

Resolution No. 2024-10-01

Champaign-Urbana Public Health District Retail Food Program Enforcement Policy

Whereas the Board of Health of the Champaign-Urbana Public Health District has adopted an Ordinance known as the Retail Food Ordinance, and

Whereas the Board of Health of the Champaign-Urbana Public Health District deems it desirable and necessary to provide a retail food safety program policy to promote fair and objective guidance for administrative enforcement and judicial procedures,

Now, therefore, be it resolved by the Board of Health of the Champaign-Urbana Public Health District as follows:

SECTION 1: GENERAL PROVISIONS

1-01: Short Title

This Enforcement Policy shall be known as the “Retail Food Program Enforcement Policy.”

1-1: Application

This policy applies to all retail Food Establishments permitted by the Champaign-Urbana Public Health District (Health District).

Words and phrases included in this policy are defined in Section II, in the Food Code (“Illinois Food Service Sanitation Code,” 77 Ill. Adm. Code 750), 2022 U.S. Food and Drug Administration (FDA) Food Code, and in the Health District’s Retail Food Program Ordinance (Retail Food Ordinance).

This policy is intended to provide a progressive enforcement process.

1-2: Inspections

Inspections determine the Food Establishment's compliance with the Food Code and Retail Food Ordinance. Inspections are generally unannounced to obtain a more accurate assessment of normal operating practices and conditions. Exceptions can be made for construction and opening inspections where an appointment is needed to ensure that all parties are available for discussion or where work is intermittent and access to a new establishment is limited; or during follow-up inspections which may require the presence of specific personnel or management from the establishment.

- Construction inspections are conducted during construction to ensure that the food establishment is built or remodeled in accordance with the approved plans and specifications. A construction inspection for a Change of Ownership is to verify that the new operation is in compliance with the Food Code and Retail Food Ordinance prior to issuing a new Permit to a new owner.

- Opening inspection is for final approval and for permit issuance.
- Routine inspections are conducted on a frequency based on risk classification Category. These compliance inspections are full reviews of the Food Establishment operations and facilities and their impact on food safety. They include assessment of food Employee and management health, practices, and knowledge of food safety; food flows, source, storage, thawing, preparation (including cooking temperatures and times) and post-preparation processes; equipment and Premises construction; cleaning and sanitizing processes; water sources; sewage disposal; and vermin control. A detailed report is prepared at the conclusion of each inspection and presented to the Person in Charge. Items found not to be in compliance are categorized as Priority Item, Priority Foundation Item, or Core Item violations. Items found to be repeated from the previous inspection are also noted and are known as Repeat Violations. The Food Code section in violation is included in the report citation section. The time period for the correction of violations shall be in accordance with Section 3: Timely Correction of Violations.
- Follow-up inspections at a Food Establishment, if needed, are conducted by the Health Authority to verify that Priority Item, Priority Foundation Item, or Core Item Violations have been satisfactorily corrected as determined by the Health Authority within Timely Correction days after the routine inspection that detected them. Follow-up inspections should be briefer than the routine inspection, since they concentrate on the previously cited, specified violations. Continued violations should be used to initiate further compliance and enforcement actions.
- Re-inspections are full review inspections conducted after a Permit was suspended. If satisfactory compliance is found and upon payment of any fees, the permit shall be re-instated.
- Special Process inspections are conducted to review procedures that require food safety controls to address increased potential health risks; often requiring specialized equipment, ingredients, or technology.
- Complaint inspections may be conducted as part of consumer complaints and generally are not full reviews but concentrate on the specific issue mentioned. Consumer complaints received about a Food Establishment shall be classified as an illness investigation or as a non-illness investigation.
 - Illness investigations are led by the Health District's Epidemiologist and/or Communicable Disease Investigator using the procedures and time schedules in the Illinois Department of Public Health's Illinois Reportable Disease guideline.
 - Non-illness investigations are led by the Health District's Environmental Health Division. A formal complaint is where a complainant supplies his/her name, address and contact information along with the complaint specifics. Formal complaints determined by the Health District as an Imminent Health Hazard are investigated as soon as possible and routinely less than 24 hours after receipt. Other formal complaints generally are investigated within ten (10) Health District

Business Days. An anonymous complaint may be investigated during the next routine inspection, if not sooner.

