

## Cass County Food Ordinance

WHEREAS, the Cass County Health Department was established in accordance with Illinois State statute, 55 ILCS 5/5 as amended; and,

WHEREAS, local health departments are subject to the provisions of 77 Illinois Administrative Code, Part 615; and,

WHEREAS, said Administrative Code requires all local health departments to conduct a food sanitation program in accordance with local ordinance that incorporates by reference or includes provisions at least as stringent as the Illinois Department of Public Health Food Sanitation and Retail Food Store Sanitation Codes; and,

WHEREAS, the Cass County Board desires to enact ordinances, in accordance with State Statutes that regulate the activities of its local health department; and,

WHEREAS, it is the desire of the Cass County Board to protect citizens of Cass County from transmitting or contracting foodborne disease;

NOW THEREFORE, BE IT RESOLVED by the Cass County Board that the following ordinance defining, licensing, and regulating food establishments, retail food stores, and temporary food establishments within the county townships serves by the Cass County Health Department, whether or not said establishments are located within the corporate limits of any municipality, be hereby adopted. Said ordinance shall be deemed in full force and effect immediately upon passage.

### **SECTION I: General Provisions and Operational Protocols**

**Sect. I .01 Adoption by reference**- In addition to those provisions set forth herein, this Ordinance hereby adopts by reference the current edition and subsequent revisions of the following:

- a) "Illinois Department of Public Health Food Service Sanitation Code," 77 Ill. Adm. Code 750
- b) "Illinois Department of Public Health Retail Food Store Sanitation Code," 77 Ill. Adm. Code 760
- c) "Bed and Breakfast Act," 50 ILCS 820/1 et seq
- d) "Grade A Pasteurized Milk and Milk Products Act" 410 ILCS 635/8
- e) "Farmers Market Public Act 098-0660" (410 ILCS 625/3.3)
- f) "Cottage Food Operation Public Act 097-0393" 410 ILCS 625/4 new

**Sect. I. 02 Definitions**- Words and phrases shall be taken in their plain, or ordinary and usual sense, except where used in a technical sense or where context of the intent of the County Board indicates or requires different meaning.

For the purpose of this Code, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

**Adulterated.** The condition of a 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 become 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 an animal which has died other than by slaughter; or (f) if its container is composed in whole or any part of any poisonous or deleterious substance which may render the contents injurious to health.

**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; meals may be provided to the guests only as allowed by the Bed and Breakfast Act (50 ILCS 820); this term shall not include motels, hotels, boarding homes, or food service establishments (50 ILCS 820/2a.)

**Category 1 Facility.** Shall mean a facility that presents a high relative risk of causing foodborne illness based on the large number of food handling operations typically implicated in foodborne outbreaks and/or the type of population served by the facility. The following criteria shall be used to classify Category 1 facilities:

- a) Whenever cooling of potentially hazardous foods occur as part of the food handling operations at the facility;
- b) When potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;
- c) If potentially hazardous foods which have been previously cooked and cooled must be reheated;
- d) When preparing potentially hazardous food for off-premises service for which time-temperature requirements during transportation, holding, and service are relevant;
- e) Whenever 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;
- f) If vacuum packaging and/or other forms of reduced packaging are performed at the retail level;  
or
- g) Whenever serving immunocompromised individuals, where these individuals comprise the majority of the population.

**Category 2 Facility.** A facility that presents a medium relative risk of causing foodborne illness based upon few food handling operations typically implicated in foodborne illness outbreaks. The following criteria shall be used to classify Category 2 facilities:

- a) If hot or cold foods are not maintained at that temperature for more than 12 hours and are restricted to same day service;
- b) If preparing foods from raw ingredients uses only minimal assembly; and
- c) Foods served at an establishment that require complex preparation (whether canned, frozen, or fresh prepared) are obtained from approved food processing plants, (Category 1) food service establishments or retail food stores.

**Category 3 Facility.** A facility presents a low relative risk of causing foodborne illness based upon few or no food handling operations typically implicated in foodborne illness outbreaks. The following criteria shall be used to classify Category 3 facilities;

- a) Only prepackaged foods are available or served in the facility, and any potentially hazardous foods available are commercially pre-packaged in an approved food processing plant;
- b) Only limited preparation of non-potentially hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the facility; or
- c) Only beverages (alcoholic or non-alcoholic) are served at the facility.

