

## SALINE COUNTY FOOD ORDINANCE 18-34

**Whereas**, the County Board is authorized to license and regulate and impose license fees on all food service establishments within both the incorporated and unincorporated areas of the county as described under 55 ILCS 5/5-1115(b); and

**Whereas**, the Egyptian Health Department was established in accordance with Illinois State statute, 55 ILCS 5/5 as amended; and

**Whereas**, Illinois Administrative Code 77 Part 615 requires local health departments to conduct a food sanitation program in accordance with a local ordinance that incorporates by reference or includes provisions at least as stringent as the Illinois Department of Public Health Food Service Sanitation Codes; and

**WHEREAS**, the Saline 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 Saline County Board to protect the citizens of Saline County from transmitting or contacting foodborne disease;

**NOW, THEREFORE**, BE IT ORDAINED by the Saline County Board that the following ordinance defining, permitting, and regulating food establishments, retail food stores, mobile and temporary food establishments within the county, 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 on April 1, 2018

### SECTION A - General Provisions

#### A.1 Program Mission

In order to protect the citizens within its jurisdiction from contracting and transmitting foodborne diseases, the Egyptian Health Department shall perform a comprehensive food protection program. The Egyptian Health Department shall undertake activities to identify, reduce, and whenever possible, eliminate factors which may cause foodborne illnesses in order to reduce the incidence of foodborne illnesses.

#### A.2 Adoption By Reference

In addition to those provisions set forth herein, this Ordinance hereby adopts by reference the current edition and subsequent revisions of, and shall be interpreted and enforced in accordance with the provisions set forth in the following:

- a) "Illinois Department of Public Health Food Service Sanitation Code," 77 Ill. Admn. Code 750
- b) "Bed and Breakfast Act," 50 ILCS 820/1 et seq.
- c) "Food Handling Regulation Enforcement Act," 410 ILCS 625/3.1

d) "Smoke Free Illinois Act," 410 ILCS 82

### A.3 Definitions

In addition to the definitions contained in the above Rules and Regulations, the following definitions shall apply in the interpretation and enforcement of this Ordinance.

**Adequate** shall mean acceptable or sufficient as determined by the Health Authority.

**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; 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 of one that 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).

**Authorized Representative** shall mean the legally designated Health Authority of the Egyptian Health Department and shall include those persons designated by the Health Authority to enforce the provisions of this ordinance.

**Bake Sale** – Sale of homemade cookies, bars, cupcakes or similar items by schools, churches or other non for profit groups for fundraising purposes on an occasional basis.

**Bar** - Shall mean any establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, cocktail lounges, adult entertainment facilities, and cabarets.

**Board of Health or Public Health Board** - Shall mean the Egyptian Health Department Board of Health

**Cottage Food** - an operation conducted by a person who produces or packages non-potentially hazardous food in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped residential or commercial-style kitchen on that property for direct sale by the owner or a family member, stored in the residence or appropriately designed and equipped residential or commercial-style kitchen on that property where the food is made. Items may only be available for purchase at a farmers market.

**Department** - Shall mean the Illinois Department of Public Health.

**EHD or Health Department** - Shall mean the Egyptian Health Department.

**Extensively Remodeled** - Shall mean whenever an existing structure is converted for use as a food establishment or any structural additions or alterations are made to existing establishments; such as, changes, modifications and extensions of plumbing systems, excluding routine maintenance.

**Farmers Market** - a common facility or area where the primary purpose is for farmers to gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers.

**Food** - Shall mean any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.

**Food employee or food handler** - an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces. Food employee or food handler does not include unpaid volunteers in a food establishment, whether permanent or temporary.

**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. FSE 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)

**Hazard Analysis Critical Control Point Program or "HACCP"** - a comprehensive food safety control plan that includes a step-by-step description of the food processing, packaging and storage procedure, including identification of critical control points (CCPs); the food-contact surface cleaning and sanitizing procedures; lot identification procedure; and training procedures.

**Health Authority/Health Officer** - Shall mean that person or persons who have been designated by the Saline County Board of Health to administer the affairs of the Egyptian Health Department (i.e. the Administrator or their representative).

**Imminent Health Hazard** - Shall mean any condition or event which poses a particular, immediate hazard to the public health such as fires, floods, total loss of refrigeration, total loss of potable water supply, backup of sewage in to an establishment, or evidence of recent foodborne illness.

**Limited Food Establishment** - Shall mean an establishment that serves beverages, ice, and prepackaged foods only.

**Mobile Food Unit** - Shall mean 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 Holder** - Shall mean any person or his agent who makes application for a permit to operate a food establishment to this Ordinance.

**Person** - Shall mean any individual, partnership, corporation, association, or other legal entity.

**Pot Luck** - Shall mean an event that meets all of the following conditions:

People are gathered to share food at the event;

There is no compensation provided to people for bringing food to the event;

There is no charge for any food or beverage provided at the event;

The event is not conducted for commercial purposes;

It is generally understood by the participants at the event that neither the food nor the facilities have been inspected by the State or a local certified public health department; and

The event is not held on public property.