SECTION 2: DEFINITIONS

In addition to the words and phrases referred to in 1-1, the following definitions shall apply in interpretation and enforcement:

COMPLIANCE HEARING: A legal proceeding to review compliance with conditions of an agreement and address outstanding discrepancies in order for the operation to determine health permit status.

COMPLIANCE MEETING: A structured meeting to discuss and address matters related to regulatory compliance and risk management between the departments' authorized personnel and designated persons in charge of a facility's operations.

CORRECTIVE ACTION PLAN: Identifies what a Food Establishment or permit holder will do to correct a remaining violation from an inspection, what will be done to prevent reoccurrence of the violation, and when the corrective action is to be completed.

CORE ITEM VIOLATION: Violations that are not designated as a Priority Item or a Priority Foundation Item. It includes those items usually related to general sanitation, operational controls, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance.

FOOD CODE: Violations of the U.S. Food and Drug Administration (FDA) Food Code.

FOOD ESTABLISHMENT INSPECTION REPORT: The form found in Appendix A of the Food Code used by the Health District in substantially the same format.

FOOD SAFETY MANAGEMENT SYSTEM: A system developed and implemented by Food Establishment Operators to ensure that food handling practices known to contribute to foodborne illness are under control. The system is comprised of knowledgeable food Employees, written operating procedures, and regular self-assessments to ensure that procedures are being followed.

OFFICE CONFERENCE: An informal, scheduled meeting between the Permit holder or designated representative, and the Health Authority at a location determined by the Health Authority.

PART 750 VIOLATIONS: Violations of Part 750 of the Illinois Food Code (Illinois Food Service Sanitation Code," 77 Ill. Adm. Code 750). These rules are specific to and are applicable in Illinois.

REINSTATEMENT FEE: A fee paid to restore a health permit to active status after the permit was suspended under provisions of the Retail Food Program Enforcement Policy.

RISK CONTROL PLAN (RCP): A written management plan developed by the Food Establishment operator with input from the Health Authority that describes a management system for controlling specific out-of-control foodborne illness risk factors.

SECTION 3: TIMELY CORRECTION OF VIOLATIONS

3–1: Imminent Health Hazard

A permit holder or a Person in Charge shall immediately cease and discontinue food operations if an Imminent Health Hazard exists during an inspection or during an emergency. An Imminent Health Hazard includes, but is not limited to:

- Fire
- Flood
- Extended interruption of electrical or water service
- Sewage backup
- Misuse of poisonous or toxic materials
- Onset of an apparent foodborne illness outbreak
- Gross unsanitary occurrence or condition or
- Other circumstances that may endanger public health

A permit holder or a Person in Charge shall immediately notify the Health Authority if there is an Imminent Health Hazard. In the Health Authority's judgment, it may modify a Permit to cease a portion of the food operations depending upon the location and type of Imminent Health Hazard or it may suspend a Permit to cease all food operations.

Food operations due to an Imminent Health Hazard may not resume until authorization has been granted by the Health Authority.

3–2: Priority Item Violations

When a Priority Item Violation is observed during a routine inspection, the violation shall be documented on the FOOD ESTABLISHMENT INSPECTION REPORT. A compliance correction acceptable to the Health Authority shall be obtained. Acceptable compliance corrections include the following options:

- A. **Violation Corrected On-site (COS):** This occurs when immediate on-site corrective action is conducted by the Person in Charge and is verified and documented by the Health Authority during the inspection, with a brief explanation of the corrective action taken.
- B. **Violation Correction Form (VCF):** A VCF is issued only for a Priority Item Violation that cannot be corrected on-site and is not an Imminent Health Hazard. The VCF will be left with the Person in Charge with instructions to have the violation corrected properly and to return the VCF to the Health Authority within ten (10) business days.

The VCF must be adequately filled out, including documentation of the corrective action, such as a picture of the correction or any receipts that indicate that corrective action was taken.

After the VCF is received by the Health Authority, a Priority Item Violation may require a follow-up inspection within ten (10) additional business days.