**Commercially Prepared Sweet Baked Goods.** An individually portioned and wrapped, non-potentially hazardous yeast or cake type bread, bun, croissant or roll with or without filling and/or icing.

**Corrosion Resistant.** Capable of maintaining original surface characteristics under the prolonged influence of the use environment, including the expected food contact and normal use of cleaning compounds and sanitizing solutions.

**County.** The County of Cass.

**Extensively Remodeled.** Whenever an existing structure is converted for use as a retail food establishment; any structural additions or alterations to existing establishments; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

**Food.** Any raw, cooked or processed edible substance, beverage or ingredient, including ice, used or intended in whole, or part, for human consumption..

**Food Handler Certification.** A certificate issued to an individual who completes a three hour Food Handler Training Course approved by the Illinois Department of Public Health.

**Food Handler.** A person working with unpackaged food, food equipment or utensils, or food contact surfaces. All food handlers working in Illinois, unless that person has a valid Illinois Food Service Manager Certification, is an unpaid volunteer, or is working at a temporary event, must possess a Food Handler Certificate.

**Food Service Manager Certification.** A State of Illinois certificate issued to an individual who completes an eight hour Food Service Manager Course along with passing the exam.

**Health Department.** The Cass County Health Department

**Food Establishment.** An operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides 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 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. (77 Ill. Adm. Code 750)

Food establishment includes:

An element of the operation, such as 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 an operation that is conducted in a mobile, stationary, temporary or permanent facility or location. This inclusion applies regardless of where consumption is on or off the premises and where there is a charge for food.

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 food processing plant, including those that are located on the premises of a food establishment;

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 guest;

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

A cottage food operation. (77 Ill. Adm. Code 750.10)

**Health Officer.** The Administrator of the Cass County Health Department or his or her authorized representative.

**Misbranded.** The presence of any written, printed, or graphic matter upon or accompanying food or containers of food which is false or misleading.

**Mobile Food Unit.** A vehicle-mounted food service establishment designed to be readily movable.

**Not-for-profit Organization** shall mean those organizations recognized as such pursuant to the laws of the State of Illinois. This definition does not include organizations in possession of any annual liquor license (not a special event license) or an Illinois sales tax number for commercial purposes (not tax exempt numbers).

**Permit/License Holder.** Any person who has been issued a permit/license to operate a food establishment.

**Person In Charge (PIC) or Operator.** The individual present in a food establishment who is the supervisor of the food establishment at the time.

**Potentially Hazardous Food.** Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.

**Retail Food Store.** Any establishment or section of an establishment where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumptions. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged spirits; roadside markets that offer only fresh fruits and fresh vegetables for sale, food service establishments; or food and beverage vending machines, (77 Ill. Adm Code 750 & 760).

**Seasonal Permit.** A 6 month permit that covers all fairs, burgoos, festivals or any other special event, lasting no more than 14 consecutive days. A seasonal permit only applies to a temporary food service establishment, and is not acceptable as a year round license.

**Temporary Food Service Establishment.** Food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

**Time/ Temperature Control for Safety Food** (formerly “potentially hazardous food” (PHF)) shall mean:

- 1) Time/ Temperature control for safety food means a food that requires time/ temperature control for safety (TCS) to limit pathogenic microorganisms growth or toxin formation
- 2) Time/ Temperature control for safety includes:
  - a) An animal food that is raw or heat- treated; a plant food that is heat- treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganisms growth or toxin formation, or garlic- in- oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganisms growth or toxin formation and;
  - b) Except as specified in Subparagraph (3)(d) of this definition, a food that because of the interaction of its Aw and pH values is designated as Product Assessment Required (PA)
- 3) Time/temperature control for safety food does not include:
  - a) An air- cooled hard- boiled egg with shell intact, or an egg with shell intact that is not hard- boiled, but has been pasteurized to destroy all viable salmonellae;
  - b) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non- refrigerated storage and distribution;
  - c) A food that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non- TCS Food
  - d) A food that is designated as Product Assessment Required (PA) in Table A or B (2013 FDA Food Code) of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
    - (i) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

