PUBLIC HEALTH ORDINANCE FOR McHENRY COUNTY ILLINOIS

McHENRY COUNTY DEPARTMENT OF HEALTH

ARTICLE I

GENERAL PROVISIONS

Approved: July 21, 2026
Effective Date: August 1, 2026

TABLE OF CONTENTS

Section	Title	Page
§ 8.04.010	Definitions	3
§ 8.04.020	Intent and Purpose	16
§ 8.04.025	Incorporated Materials	17
§ 8.04.030	Enforcement Provisions	17
§ 8.04.040	Hearings	20
§ 8.04.050	Penalties	21

PUBLIC HEALTH
ORDINANCE FOR

McHENRY COUNTY ILLINOIS

McHENRY COUNTY DEPARTMENT OF HEALTH
ARTICLE I – GENERAL PROVISIONS

---

§ 8.04.010 DEFINITIONS

"Accessible" as it pertains to a sanitary sewer means that the sewer is located in a public right-of-way or easement contiguous to the property. Further provided that the sewer or a service stub can be reached without excessive tunneling or boring under a roadway, building, or flowing stream, and that the sewer or service stub is not further than 300 feet from the residential property line or 1000 feet from the property line of the non-residential building to be served. It is not the intent for an individual to subsidize the extension costs of a sanitary sewer system; therefore, only an individual connection with an individual line will be required.

"Accessory Structure" means any structure with a roof that is not attached to the dwelling.

"Aerobic Treatment Unit" means a sewage treatment unit, which incorporates a means of introducing air into sewage so as to provide aerobic biochemical stabilization during a detention period.

"Animal" means every vertebrate creature, other than man.

"Animal, Companion" means any dog, cat, or other animal that is commonly considered to be, or is considered by the owner to be, a pet.

"Animal, Confinement" means the restriction of an animal at all times by the owner or the owner's agent or the custodian to an escape-proof building, house, or other enclosure away from other animals and the public**.**

"Animal Control Administrator" means a person appointed pursuant to the Illinois Animal Control Act, 510 ILCS 5/1, et seq.

"Animal Control Facility" means any facility licensed by the Illinois Department of Agriculture and approved by the Animal Control Administrator for the purpose of enforcing this Ordinance and used as a shelter for seized, stray, homeless, abandoned or unwanted animals.

"Animal Control Officer" means any person hired by the Animal Control Administrator to perform duties as set forth in this Ordinance and/or state statutes pertaining to animals.

"Animal, Control or Restraint" means any owned animal that is either secured by a leash or lead, or within the premises of its owner, or confined within a crate or cage, or confined within a vehicle, or on the premises of another person with the consent of that other person.

"Animal, Exotic" shall include but is not limited to the following: *Felis concolor* (i.e. cougar, mountain lion, panther, puma, catamount, Florida panther); *Panthera species* (i.e. lion, tiger, leopard, jaguar, snow leopard); *Neofelis* (i.e. clouded leopard; *Acinonyx* (i.e. cheetah); *Felis wiedi* (i.e. margay); *Felis lynx* (i.e. lynx) *Felis rufus* (i.e. bobcat); *Leopardus pardalis* (i.e. Ocelot); *Puma yagouaroundi* (i.e. Jaguarundis); *Hyaenidae* (i.e. aardwolf, hyenas); *Canis lupus* (i.e. gray wolf, timber wolf, white wolf); *Canis rufus* (i.e. red wolf); *Alopex lagopus* (i.e. arctic fox, polar fox, white fox, blue fox); *Urocyon cinereoargenteus* (i.e. gray fox); *Canis latrans* (i.e. coyote);

Ursidae (i.e. black bear, brown or grizzly bear, polar bear); *Elephas sp.* and *Loxodonta sp.* (i.e. elephants); non-human primates; *Crocodilia* (i.e. crocodiles, alligators, caimens); all species of the following families or genera of Squamata (snakes and lizards): *Helodermatidae* (i.e. Gila monsters); *Elapidae* (i.e. cobras, coral snakes, mambas, kraits); *Hydrophiidae* (i.e. sea snakes); *Viperidae* (i.e. adders, vipers and pit vipers); *Atractaspididae* (i.e. burrowing asps); *Dispholidus typus* (i.e. boomslang snake); *Thelotornis kirtlandii* (i.e. twig snake); *Rhabdophis sp.* (i.e. keelback snakes); *Eunectes murinus* (i.e. green anaconda); *Python sebae* (i.e. African rock python); *Python molurus* (i.e. Burmese python); *Python reticulatus* (i.e. reticulated python); *Morelia amethistina* (i.e. Amethystine python); or any other animal or reptile deemed dangerous by the McHenry County Health Department, Illinois Department of Agriculture, or Illinois Department of Conservation.

