

**MERCER COUNTY HEALTH ORDINANCE
FOOD SANITATION ORDINANCE**

DEFINITIONS

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 tolerance if one has been established
- c. If it consists in whole or in part of any filthy, putrid or decomposed substance or it is otherwise unfit for human consumption
- d. If it has been processed, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health
- 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

Approved or approval shall mean accepted or acceptable by the Health Department in accordance with applicable rules and regulation stated herein

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

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

Board of Health shall mean the Mercer County Board of Health or its authorized representative

Building shall mean a structure built, erected and framed of component structural parts designed for the housing,

work, recreation, shelter, enclosure, or support of persons, animals or property of any kind

Category I Facility means a food establishment that presents a high relative risk of causing food-borne illness, based on the large number of food handling operations typically implicated in food-borne outbreaks and/or the type of population served by the facility. Category I facilities include those where the following operations occur:

Potentially hazardous foods are cooled, as part of the food handling operation at the facility;

Potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;

Potentially hazardous cooked and cooled foods must be reheated;

Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods occurs as part of the food handling operations at the facility;

Vacuum packaging, other forms of reduced oxygen packaging, or other special processes that require an HACCP plan; or

Immunocompromised individuals, such as the elderly, young children under age four and pregnant women are served, in a facility in which these individuals compose the majority of the consuming population.

Category II facility means a food establishment that presents a medium relative risk of causing food-borne illness, based upon a few food handling operations typically implicated in food-borne illness outbreaks. Category II facilities include those where the following operations occur:

Hot or cold foods are held at required temperatures for no more than 12 hours and are restricted to same day services;

Foods are prepared from raw ingredients, using only minimal assembly; and

Foods that require complex preparation (whether canned, frozen, or fresh prepared) are obtained from approved food-processing plants, high-risk food service establishments or retail food stores.

Category III facility means a food establishment that presents a low relative risk of causing food-borne illness, based upon few or no food handling operations typically implicated in food-borne illness outbreaks. Category III facilities include those where the following operations occur:

Only potentially hazardous foods commercially pre-packaged in an approved processing plant are available or served at the facility;

Only limited preparation of non-potentially hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the facility; or

Only beverages (alcoholic and non-alcoholic) are served at the facility.

Certified Laboratory shall mean a clinical laboratory given certification approval by the Illinois Department of Public Health Division of Laboratories for the processing of official samples of milk and water

Core Item

(1) "Core item" means a provision in the Code that is not designated as a priority item or a priority foundation item.

(2) "Core item" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

Cottage Food Operation means a person who produces or packages non-potentially hazardous food in compliance with

Section 4 of the Food Handling Regulation Enforcement Act.

Critical control point means a point or procedure in a specific FOOD system where loss of control may result in an unacceptable health RISK.

Critical limit means the maximum or minimum value to which a physical, biological, or chemical parameter must be

controlled at a CRITICAL CONTROL POINT to minimize the RISK that the identified FOOD safety HAZARD may occur.

Food Establishment means an operation that:

1. Stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption, such as a restaurant, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution or food pantry; and
2. Relinquishes possession of food to a consumer directly, or indirectly, through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

Food establishment includes:

1. An element of the operation, such as a transportation vehicle or a central preparation facility, that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the regulatory authority; and
2. An operation that is conducted in a mobile, stationary, temporary or permanent facility or location. This inclusion applies regardless of whether consumption is on or off the premises and whether there is a charge for the food.

Food establishment does not include:

1. An establishment that offers only prepackaged foods that are not time/temperature controlled for safety;
2. A produce stand that only offers whole, uncut fresh fruits and vegetables;

3. A food processing plant, including those that are located on the premises of a food establishment;
4. 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 that prepares and offers food to guests;
5. A private home that receives catered or home delivered food; a closed family function where food is prepared or served for individual family consumption; or
6. A cottage food operation.

Hazard Analysis Critical Control Point or “HACCP” means a food safety management system to identify, evaluate and control food safety hazards.

