

**AN ORDINANCE ENACTING AN**  
**EAST SIDE HEALTH DISTRICT FOOD SANITATION PROGRAM**

WHEREAS, the East Side Health District was established in accordance with Illinois State statute, 55 ILCS 5/5 as amended; and

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

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

WHEREAS, the East Side Health District desires to enact ordinances, in accordance with State statutes that regulate the activities of its local health district; and

WHEREAS, it is the desire of the East Side Health District to protect the citizens of East Side Health District from transmitting or contracting food- borne disease;

NOW THEREFORE, BE IT ORDAINED by the East Side Health District Board of Health that the following ordinance defining, permitting and regulating food establishments, mobile food units, vending units containing time/temperature controlled foods and temporary food establishments within the county townships served by the East Side Health District, 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 upon date of adoption.

**GENERAL PROVISIONS**

**Sect. 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:

*“Illinois Department of Public Health Food Service Sanitation Code,” 77 Ill. Adm. Code 750.*

A copy of each shall be on file with the office of the East Side Health District.

**Sect. 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 or the intent of the East Side Health District Board of Health indicates or requires a different meaning.

**Adulterated** shall mean the condition or any food:

- a) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; or
- 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; or
- c) if it consists in whole or in part of any filthy, putrid or decomposed substance or it is otherwise unfit for human consumption; or
- 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; or
- e) if it is in whole or in part the product of a diseased animal or animal which has died otherwise than by slaughter; or
- 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, (410 ILCS 620/10).

**Approved** - shall mean acceptable to the Health Officer based on their determination as to conformance with appropriate standards and good public health practice.

**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 (50 ILCS 820/2.a).

**Board of Health** shall mean the East Side Health District Board of Health or its authorized representatives.

**Categories of Restaurants:** The Health District shall annually conduct a **category assessment** for each food establishment. This assessment will result in the facility being placed in the appropriate risk category as it relates to food handling operations. A category shall be deemed appropriate when at least one criteria item describes that establishment's food handling operations, and in all cases, the highest appropriate category will apply. The Health Officer may take additional establishment practices into consideration when making assessments, including, but not limited to, past inspection history.

**CATEGORY (1) - High Risk**

- a) whenever cooling of potentially hazardous foods occurs as part of the food handling operations at the facility; or
- b) when potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving; or
- c) if potentially hazardous foods which have been previously cooked and cooled must be reheated; or
- 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; or
- f) if vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or
- g) whenever serving immunocompromised individuals, where these individuals comprise the majority of the consuming population.

**CATEGORY (2) - Medium Risk**

- a) if hot or cold foods are not maintained at that temperature for more than 12 hours and are restricted to the same day service; or
- b) if preparing foods for service from raw ingredients uses only minimal assembly and; or
- c) foods served at an establishment 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 (3) - Low Risk**

- a) only pre-packaged foods are available or served in the facility and any potentially available are commercially pre-packaged in an approved processing plant; or
- 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.

**Food** shall mean any raw, cooked or processed edible substance, ice, beverage or ingredient or used or intended for use or sale in whole or in part for human consumption, (77 Ill. Adm. Code 750 & 760).

**Food Handler** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

**Food Establishment** shall mean 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 only handles non-time/temperature controlled for safety, pre-packaged spirits
- 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 District** shall mean the East Side Health District.

**Health Officer** shall mean the person or persons who have been designated by the East Side Health District Board of Health to administer the affairs of the East Side Health District.

**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, or which violates any applicable state or local labeling requirements.

**Multiple Temporary Food Establishment Permit** is a permit valid for the Temporary Event Food Season of each year. This permit may be obtained for individual temporary stands that operate in conjunction with a seasonal, public & reoccurring event.

**Permit Holder** shall mean any person or his agent who makes application for a permit to operate a food establishment, vending, mobile or temporary food establishment pursuant to this Ordinance.

**Person** shall mean an individual, firm, partnership, or co-partnership, company, corporation, trustee, lessee, receiver, association, municipality, or any political subdivision or department thereof, or any other entity, or its agent.

**Temporary Food Establishment** shall mean a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event of celebration (77 Ill. Adm. Code 750). A temporary food establishment is not one that serves only commercially-prepared, pre-packaged food or beverages.

**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.

**Vending machine** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of FOOD in bulk or in packages without the necessity of replenishing the device between each vending operation.

