

ATTACHMENT 1
Pike County Health Department
Food Enforcement Policy and Procedures

Cross Reference(s): Illinois Food Code, FDA Food Code Chapter 8, and Pike County Food Licensing Ordinance.

I. PURPOSE

Establish a Pike County food program policy for administrative enforcement and judicial procedures in accordance with the Illinois Food Code

II. APPLICATION

This policy applies to food service establishments licensed by the Pike County Health Department.

III. POLICY

This policy is intended to provide a progressive enforcement process consistent with the FDA Food Code.

IV. DEFINITIONS

Words and phrases included in this policy which are defined in the Illinois Food Code and the Pike County Food Licensing Ordinance

V. PROCEDURE

Steps leading to enforcement action with a licensed food service establishment:

A. Compliance Inspection

Compliance inspections are performed to identify violations and establish the appropriate corrective measures and schedule. Follow-up inspections to confirm compliance with stated correction schedules shall be completed. Concentration on the Priority^P and Priority Foundation^{PF} violations previously cited is the primary purpose of the follow-up inspection. However, if new, Priority violations are present, the inspector shall document the violations on the inspection report form and, if necessary, conduct another follow-up inspection to confirm compliance.

B. Document Violations

Assessment is based on the presence of violations at the time of the inspection as well as the history of violations and enforcement. Inspection reports shall convey violations clearly and concisely. In addition, the person in charge shall be informed of the compliance expectations and timeframe upon which the violations shall be corrected. Violations cited during an inspection shall be categorized with regard to severity or type and are classified as follows:

1. Core violations: those violations identified as Core in the FDA Food Code. Core violations must be corrected in a time frame agreed upon by the Health Dept. but no later than the next routine inspection.
2. Priority foundation violations: those violations identified as priority foundation in the FDA Food Code. Priority foundation violations must be corrected immediately, within 14 days of the inspection, or other specified time frame as determined by the Health Department.
3. Priority violations: those violations identified as priority in the FDA Food Code. Priority violations must be corrected immediately, within 5 days of the inspection, or other specified time frame as determined by the Health Department.
4. Imminent or substantial hazard: a condition at a food establishment that the Health Officer determines requires immediate action to prevent endangering the health of the public.
5. Approval of a compliance schedule that extends beyond the time limits specified under this section may occur if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

C. Assess inspection history with respect to violations and enforcement activities

In addition to the violation type, the food establishment's history, with regard to violations, is evaluated as follows:

1. Continuous Repeat violations that are documented and uncorrected at three (3) consecutive inspections.

2. Recurring Repeat Violations that are documented at four (4) consecutive inspections, but corrected after each documentation.
3. Chronic Violations that are the same priority or priority foundation violation is documented in three out of five routine inspections (chronologically conducted inspections).

D. Flag food establishment file for review

Inspections of food service establishments that display conditions that warrant enforcement action shall be brought to the attention of the Environmental Health Director for review. Based on the violation and enforcement history of the establishment, there shall be a decision on the method of enforcement that shall be carried out with the food establishment.

Conditions that may warrant review include:

1. A continuous repeat priority or priority foundation violation cited during the inspection; or
2. A recurring repeat priority or priority foundation violation cited during the inspection; or
3. A continuous repeat core violation cited during inspection; or
4. A chronic priority or priority foundation violation is cited during the inspection; or
5. Repeat Certified Food Manager violation during the inspection.

When notified of an establishment in need of enforcement review, the reviewer has the option of choosing:

1. No action
2. A follow-up inspection
3. An enforcement action

A final enforcement decision is based upon the violation category and violation history of the food establishment. Documentation of the enforcement decision and any actions taken shall be placed in the food establishment file.