Health Department shall mean the Mercer County Health Department

Health Officer shall mean the Administrator of the Mercer County Health Department or authorized representative

Home Kitchen Operation means a person who produces or packages non-potentially hazardous baked goods in a kitchen in compliance with Section 4 of the Food Handling Regulation Enforcement Act.

Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is

evidence sufficient to show that a product, practice, circumstance, or event creates a situation that cannot be controlled by immediate corrective action and requires cessation of operation to prevent injury based on:

- (1) The number of potential injuries, and
- (2) The nature, severity, and duration of the anticipated injury. Examples of Imminent Health Hazards include, but are not limited to:
 1. Fire
 2. Flood
 3. Extended interruption of electrical
 4. Extended interruption of water service
 5. Sewage backup
 6. Contaminated water supply
 7. Misuse of poisonous or toxic materials
 8. Onset of an apparent foodborne illness outbreak
 9. Persons with disease or infection which can be transmitted by food or drink are not restricted to prevent food contamination within the food service establishment.
 10. Gross unsanitary conditions
 11. Other conditions deemed prejudicial to public health

Label shall mean a written, printed or graphic matter upon the immediate container of an article

Misbranded shall mean the presence of any written, printed, or graphic matter upon or accompanying food or

containers of food which is false or misleading

Non-Community Public Water Supply shall mean a public supply which is not a community water supply, that has at least

fifteen (15) service connections used by non-residents, or regularly serves twenty-five (25) or more resident individuals daily for at least sixty (60) days per year.

Permit shall mean written authorization issued by the Health Department or its authorized representative

Permit holder means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and possesses a valid permit to operate a food establishment.

Potentially hazardous food means foods that are time/temperature control for food safety.

Potluck event means an event where people are gathered to share food in compliance with Section 4 of the Food Handling Enforcement Act

Premise shall mean a building or part of a building

Priority Item

- (1) "Priority item" means 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.
- (2) "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and
- (3) "Priority item" is an item that is denoted in the Code with a superscript P-p

Priority Foundation Item

- (1) "Priority foundation item" means a provision in the Code whose application supports, facilitates or enables one or more PRIORITY ITEMS
- (2) "Priority foundation item" includes an item that requires 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; and
- (3) "Priority foundation item" is an item that is denoted in the Code with a superscript Pf-pf

Shall means mandatory, must be provided or complied with

Single Day Event means an event where food is sold for a period of one day. Recurring events at the same location are not considered single day events.

Vending Machine shall mean any self-service device which upon insertion of coin, coins, or tokens or other similar means, dispenses unit servings of food either in bulk or in packages without the necessity of replenishing the device between each vending operation

All other definitions stated in the rules and regulations as adopted by reference herein are hereby in effect.

**SECTION A.
GOAL:**

The goals of this Ordinance are to assist management in the operation of a food service establishment and to educate the operator and the public regarding the reduction or elimination of the risk of transmission of communicable disease in the food service operation.

SECTION B.

SCOPE:

In the achievement of this goal, the Mercer County Food Sanitation Ordinance shall focus on the identification, reduction, and whenever possible, the elimination of factors in the food service operation which are critical to the creation of foodborne illness. The implementation of the Food Sanitation Ordinance shall include defining and regulating food service establishments (including taverns), bed and breakfast establishments, retail food stores, temporary food establishments, the operation of such establishments and equipment, and requiring the permitting of such establishments within the limits of Mercer County.

SECTION C.

ADOPTION BY REFERENCE:

In addition to those provisions set forth herein, this Ordinance hereby adopts by reference the provisions set forth in the “State of Illinois, Department of Public Health, Division of Food, Drug, and Dairies, 77 Ill. Adm. Code 750, 2022 FDA Food Code, Food Handling Enforcement Act, and the “Bed and Breakfast Act” and any subsequent amendments or revisions thereto, one copy of each shall be on file in the office of the Mercer County Clerk.