"Animals, Farm" means species of fowl, sheep, goats, cattle, pigs, and equidae (i.e. horses, donkeys, mules).

"Animal, Inoculation against Rabies" is the injection of a rabies vaccine approved by the United States Department of Agriculture and administered by a licensed veterinarian.

"Animal Refuge" means any facility licensed by the United States Department of Agriculture and approved by the Animal Control Administrator, which accepts seized, stray, homeless, abandoned or unwanted exotic animals.

"Animal Shelter, Adequate" means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal, which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions. The size of the shelter should allow adequate freedom of movement and normal postural adjustments. The condition of the shelter should be such as to not exacerbate existing weather conditions, e.g., a metal doghouse in the hot sun.

"Animal, Stray" means any domestic animal with an unknown owner that is not under control and restraint**.**

"Applicant" means the owner as defined herein or their authorized agent.

"Approved" as it pertains to a private sewage disposal system, means constructed and installed in compliance with the technical standards and requirements of this Ordinance. **"APPROVED"** installation does not imply or ensure that a system will perform satisfactorily.

"Authorized Constructor" means a person having a valid license under the Illinois Water Well and Pump Installation Contractor's Act unless exempt under that Act.

"Available" as it pertains to a sanitary sewer**,** means that the property owner has a right to connect to the sanitary sewer, or the municipality is allowing the construction.

"Barrier" means a fence, a wall, a building wall or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

"Bedroom" for the purpose of establishing the rate of flow for domestic sewage, means any room containing a closet, which is suitable to regular use as a bedroom and which shares a common hallway with or is adjoining at least a 3/4 bath.

"Bedding Material" shall mean clean stone with no visible mud, silt or clay with particle size ranging from $^{3}/_{4}$ inch minimum to 4 inches maximum. For the purposes of this Ordinance, gravel and aggregate shall have the same meaning as bedding material.

“Biochemical Oxygen Demand” (BOD) means an empirical test that measures the oxygen required for the biochemical degradation of organic material and the oxygen used to oxidize inorganic material such as sulfides and ferrous iron.

“Bite” means seizure of a person with the jaws or teeth of any animal capable of transmitting rabies so that the person so seized has been wounded or pierced and further includes contact of the saliva of such animal with any break or abrasion of the skin.

“Board of Health Hearing Committee” means a committee of members of the Board of Health designated to hear appeals regarding orders, notices or suspension of permits issued by the Health Authority.

“Brush” means tree trunks, limbs, branches, and twigs.

“Business Day” means Monday through Friday from 8:00 a.m. to 4:30 p.m.

“Cat” means any member of the genus and species *Felis catus*.

“Caterer” means any person, firm or corporation who provides food service to an event or location usually for a single event or celebration whether the food is prepared at an approved facility or at the location of the event.

“Ceremonial Fire” means an outdoor fire larger than three feet by three feet by three feet (3’x3’x3’) which is used for entertainment purposes as part of a specifically scheduled public or private event and excludes leaves, grass or shrubbery clippings, cuttings or litter. For the purposes of this Ordinance, ceremonial fire and bonfire shall have the same meaning.

“Chemical Toilet” means a toilet structure equipped with a watertight impervious container, which receives waste, discharged through a hopper, seat, urinal or similar device and into which container may be placed disinfecting or deodorizing chemicals. For the purposes of this Ordinance, chemical toilet and portable toilet shall have the same meaning.

“Cesspool” means a lined and covered excavation in the ground, which receives the discharge of untreated domestic sewage so designed as to retain the solids but permitting the liquids to seep through the bottom and sides.

“Closet” means a small room or chamber used for storage. A closet does not include utility rooms limited to storage of a furnace, water heater, water softener or similar.

“Commissary” means a food catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored, and/or directly from which mobile food units or vending machines are serviced.

“Community Refrigerator” means a refrigerator, located in a permitted food establishment, where the public can readily access donated food products, free of charge, that are prepared, packaged and labeled from approved sources.

“Conditional Permit” means a permit issued to a food establishment when any condition other than those that require immediate abatement prohibits a regular permit from being issued.

“Continuous” as it pertains to Article VI, means something that is uninterrupted, unbroken, and persistent, not occurring in occasional or isolated instances.