- C. **Corrective Action Plan:** If a Priority Item Violation is not an Imminent Health Hazard and cannot be corrected on-site or does not qualify for a VCF, then the Health Authority may require a CORRECTIVE ACTION PLAN acceptable to the Health Authority.

If the Food Establishment's Person in Charge is unable or unwilling to take suitable compliance corrective action as listed above, then the Health Authority shall take enforcement actions starting with Permit suspension. The hearing process is described in Section 6.

3-3: Priority Foundation Item Violations

When a Priority Foundation Item Violation is observed, the violation will be documented on the FOOD ESTABLISHMENT INSPECTION REPORT. An acceptable compliance correction must be obtained. Acceptable compliance corrections include the following options:

- A. Violation corrected on-site (COS): as stated in 3-2.
- B. Violation Correction Form (VCF): as stated in 3-2.
- C. Health Authority approval: as stated in 3-2 (C).

If the Person in Charge is unable or unwilling to take suitable compliance corrective action as listed above, then the Health Authority shall take enforcement actions starting with an informal office consultation

3-4: Core Item Violations

When a CORE ITEM VIOLATION is observed, the violation will be documented on the FOOD ESTABLISHMENT INSPECTION REPORT. The permit holder shall correct the CORE ITEM VIOLATION by no later than the next routine inspection date. Reassessment will occur during the next routine inspection unless there is an alternative written compliance schedule.

If an alternative timeframe is requested by the permit holder or by the Health Authority, a written compliance schedule shall be submitted by the permit holder. The alternative time schedule shall be approved by the Health Authority. The compliance schedule shall contain the specific violation(s), the methods of correction(s), and the date(s) for correction. Verification of correction may be provided by documentation or by a follow-up inspection by the Health Authority.

3-5: Part 750 Violations

When a PART 750 VIOLATION is observed, the violation will be documented on the FOOD ESTABLISHMENT INSPECTION REPORT. An acceptable compliance correction must be obtained. Acceptable compliance corrections are included in Appendix 750.

If the Person in Charge is unable or unwilling to take suitable compliance corrective action as listed above, then the Health Authority shall take enforcement actions starting with an informal office consultation.

3-6: Deviations from Special Process Plan Elements

The timely correction of a Special Process plan element that is not in compliance with the approved plan is categorized as a Priority Foundation Item Violation.

If a Special Process plan element is found to deviate from the plan, the deviation will be documented on the inspection report. An acceptable compliance correction must be obtained. Depending upon the Hazard Analysis Critical Control Point plan, the acceptable corrective action and the time schedule for timely correction shall follow the procedures for correcting Priority Item or Priority Foundation Item Violations as listed in 3-2 and 3-3.

If the Food Establishment's Person in Charge is unable or unwilling to take suitable compliance corrective action as listed above, then the Health Authority shall take enforcement actions starting with an informal office consultation.

3-7: Complaints

Consumer complaints are complaints made by members of the public. Corrective actions for consumer complaints that are Priority Item or Priority Foundation Item Violations are required to be satisfactorily corrected as in 3-2 or 3-3. Corrective actions for consumer complaints that are Core Item Violations are required to be satisfactorily corrected as in 3-4.

3-8: Failure to Return a Violation Correction Form

When a VCF is left with the Person in Charge the instruction and goal is to have the violation properly corrected and adequately documented on the VCF, with the VCF returned to the Health Authority within ten (10) business days.

If the VCF is not returned or if the Health Authority determines that the violation was not properly corrected or that the correction was not adequately documented, then the Health Authority will follow-up to gain compliance within an additional ten (10) business days.

If still not returned, properly corrected, or adequately documented, then the Person in Charge, Food Establishment operator or owner shall attend an OFFICE CONSULTATION with the Health Authority. Failure to properly correct the violation with adequate documentation within the extended timeframe may result in further administrative actions including permit suspension or revocation.

SECTION 4: TIMEFRAME FOR INSPECTIONS AND CORRECTIONS

4-1: Timeframe for Routine Inspections

Category I Food Establishments have routine inspections two to three (2-3) times per calendar year with approximately ninety (90) calendar days between routine inspections. Category II Food Establishments have at a minimum one (1) routine inspection per calendar year, while Category III Food Establishments have at a minimum one (1) routine inspection every two (2) calendar years.