SECTION D.

PERMITS:

Beginning January 1, 1998 and every year thereafter it shall be unlawful for any person or persons to operate a food-service establishment, retail food store or temporary food establishment, and bed and breakfast establishment within the County of Mercer, State of Illinois, who does not possess a valid permit issued by the Mercer County Health Department. 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 nor shall said permit be applicable to any location, building, or place other than that for which it was issued. A valid permit shall be posted in every food establishment so as to be clearly visible to all customers.

1. Term

- a. Annual Food Permit. Food Service establishments that operate in Mercer County must hold a valid food permit. The annual permit term shall be January 1 through December 31 of each calendar year; Mobile food service establishments that operate at multiple locations and/or events throughout Mercer County within a calendar year must obtain an Annual Food Permit from the Health Department prior to beginning operation each year. The mobile food permit term shall be January 1 through December 31 of each calendar year. Mobile food facilities must provide a list of locations where they will be operating to allow for inspection. Mobile Food Facilities will be inspected and charged based on their Risk Categorization

- b. Concession Stand Permit. Concession Stands that operate for a period of time less than 90 days in a calendar year at the same location must obtain a Concession Stand permit from the Health Department prior to beginning operation each year.
 - c. Temporary Food Permit-Establishments that operate for a period of less than 14 days must apply for a permit prior to the start of each temporary event as follows:
 - i. Temporary Food Permits – Single Day Events. In the case of temporary food establishments, a permit is not required for single day food functions at private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, social, political or educational nature. However, inspections may be performed by the Health Department at these single day events dependent on the type of food being prepared and served. Recurring events at the same location are not considered single day events.
 - ii. Temporary Food Permits – Multiple Day Events – Establishments that operate at an event for a period of less than 14 days must apply for permit prior to the start of each temporary event. This permit will be valid for the duration of the event.
 - d. Vending Food Permit – Establishments that operate at vending machines serving time temperature control for safety foods in Mercer County must obtain a Vending Food Permit from the Health Department. The vending food permit term shall be January 1 through December 31 of each calendar year.
 - e. Other Food Service Operations
 - 1. **Cottage Food Operations.** Cottage Food Operations must operate in accordance with Section 4 of the Food Handling Enforcement Act and register annually with the Health Department. Annual registrations expire March 31st of each calendar year.
 - 2. **Home Kitchen Operations.** Home Kitchen Operations must operate in accordance with Section 4 of the Food Handling Enforcement Act to be exempt from permitting requirements. This statement is not intended to authorize the operation of Home Kitchen Operations.
 - 3. **Potluck Events.** Potluck Events must operate in accordance with Section 4 of the Food Handling Enforcement Act to be exempt from permitting requirements.
2. **Fees.** Annual permit fees shall be assessed for each permitted establishment and collected by the Health Department. Permit fees shall be based on the risk classification of the establishment.
- a. The fee schedule is found in the Mercer County Health Department Business Office. Fees are determined by the Mercer County Board of Health and reviewed regularly.
 - b. Provisions for permit fees shall not apply to:
 - units of local government
 - public or private schools
 - c. Permit fees will be non-refundable and prorated on a semi-annual basis for newly-opened establishments and/or establishments with a change of ownership. Establishments opening or changing ownership prior to July 1 will

pay 100% of the appropriate annual fee. Establishments opening or changing ownership after July 1 will pay 50% of the appropriate annual fee for the remainder of the calendar year.