E. Determining the status of the Food Establishment

At the conclusion of the inspection, the status of the food establishment shall be determined. Food service establishments shall fall into one of the following status categories:

No Follow Up Required: no uncorrected priority or priority foundation violations exist and core violations may exist but are not at a level requiring enforcement review;

Follow Up Required: the facility is awaiting a follow-up inspection as a result of violations;

Enforcement: the facility is flagged for enforcement, and/or enforcement action has been initiated;

Closure: Imminent Health Hazards exist that cannot be abated;

Legal Review/Action Pending: the food establishment has entered the legal review process.

F. Determine appropriate enforcement action

The Environmental Health Director, in collaboration with Environmental Health Staff, shall determine consistent and progressive enforcement action for a food service establishment when an enforcement action is warranted.

G. Implement enforcement action

Based upon the severity or type of violation and the inspection history, the following enforcement actions are possible:

Follow-up inspection: with a mandated or agreed upon correction schedule;

Warning letter: Letter from the inspector to licensee citing violation(s) and setting a compliance date for correction of violation(s);

Office consultation: This shall be a meeting between the licensee and the environmental health staff to clarify expectations for food protection and explain the consequences of failure to maintain food safety standards. The meeting offers the food establishment the opportunity to demonstrate their plan for addressing food safety issues. *(See Appendix A for detail of an office consultation.)* Possible outcomes from an office consultation are:

1. Risk control plan;
2. Compliance agreement;
3. Follow-up inspection to verify corrections and compliance with violations reviewed at the office consultation;
4. Mandatory attendance at a food safety training class;
5. Informal Hearing;
6. Formal Hearing.

Informal hearing: this shall be a meeting between the licensee and the environmental health staff. This is the first step to issuance of a formal notice of the Pike County Health Departments intent to suspend or revoke a food service establishment license. *(See Appendix A for detail of an informal hearing.)* Possible outcomes from an informal hearing:

1. Risk control plan;
2. Compliance agreement;
3. Follow-up inspection to verify corrections and compliance with violations reviewed at the informal hearing;
4. Mandatory attendance at a food safety training class;
5. Informal hearing (after follow-up inspection);
6. Formal Hearing.

Formal Hearing: a hearing to determine if a food establishment license should be suspended or revoked, or to determine if the order to cease food operations should be rescinded. *(See Appendix A and B (optional) for a description of the formal hearing process and hearing procedure.)* Possible outcomes from a formal hearing:

1. Order to cease food service operations is rescinded;
2. Compliance agreement;
3. Follow-up inspection to verify corrections and compliance with violations reviewed at the formal hearing;
4. Food establishment license limitation;
5. Food establishment license suspension;
6. Food establishment license revocation.

Order to cease food service operations: order by the Pike County Health Department for immediate cessation of operation of a food service establishment. This order is issued when:

1. An operator does not possess a food establishment license. Operations may not resume until the operator is in full compliance with all

licensing requirements and a license has been issued to operate a food establishment.

2. A situation of imminent danger to public health is present at a food establishment. This can be issued prior to an office consultation. The licensee may request an administrative hearing to revoke the order. A follow-up inspection must occur prior to the food establishment resuming operations. The Health Officer shall schedule a hearing to decide whether to grant or deny the petition to relieve the order to suspend the food service establishment license.
3. Operations may not resume until compliance with this section is achieved and the food establishment receives approval to re-open by the Pike County Health Department.

H. Additional Tools

These tools may be used in conjunction with an inspection and/or enforcement action, but not in place of an enforcement action. These tools are not considered enforcement actions in and of themselves. However, they may be useful in achieving compliance when used in combination with an enforcement action.

License Limitation: the Pike County Health Department may place restrictions on a food establishment license, limiting the preparation of food for the purpose of protecting public health. A licensee must be provided an opportunity for an administrative hearing on the issue of the imposition of the license limitation. A licensee may at any time request a follow-up inspection of the food establishment for removing the limitation and reinstating the full license.

Embargo: the Pike County Health Department may issue an order to hold food found to be sold, held for sale, or exposed for sale in violation of state laws and regulations, or suspected of being in violation of state laws and regulations. Follow-up is required to record disposition of product.