- (ii) Extrinsic factors including environmental or operational facts that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or
  - (iii) A combination of intrinsic and extrinsic factors; or
- e) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3)(a)- (3)(d) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

## **Section II: Licensing Requirements**

**Sect. II. 01 License Required**- It shall be unlawful for any person to operate a food establishment, retail food establishment, mobile food service unit, catering establishment, or temporary food establishment, within the county of Cass, who does not possess a valid license issued by the Cass County Health Department. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one person or place to another person or place. A valid license shall be posted in an area accessible in public view in every food establishment. Licenses to operate a food establishment shall be subject to a fee schedule as set by the Board of Health.

The following establishments shall be exempt from the provisions of this Ordinance:

- a) An establishment which has only non-perishable and/or non-potentially hazardous food and whose principle order of business is not to sell food for human consumption.
- b) Facilities licensed and inspected by the Illinois Department of Corrections.
- c) Facilities licensed by the Illinois Department of Public Health as provided in 210 ILCS 35 the Community Facilities Licensing Act.
- d) Facilities licensed and inspected by the Department of Agriculture.
- e) Facilities licensed by the Illinois Department of Public Health as provided in 210 ILCS 100 the Youth Camp Act.

**Sect. II. 02 License Issuance**- Any person desiring to operate a food establishment, retail food establishment, mobile food service unit, catering establishment, or temporary food establishment, within the county of Cass, shall make written application for a license on forms provided by the Health Department.

**Sect. II. 03 Issuance of Temporary License**- It shall be unlawful for any person to operate a temporary food service establishment, or temporary food retail store, within Cass County in the State of Illinois, who does not possess a valid license issued to him/her by the health authority. Any person(s), group, or organization desiring to operate a temporary food service establishment or

temporary retail food store shall make written application for a license on forms provided by the Health Department. The Health Officer shall make an inspection of the temporary food service establishment or temporary retail food store to determine compliance with the provisions of this ordinance. When the inspection reveals that the applicable requirements of this ordinance have been met, a temporary license shall be issued to the applicant by the Health Officer. Licenses to operate a Temporary Food Establishment shall be subject to a fee schedule as set by the Board of Health.

All temporary event vendors must complete all forms required by the Health Department. A temporary establishment operating one day, for less than four hour serving time, will not be subject to a health inspection. If the event is more than 4 hours but is not serving potentially hazardous foods, an inspection will not be necessary. If the event is lasting for more than four hours and is serving potentially hazardous foods, an inspection will be necessary by the Health Officer. A Food Service Manager must be present during inspection.

Any temporary establishment serving for two days or more, up to 14 consecutive days, will require an inspection by the Health Officer. If the temporary establishment requires an inspection by the Health Officer, then the establishment must have a Food Service Manager present at time of inspection. This person does not have to be on site at all times, but must be present at inspections. This person also must be available for questions or issues that may arise.

All temporary food service establishments will be allowed to apply for a seasonal temporary food permit. Only a person who complies with the requirements of this Ordinance and regulations adopted by the Board of Health shall be entitled to receive and retain a seasonal temporary permit. A seasonal permit shall be valid for 6 consecutive months from the date of issuance, and only one permit shall be issued in a 12 month period, and shall be subject to a fee schedule as set by the Board of Health. All vendors possessing a seasonal food permit will be subject to at least one inspection, per season.

**Sect. II. 04 License Length**- The license for all annual operating food establishments and retail food stores shall be issued annually by the health department, beginning on the first day of July. Licenses issued after the July 1<sup>st</sup> date, but within the next twelve month period, shall have their license fee pro-rated.

**Sect. II. 05 License Renewal**- Annual renewal of licenses shall be required for continued operation of the establishment. Any person desiring to renew a license shall make written application on forms provided by the Health Department.

