Is constructed from unsafe materials;
2. Is found in a state of disrepair so that it is not easily cleanable, is unsuitable for use, or is in an unsanitary condition; or
3. Is found to be unable to perform as intended.

The Health Authority shall tag, label, or otherwise identify any equipment subject to the hold order. The permit holder or person in charge shall take the equipment out of use until written permission is obtained from the Health Authority. It shall be unlawful for any person to move or alter a hold order notice or tag placed on equipment by the Health Authority.

Removing a Hold Order for Equipment:

The permit holder or person in charge has the same rights and responsibilities as for food in “Removing a Hold Order for Food.”

8.10 Imminent Health Hazard

A permit holder shall immediately discontinue operations and must notify the Health Authority 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 foodborne illness outbreak, gross unsanitary occurrence or condition, disease transmission from an employee, or other circumstances that may endanger public health.
8.11 When Disease Transmission is Suspected

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

1. Immediate exclusion of the employee from the food establishment;
2. Immediate closure of the food establishment concerned until in the opinion of the Health Authority, no further danger of disease outbreak exists;
3. Restriction of employee's services to some area of the food establishment where there will be no danger of transmitting disease; or
4. Adequate medical and laboratory examinations of the employee(s) and of his/her/their bodily discharges.

8.12 Food Handler and Certified Food Manager Classes

The Health Authority may order any food handler to attend certified food manager or food handler training course, when in the judgment of the Health Authority, the work habits of said food handler constitute a hazard to public health. The Health Authority may impose a time period for completion of the training.

8.13 Variances

The Health Authority may grant a variance by modifying or waiving the requirements of this Ordinance, if in the opinion of the Health Authority, a public health hazard or nuisance will not result from the issuance of the variance. If a variance is granted, the Health Authority shall retain all pertinent information in the food establishment's file. A variance is non-transferrable between owners.

Before a variance from a requirement of this Ordinance is approved, the person requesting the variance shall supply the Health Authority with information such as, but not limited to, the name and location of the business, the section in which the variance is being requested, and information that demonstrates the conditions that from exist which warrant the granting of a variance. Any person who requests a variance for the provisions of this Ordinance shall have the burden of supplying the Health Authority with the information necessary to support the request. The Health Authority shall retain this information in the food establishment's file.

If the Health Authority grants a variance, the permit holder shall comply with the plan and procedures that are submitted and approved as a basis for the modification or waiver, and shall also maintain and provide to the Health Authority, upon request, records that demonstrate compliance.

A variance can be revoked or expire if in the opinion of the Health Authority the variance results in a public health hazard or nuisance, there is a change of circumstances from those supporting the variance, or there is a change of ownership of the food service establishment.

Variances may not be transferred from one person to another person, nor be applicable at any location, building, or place other than that for which it was issued.

If a variance has been denied by the Health Authority, an appeal can be made requesting a hearing before the Macon County Board of Health. The hearing process is described in Section 7.9 Permit Suspension.
8.14 Hazard Analysis Critical Control Point Plan (HACCP)

As required in the Food Code, or before engaging in food preparation that requires a HACCP plan, a permit holder or person in charge shall submit to the Health Authority for approval a properly prepared HACCP plan.

Contents of a HACCP Plan shall include:

1. A categorization of the types of time/temperature control for safety foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Health Authority.
2. A flow diagram by specific food or category of food type identifying critical control points and providing information on the following:
   a. Ingredients, materials, and equipment used in the preparation of that food;
   b. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
   c. Food employee and supervisory training plan that addresses the food safety concerns involved;
   d. A statement of operating procedures for the plan under consideration including clearly identifying:
      i. Each critical control point;
      ii. The critical limits for each critical control point;
      iii. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
      iv. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
      v. Action to be taken by the person in charge if the critical limits for each critical control point are not met;
      vi. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
   e. Additional scientific data or other information, as required by the Health Authority, supporting determination of the food safety is not compromised by the proposal.

The HACCP plan and procedures that are submitted and approved shall be maintained and provided to the Health Authority, upon request. This includes all records that demonstrate compliance.

8.15 Menu Limitation

The Health Authority may determine that menu limitation at a food establishment is necessary for food safety. The food establishment will comply with any notice of menu limitation issued by the Health Authority.