Risk Control Plan: in conjunction with an inspection report, the Pike County Health Department may instruct the food service establishment to complete risk control plans and indicate the corrective actions that shall be taken for each of the priority and/or priority foundation violations cited. A follow-up inspection is required to verify correction of violations.

Injunction: the Pike County Health Department may apply to circuit court to grant a temporary or permanent injunction restraining any person from violating specified provisions of the Illinois Food Code and other applicable laws.

Stop Work Order: order by the Pike County Health Department for immediate cessation of construction, alterations, and conversions occurring at a food service establishment until plans, specifications and any required fees are submitted and the Pike County Health Department rescinds the Stop Work Order.

Appendix A
Office Consultation, Informal and Formal Hearing Enforcement Actions

Office Consultation

An office or phone consultation is held to determine corrective action and a schedule necessary to create compliance with the Illinois Food Code and other applicable laws. An office or phone consultation may be held for any of the following reasons:

1. Failure to comply with an order to correct recurring or continuous repeat core, priority foundation or priority violations;
2. Failure to meet the minimum requirements of the Illinois Food Code and other applicable laws;
3. Failure to complete a risk control plan in the time frame required.

The licensee shall be notified of the time, place, date and reason for the office or phone consultation.

Informal Hearing

An informal hearing is held to determine corrective action and a schedule necessary to create compliance with the Illinois Food Code and other applicable laws. An informal hearing may be held for any of the following reasons:

1. Failure to comply with an order of the Pike County Health Department to correct recurring or continuous repeat core, priority foundation or priority violations.
2. Failure to meet the minimum requirements of the Illinois Food Code and other applicable laws.
3. Failure to comply with a compliance agreement or risk control plan agreed upon in an office or phone consultation.
4. Failure to participate in a scheduled office or phone consultation.

The licensee shall be notified of the time, place, and date for the informal hearing in a written notice. The notice should state the reasons for the hearing; advise the licensee of his/her right to representation at the hearing; and allow the licensee to request a change of date or time up to 48 hours prior to the original hearing date and time.

Formal Hearings

Formal hearings are held for any or all of the following reasons:

1. Interfering with an agent of the Health Officer in the performance of his/her official duties;
2. Failure to comply with the compliance agreement or the risk control plans agreed upon in the informal hearing;
3. A written request from a food establishment licensee.

Appendix B
Formal Hearing Procedure

1. Introduction of those present
2. Review authority for Formal Hearing:

Moderator to reference and quote from State Administrative Procedures Act, 5 ILCS 100/

“Before the commencement of proceedings for the suspension, revocation or license application denial, an agency shall give notice, personally or by mail to the licensee of the facts or conduct which warrant the intended action. The licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license.”

3. Review Purpose of Formal Hearing:

Moderator – Read the following to the owner/representative

“The purpose of this Formal Hearing is to review the Pike County Health Department, Environmental Health Division allegations of violation(s) of the Illinois Food Code 77 Ill. Adm. Code 750, as amended, and associated administrative rules which comprise the Illinois Food Code and other applicable laws.”

“This hearing provides an opportunity to you, as the respondent, to provide us with your answers to the violations listed in the most recent facility inspection report which was dated _____ and signed by the division representative.”

(Ask if owner received a copy)

“This hearing also gives you an opportunity to show cause, if you have any, why the {LHD} should not revoke or suspend your food service establishment license.

I see on the Notice of Formal Hearing that you have been advised that you may have legal counsel present and witnesses on your behalf.”

(Ask if owner has been so notified)

“It may be possible to resolve this matter today at this hearing. However, failure on your part to demonstrate compliance with the statute and administrative rules may result in one of the following actions:”

1. License revocation
2. License suspension
3. License limitation

(Ask owner if this is understood)

4. Proceed with Formal Hearing:

Moderator – Read the following:

“I would like to proceed by first having staff provide background information with regard to this matter and specifically review the violations contained in the inspection reports leading to this hearing.