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## PERMITS

**Sec. 03 Permit Required** - It shall be unlawful for any person to operate a food establishment, mobile unit, time/temperature controlled for safety food vending unit or temporary food establishment, within the East Side Health District jurisdiction, who does not possess a valid permit issued by the East Side Health District. 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 transferable to any location, building, or place other than that which it was originally issued. A valid permit shall be posted in every food establishment so as to be clearly visible to all customers. A valid permit is one that is not suspended, revoked, or expired.

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

- a) Establishments which have only commercially pre-packaged, non-perishable and/or non- time/temperature controlled for safety foods and whose principle order of business is not to sell food for human consumption.

**Sec. 04 Permit Issuance** - Any person desiring to operate a food establishment, vending unit or temporary food establishment, must comply with the requirements of this ordinance, where applicable, and shall make written application for a permit on forms provided by the Health District. Such application shall include: (1) the applicant's full name and post office address and whether such applicant is an individual, firm, or corporation, and, if a partnership, the names of partners, together with their addresses shall be included; (2) the location and type of the proposed food establishment; and (3) the signature of the applicant or applicants. If the application is for a temporary food establishment, it shall also include the inclusive dates of the proposed operation. Upon receipt of such an application, the Health Authority shall make an inspection of the establishment and/or conduct a temporary consult to determine compliance with the provisions of this ordinance. If the Health Authority is satisfied that the establishment is in compliance with this ordinance, a permit, in accordance with this ordinance, shall be issued.

**Sect. 05 Permit Length** - The annual permit for food establishments shall expire on December 31 of each year. Temporary establishment permits shall be for periods of no longer than fourteen consecutive (14) days.

**Sect. 06 Permit Renewal** - Annual renewal of permits shall be required for continued operation of the establishment. Any person desiring to renew a permit shall make written application on forms provided by the Health District. If the establishment is in compliance with this ordinance, the permit may be renewed.

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**Sect. 07 Permit Updates** - The permit holder has an affirmative and continuing requirement to update the original and all renewal applications. As a result, the permit holder must inform the Health Officer of any changes in the information listed in these applications within thirty (30) days following the change.

Failure to comply with the requirements of this section, or knowingly furnishing false information on the original and renewal applications shall be grounds for immediate suspension or revocation of any permit issued pursuant to this Ordinance.

**Sect. 08 Permit Suspension** - Permits for food establishments, mobile units, vending or temporary food establishments may be suspended by the Health Officer upon written notice to the permit holder of same and the food service permit shall be removed by the health Officer. Reasons for suspending the permit 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 written 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 permit holder's building or records;
- e) Failure to update the original and renewal applications, as required by this Ordinance;
- f) Knowingly furnishing false information on the original or renewal applications;
- g) Environmental conditions within the facility, such as filth, rodent or bug infestation, lack of hot or cold water, backup of sewage, inadequate temperature control which are deemed by the Health Officer to be an imminent health hazard to the public. Upon making a determination that a suspension is appropriate, the Health Officer shall advise the permit holder, or his managing or registered agent, in writing of the intended suspension. The notice shall be delivered in person by the Health Officer or his designated agent or sent via certified mail. The permit holder may make a written request not later than five (5) days following date of the notice for a hearing with the Health Officer before imposition of the period of suspension according to the procedures set out in the Hearing Procedure section.

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Permits for food establishments, mobile, vending or temporary food establishments may be suspended by the Health Officer without notice to the permit holder when, in the judgment of the Health Officer, a condition exists that will result in an imminent health hazard to the public.

Upon making a determination that a suspension without notice is appropriate, the Health Officer shall immediately without warning or notice, advise the permit holder, or his managing or registered agent, of said condition and all food service operation shall be immediately discontinued.

**Sect. 09 Permit Revocation** - permits for food establishments, mobile, vending or temporary food establishments may be revoked by the Health Officer upon written notice to the permit holder of same and the food service permit shall be removed by the Health Officer or his designated agent. Reasons for revoking the permit 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) 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 permit holder's building or records;
- d) Failure to update the original and renewal applications, as required by this Ordinance; an expired permit does not need to be revoked.
- e) Knowingly furnishing false information of the original or renewal applications;
- f) 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 permit holder, or his managing or registered agent, in writing, of the intended revocation.

The notice shall be delivered in person by the Health Officer or his designated agent or sent via certified mail. The permit holder may make a written request not later than five (5) days following date of the notice for a hearing with the Health Officer before imposition of the revocation according to the procedures set out in the Hearing Procedure section.