**Retail Food Store** - Shall mean 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 consumption. 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.

**Temporary Food Service Establishment** - Shall mean a 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.

## **SECTION B - Permit Requirements**

### **B.01 - Permits Required**

It shall be unlawful for any person to open for business or otherwise operate any Food Establishment in Saline County who does not possess a valid operating permit for that establishment issued by the Health Authority. A fine shall be assessed, as outlined in Section D.7, to any Food Establishment in operation without a valid permit, and the facility shall be closed until a valid permit is obtained. Only a person who complies with the requirements of this ordinance, including payment of permit fees and all fines originating from enforcement of the Food Service Sanitation Code, and Smoke Free Illinois Act, shall be eligible to receive and retain such a permit.

Permits must be conspicuously posted. Permits shall be annual except that the Health Authority may issue Temporary Food Service Establishment permits as may be necessary. All persons complying with this Ordinance shall be entitled to receive such a permit. Permits may not be transferred from one person to another nor from one location to another. A valid permit is one that is not suspended, revoked, or expired. Establishments closed for more than three weeks may be required to procure a new permit from the Health Authority. Mobile Food Units need not obtain a new permit after a three week closure. The Board of Health shall have the authority to establish and determine fees for permits.

### **B.02 - Permit Issuance**

Any person desiring to operate a Food Service Establishment, Retail Food Establishment, or Limited Food Establishment must comply with any existing county or city zoning provisions, where applicable, and shall make written application for a permit on forms provided by the Health Authority a minimum of twenty (20) business days prior to the proposed date of opening.

Any person desiring to operate a Mobile or Temporary Food Service Establishment must comply with any existing county or city zoning provisions, where applicable, and shall make written application for a permit on forms provided by the Health Authority.

Whenever a Food Establishment is to be newly constructed or extensively remodeled, prepared plans for construction or remodeling shall be submitted to the Health Department in accordance with Section IV of this Ordinance. Upon receipt of such an application and permit fee and state plumbing report, the Health Authority shall make any necessary inspections of the food establishment to determine compliance with the provisions of this Ordinance. When inspections determine that the applicable requirements have been met, a permit shall be issued to the applicant by the Health Authority.

### B.03 - Permit Renewals

All permits issued by the Health Department to permanent Food Establishments in Saline County expire on January 31<sup>st</sup> of the following year. Annual renewal of permits shall be required for continued operation of the food establishment. All existing permitted permanent food establishments desiring to renew a permit shall make written application on forms provided by the Health Department. All registration fees for the annual renewal of permits are due December 16 of each year.

Persons failing to submit the appropriate fee and renewal application by the above stated renewal due date shall be assessed and notified of a late payment penalty fee in addition to the appropriate permit fee. Upon receipt of payment, permits for the coming year will be issued prior to January 31<sup>st</sup> of each year.

Persons failing to submit the appropriate fee and renewal application by February 1<sup>st</sup> shall be considered to be operating a Food Establishment without a valid permit. Failure of any Food Establishment in Saline County to possess a valid permit at any time of operation constitutes a violation of this Ordinance and subjects the Food Establishment to penalties, such as a late fee or fine, as outlined in this Ordinance.

Mobile Food Units, Temporary Food Service Establishments and Seasonally Operated Food Establishments are permitted as necessary and are exempt from the dates in this section.

### B.04 - 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 Authority 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 suspension or revocation of any permit issued pursuant to this Ordinance.

### B.05 - Permit Suspension

The Health Authority may temporarily suspend the permit of a Food Establishment upon notice to the permit holder of the same. Permit suspension shall result in the immediate cessation of all food service operations, including the use or sale of any food, in whole or in part, intended for human consumption.

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 notification by the Health Authority;
- c) failure to comply with the provisions of this Ordinance within the time established by the Health Authority;

- d) interference with the Health Authority in the performance of his or her duties, including, but not limited to, failure to allow the Health Authority 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; or,
- g) failure to comply with notices or citations issued for violations of the Smoke Free Illinois Act (410 ILCS 82), including but not limited to, receiving a Smoke Free Illinois Citation and failing to request a hearing to contest the notice or citation within ten (10) calendar days and failing to pay the fine within twenty-eight (28) calendar days, or failing to obey the findings and final order of an Illinois Department of Public Health Administrative Judge.

Upon making a determination that a suspension is appropriate, the Health Authority shall advise the permit holder, in writing, of the intended suspension, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Health Authority by the permit holder within five (5) business days.

Notwithstanding the other provisions of this Ordinance, permits for Food Establishments may be suspended without warning, notice, or hearing when, in the judgment of the Health Authority, 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 Authority shall immediately, without warning or notice, advise the permit holder of said condition and all food service operations shall be immediately discontinued.