All registration fees for the annual renewal of licenses are due prior to the license expiration date. Persons failing to submit the appropriate fee and renewal application by the above stated renewal due date shall be assessed a late payment penalty fee set by the Board of Health in addition to the appropriate license fee. Failure to submit the total fee and application by the above described renewal date may result in a lapse of the license.

**Sect. II 06 License Updates**- The license holder has an affirmative and continuing requirement to update the original and all renewal applications. As a result, the license holder must inform the Health Officer of any changes in the information listed in these applications within thirty (30) days. Failure to comply with the requirements of this section, or knowingly furnishing false information on the original

or renewal applications shall be grounds for immediate suspensions or revocation of any license issues pursuant to this Ordinance.

**Sect. II. 07 License Suspension**- Licenses for food service establishments, retail food stores or temporary food establishments may be suspended by the Health Officer upon notice to the license holder of same. Reasons for suspending the license include, but are not limited to, the following:

- a) Failure to comply with the provisions of this Ordinance;
- b) Failure to comply with the provisions of this Ordinance after notification by the Health Officer;
- c) Failure to comply with the provisions of this Ordinance within the time established by the Health Officer;
- d) Interference with the Health Officer in the performance of his duties, including, but not limited to, failure to allow the Health Officer access to the license holders' building or records;
- e) Knowingly furnishing false information on the original or renewal applications.
- f) Repeated violation of the same issue without an attempt at correcting the item.
- g) A condition exists that will result in an imminent health hazard to the public.

Upon making the determination that a suspension is appropriate, the Health Officer shall advise the license holder or the PIC, in writing, of the intended suspension. The notice shall be delivered in person by the Health Officer or sent via certified mail. The Health Officer will issue a written notice citing such conditions, specifying the corrective action to be taken, and specifying the time period within such action shall be taken. The license holder then has the option of correcting the cited violations and requesting a re-inspection of their facility. If upon re-inspection, the Health Officer finds all violations to be corrected, he or she will inform the license holder, in writing, of the corrected citations and forgo all license suspension procedures. If the license holder feels the Health Officer is incorrect in his/her assessment of their facility, they may also choose to make a written request for a hearing with the Cass County Board of Health before imposition of the period of suspension according to the procedures set out in the Hearing Procedure section.

Before resuming operations following a suspension of service imposed by the Health Officer, the facility must successfully pass a re-inspection by the Health Officer to assure the identified imminent health hazards have been eliminated.

**Sect. II. 08 License Revocation**- Licenses for food service establishments, retail food stores, or temporary food establishments may be revoked by the Cass County Health Department upon notice to the license holder of same. Reasons for revoking the license may include, but are not limited to, the following:

- a) Serious violations of the provisions of this ordinance;
- b) Repeatedly failing to comply with the provisions of this ordinance;
- c) Repeated license suspension due to an imminent health hazard to the public



- d) Repeated interference with the Health Officer in the performance of his or her duties, including, but not limited to, failure to allow the Health Officer access to the license holder's buildings or records;
- e) Knowingly furnishing false information on the original or renewal applications;
- f) Failure to apply for re-inspection within 30 days of the end of a suspension period imposed for violations of the provisions of this Ordinance; and,
- g) When the continuous operation of the business has lapsed for a period of more than 90 days.

Upon making a determination that a revocation is appropriate, the Health Officer shall advise the license holder, or PIC, in writing of the intended revocation. The notice shall be delivered in person by the Health Officer or sent via certified mail. The license holders may make a written request for hearing with the Cass County Board of Health before imposition of the revocation according to the procedures set out in the Hearing Procedure section.

**Sect. II. 09 License Classifications** - The Cass County Health Department shall annually conduct a category assessment for every food service establishment and retail food store operating in Cass County, pursuant to the Local Health Protection Grant rules established by the Illinois Department of Public Health.

**Sect. II. 10 License Fees** - Annual license fees may be assessed on each licensed establishment and collected by the Health Department and deposited into the Health Department fund. Fees shall be based on a schedule determined by the Cass County Board of Health. License fees shall be non-refundable once a license has been issued by the Health Department.