I shall then call on you to respond to those allegations and to provide us with the reasons why you feel you are in compliance with applicable laws and regulations.”

If something is unclear, do not hesitate to ask questions of staff from the {LHD}.

5. Proceed with discussion of items in the inspection report.
6. Allow for summary comments from staff or owner, if desired.
7. Possible outcomes from a formal hearing:
 - a) Cease food operations order is rescinded.
 - b) Compliance agreement.
 - c) Follow-up inspection to verify corrections and compliance with violations reviewed at the formal hearing.
 - d) Food service license limitation.
 - e) Food service license suspension.
 - f) Food service license revocation.
8. Close conference after review and agreement on outcome. Make sure there is a clearly defined outcome with compliance dates and consequences for non-compliance.
9. Thank all for attending.

Pike County Health Department Enforcement Protocol

STEPS 1-7 ARE THE PROGRESSIVE ENFORCEMENT ACTIONS TAKEN TO ASSURE COMPLIANCE WITH THE FOOD CODE	
Step 1	<p style="text-align: center;">Routine inspection determines that establishment is in substantial compliance because</p> <ul style="list-style-type: none"> ● No Priority or Priority Foundation violations were found - or- ● Priority or Priority Foundation violations were found but corrected immediately or by the time allowed -and- ● Amount of core violations was not substantial - and- ● No repeat violations were found
Step 2	<p style="text-align: center;">Follow-up inspection required because:</p> <ul style="list-style-type: none"> ● Priority or Priority Foundation violations were not corrected at the routine inspection and time was allowed for correction - or- ● Amount of Core violations were substantial - or- ● Repeat violations were found
Step 3	<p style="text-align: center;">Warning Letter required because:</p> <ul style="list-style-type: none"> ● Priority or Priority Foundation violations were not corrected after Step 2 ● Core violations were substantial and not corrected after Step 2 ● Chronic repetition of violations at routine inspections despite correction after Step 2 ● Compliance Inspection set.
Step 4	<p style="text-align: center;">Office conference required because:</p> <ul style="list-style-type: none"> ● Priority or Priority Foundation violations were not corrected after Step 3 ● Core violations were substantial and not corrected after Step 3 ● Chronic repetition of violations at routine inspections despite correction after Step 3 <p>The Environmental Health Director presides over the office conference with possible outcomes contained in the Policy and Enforcement Procedures.</p>
Step 5	<p style="text-align: center;">Notice of intent to limit, suspend, or revoke a license issued and informal hearing required because:</p> <ul style="list-style-type: none"> ● Compliance from Step 4 not met ● Violations are still present or repeated after Step 3 <p>The Environmental Health Director presides over the informal hearing. License holder may submit a 2 page summary of his/her case 3 business days prior to the hearing. Possible outcomes contained in the Policy and Enforcement Procedures.</p>
Step 6	<p style="text-align: center;">Order to limit, suspend, or revoke a license issued because:</p> <ul style="list-style-type: none"> ● Compliance from Step 5 not met ● Other situations warrant this action to protect public health <p>License holder offered the right to appeal the limitation, suspension, or revocation at a formal hearing.</p>
Step 7	<p style="text-align: center;">Formal hearing before the Board of Health convened because:</p> <ul style="list-style-type: none"> ● License holder appeals the order issued in Step 6 ● License holder may submit 2 page summary of case to board 5 business days prior to the formal hearing. The Board of Health upholds or overturns the decision of the LHD to deny, limit, suspend or revoke a license, based on evidence presented.
<p>Other situations listed below, may require action to protect public health. In every case, except when a hold/destruction order is issued for suspect food or beverages, a license holder or operator may appeal the order (see steps 5 and 6 above)</p>	
	<p style="text-align: center;">Imminent Health Hazard</p> <p>Operation ordered closed immediately until hazard is eliminated. Hazards include, but are not limited to:</p> <ul style="list-style-type: none"> ● Lack of Power, water, hot water, refrigeration, sewer, or presence of sewage ● Severe insect or rodent infestation ● Damage due to fire, flooding, or severe weather ● Foodborne illness outbreak and continued exposure of patrons to disease causing organisms.
	<p style="text-align: center;">Operation Without a Permit</p> <p>Operation ordered closed immediately until permit is approved.</p>
	<p style="text-align: center;">Operation Beyond Capability</p> <p>Operation ordered limited immediately:</p> <ul style="list-style-type: none"> ● Menu scaled back to the point where food safety can be assured - or- ● Operation (hours, number of seats, etc.) scaled back to the point where food safety can be assured