8.16 Additional Requirements

If necessary to protect against public health hazards or nuisances, the Health Authority may impose specific requirements in addition to the requirements contained in this Ordinance. The Health Authority shall document the conditions that necessitate the imposition of the additional requirements and the underlying public health rationale. The documentation shall be provided to the applicant or permit holder, and shall be maintained by the Macon County Health Department in the food establishment’s file.
Section 9: Temporary Food Establishments

9.1 Temporary Food Establishment General

The requirements outlined in this Section 9 apply only to Temporary Food Establishments and are in addition to the requirements stated in other sections of this Ordinance.

9.2 Temporary Food Establishment Permit

A temporary food permit application and the appropriate fee, if required, should be submitted at least seven (7) days prior to the start date of the event at which food will be provided. Late fees apply if application is made less than 7 days before the event.

At least one person in charge of the temporary food establishment shall show documentation of completion of food safety training. A Certified Food Manager certificate or by a food handler training document will be deemed sufficient.

Food operators seeking a temporary food establishment permit shall meet all applicable provisions of this Ordinance and the Food Code. All priority item and priority foundation item violations shall be corrected prior to the issuance of the temporary food establishment permit.

9.3 Temporary Food Establishment Fees

All fees for temporary food establishment permits shall be as set forth by the Macon County Board of Health.

9.4 Temporary Food Establishment Inspections and Corrections

The Health Authority may provide consultation and/or on-site inspection for each temporary food establishment. The Health Authority may make as many follow up inspections as are necessary for the enforcement of this Ordinance and the Food Code.

All priority item and priority foundation item violations shall be corrected prior to the issuance of the temporary food establishment permit. The temporary food establishment shall immediately cease food preparation if any priority item or priority foundation item violations are not satisfactorily corrected and/or pose an imminent health hazard after temporary food establishment permit is issued.

Section 10: Service of Notice

Notices provided for under this Ordinance shall be deemed to have properly served when a copy of the inspection report form, or other notice, has been delivered personally to the permit holder or person in charge, sent by certified or registered mail, return receipt requested, to the last known address of the permit holder or person in charge, or prominently posted on the premises. A copy of such notice shall be filed with the records of the Health Authority.

Section 11: Enforcement

The Health Authority may seek administrative or judicial remedy to achieve compliance with the provisions of this Ordinance if a person operating a food establishment or employee:

1. Fails to obtain or have a valid permit to operate a food establishment;
2. Violates any term or condition of a permit;
3. Allows a priority item violation or a priority foundation item violation or a repeat violation to remain uncorrected beyond the timeframes for correction that was approved, directed, or ordered by the Health Authority;
4. Fails to comply with a Health Authority order concerning an employee suspected of having a disease transmissible through food by infected persons;
5. Fails to comply with a hold order;
6. Fails to comply with an order issued as a result of a hearing for an administrative remedy; or
7. Fails to comply with a summary suspension order issued by the Health Authority.

Section 12: Penalties

Any person who violates any provision of this Ordinance, or any rules and regulations adopted herein shall be punished by a fine of not more than $500.00. In addition, therefore, such person may be enjoined from continuing such violations. Each day’s violation constitutes a separate violation. The State’s Attorney of Macon County shall bring such actions in the name of the County of Macon, Illinois, and may bring action for an injunction to restrain such violation, or to enjoin the operation of any such food establishment causing such violation.

The Health Authority shall not renew a food permit if a permit holder has failed to pay any outstanding fees or fines pursuant to the Health Authority’s fee schedule or to any enforcement decision of the Health Authority or any levy imposed by a court of competent jurisdiction based upon a violation issued by the Health Authority. In addition, the Health Authority may revoke the current food permit of a permit holder if the permit holder has fees or fines that have been outstanding for more than 90 days. The Health Authority shall not renew and may revoke a food permit if the permit holder is subject to any active injunction related to this Ordinance.

Section 13: Repeal and Date Effect

This Ordinance shall be effective January 1, 2019. This Ordinance shall preempt and supersede any previous Ordinance with which it conflicts.

Section 14: Effect of Conflicting Law, Severability in Event of Partial Invalidity

The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional, that declaration shall not affect the part which remains.