4-2: Documentation of Repeat Violations

On-site corrections (COS) address a short-term correction and may not negate the need for implementation of long-term correction actions when the violation is not an isolated occurrence, i.e. a Repeat Violation.

When a violation is observed during an inspection and it is a Repeat Violation from the last routine inspection, it will be documented and tracked by using and including the notation of “R1” for being a Repeat Violation the first time, “R2” for being a Repeat Violation for the 2nd time, and so on.

4-3: Repeat Priority Item or Priority Foundation Item Violations

- A. **First-Time (R1) Repeat Violations:** When any Priority Item or Priority Foundation Item Violation is observed that is an R1 Repeat Violation, the violation shall be documented on the FOOD ESTABLISHMENT INSPECTION REPORT and subsequent enforcement action will focus on establishing long-term compliance and a behavior change by the Food Establishment.

In consultation with the Health Authority, the Food Establishment must conduct a process to find corrective actions designed to prevent the recurrence of the violation by addressing the root cause(s) of the R1 Repeat Violation. This process may require the Food Establishment to schedule a discussion between the Health Authority and the Food Establishment’s management (owner and/or operator), as well as the Person(s) in Charge, if needed, to complete the following requirements:

1. Determine the root cause(s) of the specific violation.
2. Identify and implement targeted preventative corrective actions or control measures.
3. Assess the effectiveness of these actions.
4. Redo the process if the corrective actions or control measures did not effectively eliminate the root cause(s) of the specific violation.

- B. **Second Time (R2) Repeat Violations:** When a Priority Item or Priority Foundation Item Violation is observed that is an R2 Repeat Violation, an OFFICE CONSULTATION will

be conducted by the Health Authority with the permit holder and Person(s) in Charge.

The purpose of the OFFICE CONSULTATION is to clarify expectations for food protection and sanitation, as well as the consequences of failure to correct any Repeat Violations and to maintain standards. This consultation also offers an opportunity for the permit holder to demonstrate corrective actions for addressing Repeat Violations. Pursuant to the OFFICE CONSULTATION, the Health Authority may require the permit holder to do any of the following:

1. Develop and submit a compliance plan, e.g. a written CORRECTIVE ACTION PLAN, with an agreement from the Health Authority.
2. Develop and implement a RISK CONTROL PLAN (RCP) with a follow-up inspection for correction verification.
3. Issue an order to change or cease menu items or recipe processes with repeated uncontrolled Priority Item or Priority Foundation Item Violations.

Examples of corrective actions include:

1. Changing equipment and layout, e.g., adding rapid cooling equipment or adding an additional hand sink.
2. Establishing written buyer specifications, e.g., purchasing from Approved alternative sources.
3. Developing and implementing recipe and/or process instructions, e.g. establishing demonstrated rapid cooling methods or including end temperatures for the cooking step.
4. Developing and implementing Standard Operating Procedures (SOPs) or requiring food temperature monitoring and recording.
5. Employee training or re-training on the procedures and/or manager training or re-training on taking, verifying, and recording corrective actions.

C. Third Time (R3) Repeat Violations: When a Priority Item or Priority Foundation Item Violation is observed that is an R3 Repeat Violation, an administrative enforcement action will be conducted. These actions may include:

1. Written notice of the Food Establishment's violations and subsequent failure to comply with the necessary corrective actions. The written notice will include a final compliance correction date and, if needed, a Compliance Meeting date.
2. Conducting a Compliance Hearing to determine if a Permit should be limited in menu with an order to cease preparation of a menu item; to cease a Food Preparation process; to cease using an equipment item; or to suspend Food Preparation in a particular department or area.
3. Conducting a Compliance Hearing to determine if a Permit should be suspended or revoked.

D. Fourth Time (R4) Repeat Violations: When a Priority Item or Priority Foundation Item Violation is observed that is an R4 Repeat Violation, the Health Authority will pursue

administrative and/or judicial remedies against the Food Establishment and/or permit holder. These remedies may include:

1. Suspension of the Food Establishment's Permit with or without civil fines.
2. Revocation of the Food Establishment's Permit with or without civil fines.
3. An administrative hearing concerning administrative remedies to achieve compliance.
4. Petition for a Temporary Restraining Order and other relief in a court of competent jurisdiction.
5. Petitions for temporary and/or permanent injunctive relief in a court of competent jurisdiction to achieve compliance with the provisions of this Policy and/or the Health District Ordinance.
6. Criminal proceeding as described below in Section 6-7.