- d. **Late Payment Penalty.** All permit fees for the annual renewal of permits are due prior to the permit expiration date. Establishments failing to submit the appropriate fee and renewal application prior to the permit expiration date shall be assessed a late payment penalty fee set by the Mercer County Board of Health in addition to the appropriate permit fee. Failure to submit the total fee required by the date of permit expiration, will result in an expired permit and a request for cessation of food establishment operations by the Health Department Officer due to the lack of a valid permit. A permit which has expired shall be removed from the establishment by the Health Officer. Facilities that change ownership or open prior to issuance of permit shall be subject to the same late fees.
 - e. Establishments that require repeat re-inspections are subject to repeat inspection fees. Any re-inspection fees must be paid at the time of the re-inspection unless another arrangements have been made.
 - f. Establishments undergoing a plan review are subject to a plan review fee.
 - g. All outstanding fees shall be paid within 30 days. No annual permit, concession stand permit or temporary permits will be issued until all outstanding fees are paid.
3. **Issuance of Permits.** Any person desiring to operate a food service establishment, retail food store, or temporary food establishment shall make written application for a permit on forms provided by the Health Department. Such application shall include:
- a. The permit holder's full legal name and post office address
 - b. Telephone number
 - c. Whether said permit holder is an individual, partnership, firm, or corporation
 - d. Location and type of establishment including address and phone number
 - e. Signature of permit holder
 - f. Any other information deemed necessary for the proper review of the application by the Health Department
4. **Classification of Establishments.** For every establishment operating in Mercer County, the Mercer County Health Department shall assess the relative risks of causing a foodborne illness. This classification shall result in the facility being placed into a risk category as it relates to food safety. These "risk" categories are not meant to imply that any given criteria will be utilized to classify facilities within Mercer County.

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

5. **Permit Renewal.** Annual renewal of permits shall be required for continued operation of the establishment. Any permit holder desiring to renew his/her permit

shall make proper application on renewal forms provided by the Health Department and pay the appropriate annual fee.

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

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

b. Any person whose permit has been suspended may make application for a re-inspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of the written request, including a signed statement by the permit holder that in his/her opinion the conditions causing suspension of the permit have been corrected, the Health Officer shall make a re-inspection.

If the permit holder is found to be in compliance with this Ordinance, the permit shall be reinstated.

7. **Revocation.** For repeated violations of those provisions of this Ordinance which in the opinion of the Health Officer creates the possibility of a direct health hazard to the public or for interference with the Health Officer in the performance of his/her duties, the permit may be permanently revoked. Prior to such action, the Health Officer shall notify the permit holder that the permit is subject to revocation and advise that the permit shall be permanently revoked at the end of ten (10) days following service of such notice via certified mail unless a request for a hearing is filed in accordance with provisions within this Ordinance within said ten (10) day period.

8. **Cessation of Operations.** Permits for all establishments shall automatically be revoked should the permit holder or operator fail to apply for a re-inspection for thirty (30) consecutive days of cessation of operation or suspension of permit. The permit holder must then make application for a new permit in accordance with the provisions of this Ordinance.

9. **Exemptions.** The following shall be exempt from the provisions of this Ordinance.

a. Establishments which have only non-perishable and/or commercially pre-packaged non-potentially hazardous food and whose principle order of business is not to sell food for human consumption

b. Roadside stands operated primarily for sale of unwashed, uncut agricultural products

c. Temporary food establishments selling non-perishable and/or commercially prepackaged non-potentially hazardous food

- d. Establishments which have only non-perishable, commercially pre-packaged non-potentially hazardous food dispensed by vending machines