#### **B.06 - Suspended Permit Reinstatement**

Any permit holder whose permit has been suspended may request, in writing, a follow-up inspection by the Health Authority to determine if corrections have been made, for the purpose of reinstatement of the permit. Such request shall include a statement signed by the permit holder that in his or her opinion the conditions causing suspension of said permit have been corrected. Within ten (10) business days following receipt of a written request, the Health Authority shall make a follow-up inspection. Suspended permits shall be reinstated when corrections are made and the applicant is in compliance with the requirements of this Ordinance, including payment of the permit reinstatement fee and all fines originating from enforcement of the Smoke Free Illinois Act, or if the Health Authority grants a variance to the requirements.

#### **B.07 - Permit Revocation**

Licenses for food service establishments, retail food stores or temporary food establishments may be revoked by the Health Officer upon notice to the license holder of same. Reasons for suspending the license include, but not limited to, the following:

- a) Serious violation 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 license holder's building or records;
- d) Failure to update the original and renewal applications, as required by this Ordinance;
- e) Knowingly furnishing false information on the original or renewal applications;
- f) Failure to apply for re- inspection within thirty (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 ninety (90) days.

Upon making a determination that a revocation is appropriate, the Health Officer shall advise the license 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 sent via certified mail. The license holder may make a written request for a hearing with the Health Officer before imposition of the revocation according to the procedures set out in the Hearing Procedure section.

#### B.8 – Risk Classifications

The Egyptian Health Department shall annually conduct a category assessment for every food service establishment and retail food store operating in Saline County, pursuant to the Local Health Protection Grant rules established by the Illinois Department of Public Health. The health department may reclassify a facility based upon its experience with the facility (e.g., inspection history, number and frequency of violations and their severity, corrective action, etc.) if, in its opinion, a health hazard will not result from such reclassification or such reclassification will provide better protection for the public. The basis for this decision must be documented and be available for Department inspection.

#### B.9 - Exemptions

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

- a) Establishments which have 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 for in the "Community Living Facilities Licensing Act" (210 ILCS 35).
- d) Farmers' markets offering raw agricultural products and other non-potentially hazardous foods; however they are required to also comply with Illinois Sanitation Guidelines for Farmers' Markets.
- e) Pot Luck Events.
- f) Fundraisers benefiting churches, charitable organizations or other not-for-profit events.

All exempted facilities or events are required to display an 8.5 inch by 11 inch sign stating that the event is not inspected by the Health Department.



## B.10 - 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 TCS 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, flood, 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.

## B.11 -- 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 action pursuant to this Ordinance and State Statutes.

## B.12 - Construction and Remodeling

### B.12.1 Plan Review

Whenever a food service store is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Health Authority for review and approval before construction, remodeling

#### D.6 Hearing Before the Board of Health

Any person aggrieved by the decision of the Health Authority rendered as the result of a hearing held in accordance with this section may file with the President of the Saline County Board of Health a written request for a hearing before the Board of Health. The President of the Saline County Board of Health shall designate the time and place of such hearing to take place within thirty (30) days of the date on which the 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 Saline County Board of Health finds that strict compliance with the decision of the Health Authority 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 Authority, the Saline County Board of Health 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, all for the purpose of properly protecting the public health.

The Saline County Board of Health 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 Egyptian Health Department and copy thereof shall be served on the petitioner personally or by delivery to the petitioner by certified mail.

#### D.7 Penalties

Any person who violates any provision of this ordinance shall, upon conviction, be assessed a fine of not less than \$100.00 nor more than \$500.00. Each and every violation of the provisions of the Saline County Food Ordinance shall constitute a separate offense. Each day a particular violation exists shall constitute a separate offense. The State's Attorney of Saline County shall bring such actions in the name of the People of the State of Illinois or may bring action for an injunction to restrain such violation or to enjoin the operation of any such establishment causing such violation.

#### **SECTION VI - Employee Training**

All food service establishments will have at least one employee on staff that has acquired their Certified Food Protection Manager certificate. This employee's food certification must be on display. All employees without a Certified Food Protection Manager will have a Food Handler Certificate. These certificates will be kept on file at the facility and be made available to the Health Authority when requested.

#### **SECTION VII - Repeal of Prior Ordinances and Resolutions**

All prior ordinances regulating the sale and distribution of food, excepting those regulating alcohol and tobacco, are hereby repealed as of the effective date of this ordinance.

**SECTION VIII - Violation of Federal laws or State statutes**

No Food Establishment holding a permit issued under this ordinance shall in the conduct of the permitted business or upon the permitted premises violate any Federal law or State statute.

**SECTION IX - Delegation of Program Responsibility**

The Saline County Board hereby delegates the responsibility and authority to conduct the activities under this ordinance to the Egyptian Health Department Board of Health.

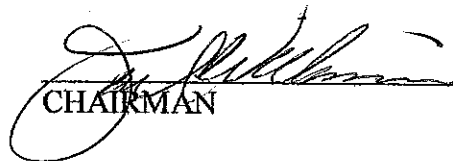
**SECTION X - Effective Date, Partial Invalidity**

This Ordinance shall immediately be in full effect upon signature of the Chairperson of the Saline County Board of Trustees.


If any part or section of this Ordinance should be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

Approved by:

Passed and adopted this 24th day of May, 2018 by  
Saline County Board.

  
CHAIRMAN

ATTEST:

  
COUNTY CLERK