4-4: Repeat Core Item Violations

When a repeat Core Item Violation is observed, the violation shall be documented on the FOOD ESTABLISHMENT INSPECTION REPORT and subsequent enforcement action will focus on establishing long-term compliance and a behavior change by the Food Establishment.

If the Health Authority determines that progression into one of these two conditions is:

a) Unlikely to occur and has not already occurred, the Core Item violation will be documented and tracked as a Repeat Violation, e.g. R4, R5, etc., and reevaluated as in 4-4 (B) during the next routine inspection. Eventually, corrective action(s) to remove the violation(s) shall be completed to the sole satisfaction of the Health Authority when:

1. The Food Establishment is inactive for more than thirty (30) calendar days and under the same ownership.
2. There is a permit holder change of ownership.
3. The Food Establishment's internal premises are remodeled.

b) Likely to occur or has already occurred, the violation(s) shall be corrected according to a compliance correction action schedule submitted by the permit holder and approved by the Health Authority. If the permit holder does not correct repeat Core Item Violations in the manner of, and by a date and time agreed to in the approved CORRECTIVE ACTION PLAN, the Health Authority will proceed with administrative enforcement actions and/or judicial remedies as described above in 4-3(C) and 4-3 (D).

4-5: Repeat Part 750 Violations

Repeat Violations of PART 750 VIOLATIONS shall follow the same procedures as in this Section depending upon the designation of a 750 violation as a Priority Item, Priority Foundation Item, or Core Item Violation as designated in appendix 750.

SECTION 5: INADEQUATE FOOD SAFETY MANAGEMENT SYSTEM

In addition to Section 3 and Section 4, when the total number of Priority and Priority Foundation violations documented on a FOOD ESTABLISHMENT INSPECTION REPORT during a routine inspection equals ten (10) or more, it is considered substandard compliance and is indicative that the facility has an inadequate FOOD SAFETY MANAGEMENT SYSTEM, resulting in a failed health inspection.

The FOOD SAFETY MANAGEMENT SYSTEM needs improvement to protect the public from foodborne illness and shall require compliance corrections acceptable to the Health Authority. The Health Authority shall review and approve any correction documentation. Follow-up inspection(s) shall be conducted to assess the effectiveness of the FOOD SAFETY MANAGEMENT SYSTEM. Acceptable effectiveness is demonstrated by having no violations in these categories.

SECTION 6: PENALTIES FOR NON-COMPLIANCE

6-1: Permit Suspension

- A. **Notice of Suspension:** Whenever a permit holder or Operator has failed to comply with any notice issued under the provisions of the Enforcement Policy, the Health Authority may serve the permit holder or Operator with a notice stating that their Permit is suspended, and Operations are to cease immediately or as ordered by the Health Authority.

The summary suspension notice shall state the following:

1. That the Permit is immediately suspended and that all food Operations shall immediately cease.
 2. The nature of the violation supporting summary suspension, with reference to the specific Enforcement Policy or Ordinance provisions that are in violation.
 3. A reasonable time in which corrective action must be taken by the permit holder or Operator.
 4. Contact information for the Health Authority to whom a written request for re-inspection may be made and who may certify that reasons for the suspension are eliminated.
 5. That the permit holder may request an appeal hearing by submitting a timely request as in 6-4.
- B. **Imminent Health Hazard:** In the event that a violation constitutes an Imminent Health Hazard, the aforesaid notice may also require the immediate suspension of the entire Operation of the Food Establishment or portions thereof. Any Person to whom such notice is issued shall comply immediately therewith. The permit holder shall obtain Approval from the Health Authority prior to resuming Operations. Approval may be granted by written, electronic, or telephone notification.

- C. **Repeat Suspensions:** Two (2) suspensions during a period of twelve (12) consecutive months shall constitute grounds for permanent revocation of a Permit.
- D. **Cause:** A Permit may be suspended for cause pending its revocation or a hearing relative thereto.