**SECTION E.
INSPECTIONS**

1. The Health Department shall conduct onsite inspections for each operational food service establishment, retail food store, concession stand food establishment, mobile food establishment, vending machine, and bed and breakfast establishment within the County of Mercer, Illinois at least as often as outlined by the following schedule:
 - a. Category I facilities shall receive at least three (3) inspections per year. The Health Department has the option to substitute one (1) consultation and/or training for one of the required annual inspections.
 - b. Category II facilities shall receive at least one (1) inspection per year.
 - c. Category III facilities shall receive at least one (1) inspection every two years.
2. The Health Department shall provide consultation and/or onsite inspections for each temporary food establishment and/or Concession Stand food establishment a minimum of one (1) time for each permit issued and shall make as many additional inspections or re-inspections that are necessary for the enforcement of this Ordinance.
3. **Right of Entry.** The Health Officer, after proper identification shall be permitted to enter at any reasonable time, any food service establishment, retail food store, bed and breakfast establishment, or temporary food establishment in the County of Mercer, Illinois, for the purpose of making inspections to determine compliance with this Ordinance. Reasonable time for the purposes of this section shall mean at all times the establishment is open to the public. Failure to allow Health Department access is grounds for immediate permit suspension.
4. **Report.** Whenever an inspection of an establishment is made, the findings shall be recorded on an inspection report. One copy, paper or email, of the inspection report form shall be furnished to the person in charge of the establishment. In the case that violations of this Ordinance are found, this inspection report shall serve as official notice to the permit holder or operator that the establishment is in violation of the provisions of this Ordinance. Refusal to sign the inspection will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified.
5. **Correction of Violations.** Enforcement Procedures for the correction of violations of this Ordinance shall be carried out in accordance with procedures established by the Health Department.
 - a. **Priority Items.** All priority item violations noted on the inspection report will require immediate or twenty-four (24) hour correction and follow-up inspections will be conducted within one (1) working day.

- b. Priority Foundation Items.** All Priority Foundation item violations noted on the inspection report will require correction within ten (3) days and follow-up inspections will be conducted within ten (10) days.
- c. Certified Food Protection Manager.** All certified Food Protection Manager violations noted on the inspection report will require correction within 30 days.
- d. Other Violations.** All other violations noted on the inspection report will be corrected according to a compliance schedule as determined by the Health Officer and the permit holder.
- e. Alternative Timeline for Corrections.** In the event that the correction of the violation would require the installation of new equipment or structural changes, the owner can request an alternative timeline for correction. The request for the alternative timeline for correction shall be in writing and received prior to the expiration of the initial timeline for correction. The request shall include:
 - 1. Date of proposed violation correction
 - 2. Explanation of why original timeline for correction cannot be met
 - 3. Documentation on how the public health will be protected during the alternative correction timeline.

The Health Department shall review each request for alternative correction timelines to insure that the public health is being protected and notify the requestor in writings as to whether the alternative timeline for correction has been approved or denied.

- 6. Food Service Establishments and Retail Food Stores constructed prior to the original effective date of this Ordinance and holding a valid food service permit shall be exempt from the provisions of this Ordinance regarding construction of physical facilities provided such physical facilities function in a manner not prejudicial to the public health. This does remain in effect for those Food Service Establishments and Retail Food Stores constructed prior to the effective date of this Ordinance that undergo a change of ownership. If the Food Service Establishment fails to function in a manner that is not prejudicial to public health, substantially remodels or changes their food preparation practices, additional equipment or structural changes may be required to comply with the Ordinance and Code.
- 7. **Additional Requirements.** If necessary to protect against public health hazards or nuisances, the Health Department may impose specific requirements in addition to the requirements contained in the Code that are authorized by law. The Health Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the establishment and a copy shall be maintained in file for the food establishment.

SECTION F.

EXAMINATION AND CONDEMNATION OF FOOD AND/OR EQUIPMENT:

- 1. Food may be examined or sampled by the Health Officer to determine freedom from adulteration or misbranding. The Health Officer may, upon written notice to the permit holder, condemn or embargo any food which he/she determines or has probable cause to believe to be unwholesome or otherwise adulterated or misbranded. Condemned or embargoed food may be permitted to be suitably stored unless storage is not possible

without risk to the public health; in which case immediate destruction shall be ordered and accomplished. It shall be unlawful for any person to remove or alter a condemnation or embargo order, notice or tag placed on food/or food containers by the Health Officer, and neither such food nor containers thereof shall be relabeled, replaced, reprocessed, altered, disposed of or destroyed without permission of the Health Officer, except on order by a court of competent jurisdiction. If the permit holder requests a hearing as provided within the provisions of this Ordinance, and on the basis of evidence produced at such hearing, the Health Officer may vacate the condemnation or embargoed order.