**Sect. II. 11 Administrative Fees** - Administrative fees may be developed and collected by the Health Department and deposited into the Health Department fund. Fees such as but not limited to late payment fees and re-inspection fees shall be based on a fee schedule determined by the Cass County Board of Health

**Sect. II. 12 No Valid License**- When a food service establishment or a retail food store is in operation for longer than a period of thirty days after the July 1<sup>st</sup> annual licensing deadline with no valid license, the facility shall be closed by notification until a valid license is obtained. All new food service or retail establishments shall have a valid license prior to opening or they shall be closed by notification until they have a valid license.

**Sect. II. 13 Embargo and Condemnation**- Food may be examined or sampled by the Health Officer to determine freedom from adulteration or misbranding. The Health Officer may condemn or embargo (detain) equipment or food with probable cause to believe that any food or piece of equipment may be unwholesome or unfit for use. Such conditions include but are not limited to:

- a) Food that has been adulterated

- b) Food that has been misbranded
- c) Any potentially hazardous food found to be in the optimal temperature range for the growth of pathogenic foodborne bacteria as defined in the Illinois Food Service Sanitation Code
- d) 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,
- e) In the event that food is contaminated as a result of fire, food, sewage backup, power outage, or similar events

Condemned or embargoed food, food containers, or equipment may be suitably stored by the license holder unless said storage would pose a risk to the public health. If a risk exists, immediate destruction shall be ordered by the Health Officer, or voluntary destruction may be accomplished by the license holder. If the license holder refuses to destroy the condemned food, food containers, or equipment, same shall be held under embargo until they have been proved satisfactory for human consumption by a certified laboratory at the expense of the license holder.

No person shall remove or alter a condemnation or embargo order, notice, or tag placed on food, food containers or equipment by the Health Officer. Said food, food containers, or equipment shall not be relabeled, replaced, reprocessed, repackaged, altered, disposed of, destroyed, or placed back in service without the permission of the Health Officer, except on order by a court of competent jurisdiction. The license holder may make a written request for a hearing with the Health Officer before imposition of condemnation according to the procedures set out in the Hearing Procedure section.

**Sect. II. 14 Employee Health-** When the Health Department has reasonable cause to suspect the possibility of disease transmission by an employee of any establishment regulated by this Ordinance, the Health Officer shall investigate the suspected employee and take appropriate actions pursuant to this Ordinance and State Statues.

**Sect. II. 15 Construction and Remodeling-** Whenever any establishment regulated by the provisions of this Ordinance is constructed or remodeled, or whenever an existing structure is converted to use as an establishment to be regulated by the Ordinance, plans and specifications for such construction, remodeling, or conversion shall be submitted to the Health Officer for review and approval before construction, remodeling or conversion may begin. At a minimum, any remodeling which requires the establishment owner to obtain a building permit due to the extent or cost of the work to be performed shall be required to also submit plans for said remodeling to the Health Department for review and approval prior to construction.

The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction material of work areas, and the type and model of proposed fixed equipment and facilities. The Health Officer shall inspect the proposed establishment prior to the beginning or resumption of operations to determine compliance with the approved plans and specification and the requirements of this Ordinance.

### **Section III: Administration and Enforcement Procedures**

**Sect. III. 01 Inspection Schedule**- The Health Department shall conduct routine inspections for each food service establishment, retail food store, and temporary food establishment operating in Cass County in accordance with the guidelines established by the Illinois Food Service Sanitation Code. The Health Department shall reassess annually the minimum number of inspections based upon its risk classification.

**Sect. III. 02 Inspection Report** - Whenever an inspection of an establishment is made, the finding shall be recorded on a standardized inspection report form pursuant to 77 Ill. Adm. Code 750. One copy of the completed inspection report will be furnished to the license holder or his agent at the time of the inspection. If violations of this Ordinance exist, the inspection report shall serve as official notice to the license holder that the establishment is in violation of the provisions of this Ordinance. The completed inspection report form shall specify the violations found by the Health Officer, and shall establish a reasonable time period within which said violations must be corrected.