6-2: Reinstatement of Suspended Permits

Any Person whose Permit has been suspended may, at any time, submit a written application for re-inspection in accordance with the procedure in 6-1 (A).

6-3: Permit Revocation

For Repeat Violations of any provisions of the Enforcement Policy or for interference with the Health Authority in the performance of its duties, the Health Authority may hold a hearing to permanently revoke a Permit. The permit holder shall be given notice of the revocation and of the opportunity to request a hearing before the Health Authority. Prior to such action, the Health Authority shall notify the permit holder that the Permit is subject to revocation, and the Permit shall be permanently revoked at the end of ten (10) business days following service of such notice, unless the permit holder files a request for a hearing with the Health Authority within that period.

Upon revocation the Person and other related Persons or organizations may be approved for a new annual health permit after the facility submits required documentation and complies with all requirements under the plan review process.

6-4: Appealing Decisions by the Health Authority

- A. **Appeals:** A permit holder or Operator whose Permit has been suspended or revoked may make a written request to the Health Authority for a hearing to contest the conditions of the suspension or revocation. In such cases where a Permit has been suspended, a permit holder may additionally or alternatively make a written request to the Health Authority for re-inspection.

Any Food Establishment for which the Permit has been suspended or revoked shall remain closed during those periods when an appeal and/or a hearing is being sought or under consideration.

The permit holder may appeal the final decision of the Health Authority to the Health District or its successor.

- B. **Timeliness:** The Health Authority shall afford a hearing within thirty (30) calendar days but no earlier than seven (7) calendar days after the service of a hearing notice to consider administrative remedies for matters as determined necessary by the Health Authority.

6-5: Hearings

All hearings shall be conducted by the Health Authority at a time and place to be designated by the same.

All hearings shall be conducted to provide the parties with written notice of the hearings, adequate time to prepare, the right to present evidence in support of their position, the right to cross-examine, and the right to legal counsel at their expense. Either party may record the hearing. Written notice of the hearing to a party may be waived by that party.

An Administrative Hearing will be conducted by the Public Health Administrator of the Health District, or his/her designee, and any Health District staff that may be necessary. All hearings shall be conducted in an informal manner, with consideration to all parties. The formal rules of evidence shall not apply; however, the hearing body may exclude irrelevant or immaterial evidence. The hearing body may ask questions of any witness to clarify a point or to assist the body in reaching a decision.

Based upon the hearing, the Health Authority shall make a finding and sustain, modify, or rescind any official notice or order considered in the hearing. This hearing may result in the closure of the Food Establishment and may be used to establish legal action(s) against the Food Establishment.

A written report of the hearing decision shall be furnished to the permit holder by the Health Authority within forty-eight (48) hours.

6-6: Service of Notices

Notices provided for under this Policy shall be deemed to have been properly served when a physical or electronic copy thereof has been delivered to the permit holder; if a corporation, to any officer thereof; or to the Person in Charge. The Health District shall maintain a physical or electronic copy of such notices.

6-7: Penalties Other Than Suspension and Revocation of Licenses

Any Person that violates any provisions of this Policy shall be guilty of a class B misdemeanor, and upon conviction thereof, shall be punished by a term of imprisonment for not more than six (6) months, by a fine not to exceed five hundred dollars (\$500.00), or by both such term and fine. Each day upon which a violation occurs shall constitute a separate violation.

In addition to suspension, revocation, criminal conviction, or other remedy, the Health District may seek an injunction against any permit holder or Person violating this Policy, as provided in the Illinois Food Handling Regulation Enforcement Act (410 ILCS 625/1 et seq.).

SECTION 7: AUTHORITY

This Enforcement Policy shall be published in pamphlet form not later than November 1, 2024.

This Enforcement Policy shall be in full force and effective on January 1, 2025. At that time, all enforcement policies and provisions in conflict with this Enforcement Policy are repealed.

Should any section, paragraph, sentence, clause or phrase of this Enforcement Policy be declared unconstitutional or invalid for any reason, the remainder of this Enforcement Policy will not be affected. Those sections will remain valid.

Passed and adopted this 9th day of October, 2024, by the Board of Health of the Champaign-Urbana Public Health District.

DocuSigned by:
Danielle Chynoweth
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Chair

10/15/2024
Date