2. Any potentially hazardous food found to be in the optimal temperature range of 41 to 135 degrees F for the growth of pathogenic foodborne bacteria by the Health Officer during an inspection of an establishment will be subject to immediate condemnation. The condemned food shall be held under embargo until it has been proved satisfactory for human consumption by a certified laboratory at the expense of the permit holder if the food product is not voluntarily destroyed immediately.
3. Where equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, display or service of food, such equipment shall be taken out of use and a hold order placed on said equipment by the Health Officer. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on equipment by the Health Officer. Such equipment will not be altered, disposed of or destroyed without permission of the Health Officer except on an order of a Court of competent jurisdiction.
4. Pursuant to the Administrative Search provisions of this Ordinance, the Health Officer shall be permitted to examine the invoices of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used.
5. Imminent Health Hazards and Food Protection. In the event of a fire, flood (including sewage backup), power outage, misuse of poisonous or toxic materials, foodborne illness outbreak, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required room temperatures, the permit holder or person in charge shall cease operations and contact the Health Department. Upon receiving notice of this occurrence, the Health Department shall take whatever action it deems necessary to protect the public health. If operations are ceased, the establishment must get approval from the Health Department to reopen. A permit holder is not required to discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

SECTION G.

ADULTERATED FOOD:

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

SECTION H.

EMPLOYEE HEALTH:

When the Health Department has reasonable cause to suspect the possibility of disease transmission by any food service establishment, retail food store, bed and breakfast

establishment, temporary food establishment or employee thereof, the Health Officer shall make such investigation as may be indicated, including morbidity history of suspected employees and take appropriate action. The Health Officer may require any or all of the following measures:

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

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

SECTION I.

FOOD OUTSIDE JURISDICTION:

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

SECTION J.

PLAN REVIEW:

1. **General.** Whenever a food service establishment, bed and breakfast establishment, or retail food store is hereafter constructed or remodeled or whenever an existing structure is converted to use as a food service establishment, bed and breakfast establishment, or retail store, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Health Department for review and approval before construction, remodeling, or conversion may begin. The plans and specifications shall indicate the proposed menu, proposed layout, arrangement, mechanical plans and construction materials of work areas; and the model of proposed fixed equipment and facilities. The Health Officer shall approve the plan and specifications, if they meet the requirements of this Ordinance. No food service establishment, bed and breakfast establishment, or retail food store shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the Health Officer. Establishments closed longer than thirty (30) days shall submit a plan review.
2. **Minimum Requirement's.** At a minimum, a food service establishment that is constructed or re-modeled shall have the following:
 - a. A ware washing sink with three compartments. Each compartment shall be sized to allow for the immersion of the largest piece of equipment washed. The ware

washing sink shall include integral drain boards. A three compartment sink is required as a back-up ware washing option for those facilities that have automatic ware washing machines.

- b. A food preparation sink for rinsing of produce, thawing of food products etc.
- c. A utility/mop sink
- d. Handwashing stations in each food preparation and ware-washing area

Establishments that upgrade their operations to higher risk categories after opening may be required to install additional sinks/equipment.

- 3. **Pre-Opening Inspections.** Whenever plans and specifications are required by provisions of this Ordinance to be submitted to the Health Department the Health Officer shall inspect the food service establishment, bed and breakfast establishment or retail food store prior to the beginning or resumption of operations to determine compliance with the approved plans and specifications and with the requirements of this Ordinance prior to the issuance of a permit to operate.

SECTION K.

AMENDMENTS TO ARTICLE:

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

SECTION L.

VARIANCES:

The Health Department may grant a variance, modifying or waiving requirements of the Ordinance or Illinois Food Code if in the opinion of the Health Department a health hazard or nuisance condition will not result from the variance. If a variance is granted, the Health Department shall retain the information in its records for the food establishment. Variances are not transferable to new owners or locations.