Attachment 2

Pike County Health Department

Katherine Rowles, RN, BSN, President, Board of Health
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"Notice of PCHD Repeat Violation Fine Schedule"

(DATE)

As we strive to meet Illinois Department of Public Health requirements in our food program and also serve our community in the best ways possible, we have recently adopted a new process for repeat violations noted on food inspections. A sample flow of our process is below:

[STEP 1] Routine Inspection:

Initial violation is observed and documented with required correction time. (NO CHARGE)

[STEP 2] Next Inspection (Routine or re-inspection, depending on correction time requested)

Initial violation still exists. Violation is documented as repeated AND we add the following statement to our general comments section of the inspection report. (STILL NO CHARGE)

"NOTICE OF REPEATED VIOLATION INSPECTION PROCEDURE:

Item(s) **[INSERT INSPECTION VIOLATION NUMBER(S) HERE]** noted on this inspection has not been corrected from previous inspections. The date of **[INSERT CORRECT-BY DATE HERE]** has been set for this repeated violation to be corrected. If this violation has not been corrected by the indicated date, another inspection will occur. The Pike County Health Department will assess a fifty dollar (\$50) fee to the food establishment for that inspection and each subsequent inspection until the repeated violation is corrected."

[STEP 3] Next Inspection (again routine or re-inspection, depending on compliance procedure)

- A. If violation has been corrected, violation is documented as "corrected" and fee is NOT assessed.
- B. If violation has NOT been corrected, violation is documented, fee assessed, and a follow-up inspection is scheduled. Step 3 is repeated until violation is corrected or other suspension/revocation enforcement procedures occur.
 - a. An invoice will be provided after the inspection.
 - b. If the invoice has not been paid prior to expiration of establishment license, no re-licensure will be approved.

This explanation may make the process seem more complex than what it is. But, in short, it will take three observations of the violation after the allowed correction time has passed to assess the re-inspection fee. This process will become effective January 1, 2015 and is intended to provide more efficient inspections.

The Board of Health and our staff sincerely feel the implementation of this process will assist our partnership in providing outstanding food service sanitation for residents of our county. Thank you for your partnership in working to provide our county with superior food safety and public health.

Please feel free to contact the health department if you have any questions about this procedure.

Thank you,

Anita Andress, RN, BSN
Administrator

Attachment 3

Pike County Food Service License Classifications

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

- Potentially hazardous foods are cooled, as part of the food handling operation at the facility;
- Potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;
- Potentially hazardous cooked and cooled foods must be reheated;
- Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods occurs as part of the food handling operations of the facility;
- Vacuum packaging, other forms of reduced oxygen packaging, or other special processes that require a HACCP plan; or
- Immunocompromised individuals such as the elderly, young children under age four or pregnant women are served, where these individuals comprise the majority of the consuming population.