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**Sect. 10 Permit Fees:** Annual permit fees shall be assessed each calendar year for each food establishment. Fees shall be based on the assessment category of the establishment. Food service and retail food operations will be assessed separately.

a) The fee schedule for the calendar year is as follows:

Annual Permit Fees

Category 1.....	\$ 0.00
Category 2.....	\$ 0.00
Category 3.....	\$ 0.00
Temporary Food Establishment.....	\$ 0.00
Multiple Temporary Food Establishment....	\$0.00
Mobile Food Unit.....	\$ By Category
Vending Unit.....	\$ By Category
Cottage Food Registration.....	\$0.00

*(The fee schedule is subject to be adjusted annually by the Board of Health )*

- b) Permit fees shall not apply to governmental, charitable, not-for-profit, and educational institutions, where said institutions are organized as not-for-profit organizations to the laws of the State of Illinois. Not-for profit institutions must provide proof of their status by providing Internal Revenue Service 501 (c) (3) form.
- c) Permit application fees shall be non-refundable once an application has been received by the Health District.
- d) The annual permit term shall be January 1 through December 31 of each calendar year. All permits granted hereunder shall expire on December 31 of the year of issuance, except a temporary establishment license shall expire not more than fourteen (14) days after its date of issuance or is only valid for identified dates. Fees for annual renewals will be billed in November of each year for the following year's permits and shall be due by December 31 of the year billed. Penalties for late payment shall be:

- assess \$30 late fee for every 30 days past due

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Legal action will be taken when 90 days past due

e) Fees for new food service establishments or new owners will be the full annual fee unless the establishment first operates after June 30, in which case the fee shall be one half the full annual fee. Payment is due 30 days following the bill date.

f) Permits shall not be transferable to any other person or location.

**Sect. 11 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 when he has 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 of 42 to 139 degrees F for the growth of pathogenic foodborne bacteria
- 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, flood, sewage backup, power outage, or similar events.

Condemned or embargoed food, food containers, or equipment may be suitably stored by the permit holder unless said storage would pose a risk to the public health. If a risk exists, (1) immediate destruction shall be ordered by the Health Officer, or (2) the permit holder may voluntarily destroy the condemned food, food containers, and/or equipment, or (3) same shall be held under embargo until they have been proved satisfactory for human consumption by a certified laboratory at the expense of the permit 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 re-labeled, 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 permit 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.

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**Sect. 12 Hepatitis A Vaccinations** - For the purposes of this Ordinance, all food handlers shall comply with the requirements of proof of Hepatitis A vaccination as contained herein:

- 1) No person shall be a food handler for more than two weeks unless and until such person shall provide to their employer written certification by a health care provider that:
  - a) The food handler is immune from Hepatitis A; or
  - b) The food handler has been vaccinated against Hepatitis A, including a booster shot within six to twelve months of the original vaccination; or
  - c) The food handler has received the initial vaccination against Hepatitis A. However, said food handler must then provide the restaurant owner a health care provider's certification of the required booster shot within one year of the date of original vaccination.
- 2) Employers of food handlers shall retain all written certifications provided pursuant to the Ordinance throughout the period of each food handler's employment at the facility and make the records available to East Side Health District upon request.
- 3) The requirements of this section shall not apply to women while they are pregnant, nor to those persons who object to vaccinations because of religious beliefs or because of medical conditions which are verified in writing by a duly licensed physician.

**Sect. 13 Procedure When Infection Suspected** : When the Health Authority has reasonable cause to suspect the possibility of disease transmission from any food-service establishment or retail food store food handler, the Health Authority shall secure a morbidity history of the suspected food handler, or make such other investigation as may be indicated and take appropriate action. The Health Authority may require any or all of the following measures:

- a) the immediate exclusion of the food handler from all food-service establishments and retail food stores;
- b) the immediate closure of the establishment concerned until, in the opinion of the Health Authority, no further danger of disease outbreak exist;
- c) restriction of the food handler's services to some area of the establishment where there would be no danger of transmitting disease;
- d) adequate medical and laboratory examination of the food handler, of other food handlers, and of their body discharges.

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**Sect. 14 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 this 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. Plans shall indicate the proposed layout, arrangement, mechanical plans and construction materials 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 specifications and the requirements of this Ordinance.

**Sect. 15 Food-Service Establishments Outside Jurisdiction of the Health Authority:**

Food from food-service establishments outside the jurisdiction of the Health Authority of the East Side Health District, State of Illinois, may be sold within East Side Health District if such food-service establishments conform to the provisions of this ordinance or to substantially equivalent provisions. To determine the extent of compliance, East Side Health District may accept reports from responsible authorities in other jurisdictions where such food-service establishments are located.