- a. **Documentation of Proposed Variance and Justification.** Before a variance from a requirement of the Ordinance or Illinois Food Code is approved, the information that shall be provided by the person requesting the variance and retained in the regulatory authority's file on the food establishment includes:
 - 1. A statement of the proposed variance of the Ordinance or Code requirement citing relevant Ordinance or Code section numbers;
 - 2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Ordinance or Code sections will be alternatively addressed by the proposal; and
 - 3. A HACCP plan, if required as specified under Section N, that includes the information specified as it is relevant to the variance requested.
- b. **Conformance with Approved Procedures.** If the Health Department grants a variance as specified or a HACCP plan is otherwise required, the permit holder shall:
 - 1. Comply with the HACCP plans and/or procedures that are submitted as specified and approved as a basis for the variance, and
 - 2. Maintain and provide to the Health Department, upon request, records specified that demonstrate that the following are routinely employed;

- a. Procedures for monitoring the critical control points
- b. Monitoring of the critical control points
- c. Verification of the effectiveness of the operation or process, and
- d. Necessary corrective actions if there is a failure at a critical control point

SECTION M.

HACCP REQUIREMENTS:

The Health Department may require establishments to submit HACCP plans in accordance with the Code.

a. **When a HACCP Plan is required.**

- 1. Before engaging in an activity that requires a HACCP plan, the permit holder shall submit to the Health Department for approval a properly prepared HACCP plan as specified and the relevant provisions of the Code if:
 - a. Submission of a HACCP plan is required according to law
 - b. A variance is required by the code
 - c. The Health Department determines that a food preparation or processing method requires a variance based on a plan submittal, an inspectional finding, or a variance request.
- 2. Before engaging in reduced oxygen packaging without a variance as specified under the code the permit holder shall submit a properly prepared HACCP plan to the Health Department.

b. **Contents of a HACCP Plan.** For a food establishment that is required to have a HACCP plan, the plan and specifications shall indicate:

- 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 Department;
- 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 preparations of that Food, and
 - 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 issues of concern;
 - d. A statement of standard operating procedures for the plan under consideration including clearly identifying:
 - 1) Each critical control point
 - 2) The critical limits for each critical control point
 - 3) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,
 - 4) 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,
 - 5) Action to be taken by the person in charge if the critical limits for each critical control point are not met, and

- 6) 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 regulatory authority, supporting the determination that food safety is not compromised by the proposal.

SECTION N. RIGHT TO APPEAL

1. HEARING BEFORE THE HEALTH DEPARTMENT ADMINISTRATOR

Any person affected by any order or notice issued by the Health Department in connection with the enforcement of any Section of this Ordinance may file in the office of the Health Department a written request for a hearing before the Health Department Administrator. The Health Department Administrator shall hold a hearing at a time and place designated by her/him. The petitioner for the hearing shall be notified of the time and place of the hearing not less than five (5) days prior to the date on which the hearing is to be held. Proceedings of the hearing shall be recorded. Within ten (10) days after the date of the hearing, the Health Department Administrator shall make a final finding based upon the complete hearing record. The decision shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing shall be furnished to the petitioner by the Health Department. Any person aggrieved by the decision of the Health Department Administrator may seek relief therefrom through a hearing before the Mercer County Board of Health.

2. HEARING BEFORE THE BOARD OF HEALTH

Any person aggrieved by the decision of the Health Department Administrator, rendered as the result of a hearing held in accordance with Section 6, may file in the office of the Health Department a written request for a hearing at a time and place designated by the Secretary of the Board of Health. The petitioner for the hearing shall be notified of the time and place of the hearing not less than five (5) days prior to the date on which the hearing is to be held. Proceedings of the hearing shall be recorded. Within ten (10) days after the date of the hearing, the Board of Health shall make a final finding based upon the complete hearing record. The decision shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing shall be furnished to the petitioner by the Mercer County Health Department.