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

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

Food prepared from raw ingredients using only minimal assembly; and

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

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

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

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

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

Commissary shall mean a local health department licensed food establishment that acts as a base of operations for a mobile food establishment. The commissary provides facilities for adequate storage of food, food containers, or food supplies; equipment for adequate washing and sanitizing of food equipment and utensils; a servicing area for the sanitary disposal of liquid waste; for handling and disposal of garbage, grease and rubbish originating from the mobile food establishment; facilities for filling a potable water holding tank in a sanitary manner and for handling and disposal of garbage, grease and rubbish originating from the mobile food establishment; facilities for filling a potable water holding tank in a sanitary manner

Mobile Food Establishment is a food service operation that is operated from a movable motor driven or propelled vehicle, a portable structure, or watercraft that can change location. The unit shall not have permanent connections to water, wastewater or electricity. The mobile food unit shall not be used for any other purpose than a mobile food establishment

Temporary Food Establishment Categories shall include

Temporary Food Establishment Type 1 (TF1)

- Commercially processed packaged food in its original package (Receive-Store-Hold).
- The TFE1 may be required to operate in conjunction with a Servicing Area.

Examples of food offered: Packaged Ice Cream, Single Serving Size Packaged Snacks

Temporary Food Establishment Type 2, 1 day event (TF2-1)

- Unpackaged food.
- Food Preparation with no cook step (Store-Prepare-Serve).
- Preparation for same day service (Store-Prepare-Cook-Serve).
- Reheating of a commercially processed food item (Store-Reheat-Hold-Serve).
- Based on the regulatory authority, may be required to return to a Servicing Area and may operate in conjunction with a Permanent Food Establishment that may or may not have a Servicing Area on-site.

***Examples of food offered: Hot Dogs, Grilled Sandwiches, Salads, Shaved Ice, Funnel Cakes,
Kettle Corn, Roasted Nuts, Curly Fries***

Temporary Food Establishment Type 2, 2-3 day event (TF2-2)

- * Unpackaged food.
- * Food Preparation with no cook step (Store-Prepare-Serve).
- * Preparation for same day service (Store-Prepare-Cook-Serve).
- * Reheating of a commercially processed food item (Store-Reheat-Hold-Serve).
- * Based on the regulatory authority, may be required to return to a Servicing Area and may operate in conjunction with a Permanent Food Establishment that may or may not have a Servicing Area on-site.

***Examples of food offered: Hot dogs, Grilled Sandwiches, Salads, Shaved Ice,
Kettle Corn, Nut Roasting***

Temporary Food Establishment Type 3, less than 14 days (TF3)

- * Complex food preparation (Store-Prepare-Cook-Cool-Reheat-Hot Hold-Serve).
- * Includes food that must be prepared pursuant to a Hazard Analysis Critical Control Point (HACCP) Plan or Variance.
- * Based on the regulatory authority, may be required to return to a Commissary and may operate in conjunction with a Permanent Food Establishment that may or may not have a Servicing Area on-site.

Examples of food offered: Full menu

ATTACHMENT 5
Schedule of License Fees
for
Temporary Event Food Vendor Licenses

<u>Temporary Event Licenses</u>	\$10.00 for TF1 or TF2 events lasting less than one day*
	\$25.00 for TF1 or TF2 events lasting 2 to 3 days*
	\$35.00 for TF1 or TF2 events lasting more than 3 days*
	\$50.00 for TF1 or TF2 annual multi event/festival*
	\$100.00 for a TF3
	\$20 per stand when after hours inspections are requested by the vendor

****A 50% late fee will be assessed all license applications received less than 1 week prior to the event***

*****This schedule has been approved by the Pike County Board of Health on January 24, 2019, for consideration and approval by the Pike County Board.***

ATTACHEMENT 6

Pike County Temporary Event Enforcement Policy

When Food Vendors are Found Operating without a License:

- Sanitarians will invite an on-site application and conduct a stand review. If any of the following conditions exist, the stand will be prohibited from operating:
 - 1) No adequate refrigeration equipment
 - 2) No adequate cooking or hot holding equipment
 - 3) No hand washing facilities are provided
 - 4) Home-cooked, non-potable water or other unapproved TCS foods
 - 5) Personnel health &/or hygiene issues or other imminent health violations -The stand license fee will 150% of the standard fee the first time this occurs
- Repeat violations could be subject to the 150% fee and also receive a code hearing citation