### **ADMINISTRATION AND ENFORCEMENT**

**Sect. 16 Inspection** - The Health District shall annually conduct a category assessment for every food service and retail food store operating in East Side Health District, and conduct unannounced, routine, onsite inspections of each food establishment operating in East Side Health District in accordance with the guidelines established by the Illinois Department of Public Health, 77 Ill. Adm. Code Ch. 1, Sec. 615 as follows:

- a) **Category 1 Facilities** shall receive a minimum of two (3) inspections per year, or two (2) inspections per year if one of the following conditions are met:
    - i) a certified food manager is present at all times the facility is in operation; OR
    - ii) employees involved in food operations receive HACCP training exercise, in-service training in another food service sanitation area, or attend an educational conference on food safety or sanitation.
  - b) **Category 2 Facilities** shall receive a minimum of one (1) inspection per year
  - c) **Category 3 Facilities** shall receive a minimum of one (1) inspection, every other year.
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d) **Temporary Food Establishments** shall be provided with a consultation and/or an onsite inspection at a minimum of one (1) time for each permit issued.

Additional inspections and re-inspections shall be conducted as necessary for the enforcement of this ordinance.

**Sect. 17 Inspection Report** - Whenever an inspection of an establishment is made, the findings shall be recorded on a standardized inspection report form pursuant to 77 Ill. Adm. Code 750. One copy of the completed inspection report form will be furnished to the permit holder or his agent within 24 hours of the inspection. If violations of this Ordinance exist, the inspection report shall serve as official notice to the permit 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. 18 Right of Entry** - The Health Officer, after proper identification, shall have access at any reasonable time to any establishment regulated by this Ordinance. Reasonable time for the purposes 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 inspection or investigation. Denial of access as herein provided shall be deemed as interference with the Health Officer in the performance of his duties, including but not limited to denial of access to the permit holder's building or records.

**Sect. 19 Hearing before the Health Officer** - Any permit holder affected by any order or notice issued by the Health District in connection with the enforcement of any section of this Ordinance, may file in the office of the Health District a written request for a hearing before the Health Officer. Unless stated elsewhere in this Ordinance, the Health Officer shall hold the hearing at the time and place designated by the Health Officer within fourteen (14) days from the date on which the written request was filed.

The petitioner for the hearing shall be notified in writing 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. The Health Officer may, as a condition of the order, where deemed necessary, make requirements which are additional to those prescribed in this Ordinance for the purpose of properly protecting the public health.

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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. Any permit holder aggrieved by the decision of the Health Officer may seek relief therefrom through a hearing before the East Side Health District Board of Health or their representatives.

**Sect. 20 Hearing before the East Side Health District Board of Health or their representatives** - Any person aggrieved by the decision of the Health Officer as the 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 respective Township Supervisor of the Township where the food facility is located 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.

The hearing will be before an Appeal Board consisting of the Township Supervisor of the Township where the food facility is located, who shall be the chairman of the Appeal Board, and each Mayor in that Township, plus one business owner and two citizens in that Township to be named by the Township Supervisor. The Chairman of the St. Clair County Board shall serve as an official member of the Appeal Board and shall have the right to vote on the matter.

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

The Appeal Board shall render a decision within fourteen (14) 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 the petitioner personally or by delivery to the petitioner by certified mail. A certified 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 of a decision of the Appeal Board may be made to the Circuit Court of St. Clair County, pursuant to the Illinois Administrative Review Act, 735 ILCS 5/3-101et seq.,as amended.

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**Sect. 21 Penalties** - Any permit 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 permit holder shall be subject to a fine of not more than \$500.00 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.

**Sect. 22 Repeal and Date of Effect:** This ordinance shall be in full force and effective immediately after its adoption and publication as provided by law; and, at that time, all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Sect. 23 Conflict of Ordinance Effect on Partial Validity:**

- a) In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance, or code of St. Clair County existing on the effective date of this ordinance, the provision which, in the judgement of the Health Authority establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this ordinance is found to be in conflict with a provision of any other ordinance or code of St. Clair County existing on the effective date of this ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provision of this ordinance shall be deemed to prevail.
  
- b) If any section, subsection, paragraph, sentence, clause or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect and, to this end, the provisions of this ordinance are, hereby, declared to be severable.