**Sect. III. 03 Re-Inspection, Repeat Violations, and Enforcement** - Whenever an inspection of a facility is made and Risk Factor violations are noted, a first re-inspection by the Health Officer will be required. All Risk Factors will be recorded in the manner stated above. The report will specify the violation, the corrective action to be taken and will establish a time period for correction. If during the first re-inspection the Health Officer finds that no attempts at a correction were made and a second re-inspection is required, the establishment will be subject to a re-inspection fee set by the Board of Health.

At the end of the time period, the second re-inspection will occur. If all items have been corrected the establishment will receive a new inspection report stating as such. If violations still exist at the time of the second re-inspection, the establishment shall be subject to other enforcement activities, including potential license suspension.

**Sect. III. 04 Right of Entry**- The Health Office, after proper identification, shall have access at any reasonable time to any establishment regulated by the Ordinance. Reasonable time for the purpose of this section shall mean at all times the establishment is open to the public. The Health Officer shall be permitted to examine all areas and records of the establishment, which are reasonably necessary to his or her inspection or investigation. Denial of access as herein provided shall be deemed as interference with the Health Officer in the performance of his or her duties, including but not limited to denial of access to the license holder's building or records.

**Sect. III. 05 Hearings before the Health Officer** - 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 written request for a hearing before the Health Officer. Unless stated elsewhere in this ordinance, the Health Officer shall hold the hearing at a time and place designated by him within fourteen (14) days from the date in which the written request was filed.

The petitioner for the hearing shall be notified of the time and place of hearing not less than five (5) days prior to the date on which the hearing is to be held.

If, as a result of the hearing, the Health Officer finds that strict compliance with the order or notice would cause undue hardship on the petitioner, and that the public health would be adequately protected and substantial justice done by varying or withdrawing the order of notice, the Health Officer may modify or withdraw the order of notice as a condition for such action, may where deemed necessary, make requirements which are additional to those prescribed in this Ordinance for the purpose of properly protecting the public health.

The Health Officer shall render a decision within ten (10) days after the date of the hearing, which shall be reduced to writing and placed on file in the office of the authorized representative as a matter of public record. Any person aggrieved by the decision of the Health Officer may seek relief through a hearing before the Cass County Board of Health.

**Sect. III. 06 Hearing Before the Cass County Board of Health** - Any person aggrieved by the decision of the Health Officer as a result of a hearing held in accordance with this Section may file in the office of the Health Officer a written request for a hearing at a time and place designated by the president of the Board of Health within thirty (30) days of the date on which the written request was filed. 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.

If as a result of facts elicited as a result of the hearing, the Board of Health finds that strict compliance with the decision of the Health Officer would cause undue hardship of the petitioner, and that the public health would be adequately protected and substantial justice done by granting a currency from the decision of the Health Officer, the Board of Health may grant a currency and as a condition for such variance, may, where it deems necessary, make requirements which are additional to those prescribed by this Ordinance.

The Health Department Committee shall render a decision within thirty (30) days after the date of the hearing which shall be reduced to writing and placed on file in the office of the Health Officer and a copy thereof shall be served on this petitioner personally or be delivered to the petitioner by certified mail. A transcript of the record shall be provided at the expense of the person requesting the hearing. All witnesses called shall be required to testify under oath. An appeal from a decision of the Board of Health may be made to the Circuit Court of Cass County, pursuant to the Illinois Administrative Review Act. 735 ILCS 5/3-101 et seq., as amended.

**Sect. III. 07 Penalties** - Any license holder, who violates the provisions of this Ordinance or any of the regulations promulgated hereunder, shall be subject to prosecution for an offense for each and every day on which the violation continues and each day that the offense continues shall constitute a separate offense. The license holder shall be subjected to a fine of not more than \$1000 for each offense. Further, the Health Officer, with the approval of the Board of Health, may seek injunctive relief and fines for non-compliance with the provisions of this Ordinance. The Cass County State's Attorney serves as legal counsel and prosecuting officer for the Board of Health and Health Department.

**Sect. III. 08 Severability** - If any provision of this Ordinance is declared unconstitutional or invalid by a court of competent Jurisdiction, the decision shall not affect the validity of the remainder of the Ordinance.

Ordinance passed and adopted by the Cass County Board this \_\_\_\_ day of \_\_\_\_\_2020.

Effective upon adoption:

Attest:

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