“County” means the County of McHenry, Illinois.

“Critical Variance” as it pertains to a water well, means a variance which is granted for the separation distance between a new, replacement or modified water well to the components of an onsite wastewater treatment system or public sewer system or Class V injection well.

“Dangerous Dog” means a dog determined to be dangerous by the Animal Control Administrator following a dangerous dog investigation pursuant to this Ordinance.

“Department” means the McHenry County Department of Health.

“Deputy Animal Control Administrator” means a veterinarian licensed by the State of Illinois, appointed by the Animal Control Administrator.

“Discharge Rate” means the volume of effluent discharged from a low-pressure distribution system expressed as gallons per minute and applied as a rate either per perforation, per line, or per system.

“Distal End Pressure” means a measure of system pressure in a low-pressure distribution system made at the end of a lateral distribution pipe opposite the force main connection and expressed as feet of pressure head.

“Dog” means any member of the genus, species and subspecies *Canis lupus familiaris*.

“Dog Breeder” means any person who allows a male or female dog that they own to reproduce.

“Domestic Sewage” means wastewater derived principally from plumbing fixture drains in dwellings, business or office buildings, institutions, food establishments, and similar facilities. It shall not include industrial or commercial processing waste.

“Duly Authorized Enforcing Officer” means Department staff who have received specific training and have been delegated Ordinance enforcing authority by the Health Authority through assigned responsibilities as outlined in their job description.

“Educational Institution”, as it relates to exotic animals, is any facility licensed by the United States Department of Agriculture and which keeps exotic animals with the sole purpose and practice of educating people in regard to the species’ value and natural history.

“Effective Size” means the size of screen opening where 90 percent by weight of a sample of sand is retained on the screen and 10 percent passes through the screen. This size is usually expressed in millimeters.

“Effluent” means the outflow from a tank or other sewage treatment unit.

“Effluent Filter” means a device installed at the outflow of a septic tank, which screens solids ordinarily suspended in solution.

“Existing Square Footage” as it pertains to private sewage disposal systems, means the habitable square footage of the structure in place as of February 1, 2003.

“Extensively Remodeled” means conversion of any existing structure for use as a food establishment; and structural additions or alterations to existing establishments; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

“Feral Cat” is a **cat** that (1) is born in the wild or is the offspring of an owned or feral cat and is not socialized, or (2) is a formerly owned cat that has been abandoned and is no longer socialized, or (3) lives on a farm and is not socialized.

“Festival” means a particular feast, holiday or celebration occurring each year at which food is served to the public for a period of no more than fourteen (14) days.

“Fixed Food Establishment” means a food establishment that is not a mobile food unit, a temporary food establishment, vending machine or vending machine location.

“Fixed Location, Drinks only” means a fixed food establishment that serves only beverages or beverages and pre-packaged snacks and/or frozen pizzas.

“Flood Elevation, Base” means the regulatory elevations established by the methods adopted by the McHenry County Storm water Management Ordinance and which establish the limit of intrusion or retainment of a “100 year flood event” or that flood having a one percent probability of occurring in any given year.

“Flood Hazard Area” means any area composed of floodplain land.

“Floodplain” means that land typically adjacent to a body of water with ground surface elevations at or below the base flood elevation or the 100-year frequency flood elevation. Floodplains may also include detached Special Flood Hazard Areas, ponding areas, etc. The floodplain is also known as the Special Flood Hazard Area.

“Food Pantry” means a public or private non-profit food establishment that distributes food at no cost to low income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and stress.

“Garbage” means organic waste resulting from preparation, processing, handling and storage of food and all decayed or spoiled food from any source.

“Gravelless Seepage System” means the use of approved perforated 8 inch or 10 inch diameter, filter wrapped, plastic pipe, or chamber systems as approved by the Illinois Department of Public Health, in private sewage disposal systems, in lieu of 4 inch pipe and gravel, in subsurface fields and serial distribution systems.

“Guard Dog” means a dog specifically trained for guard duties, or a dog used in a commercial business for the purpose of protection and security, or a dog used by a county or municipal police department for the purposes of patrol and protection, or a dog used in agriculture for the purposes of protecting livestock.

“Habitable” means any room or enclosed floor space with electric and heat intended to be used for living, sleeping, working, public gathering or eating purposes including but not limited to bathrooms, hallways, and closets, businesses or places of work, but not including attics, garages or unfinished basements.

“Habitable Structure” means any structure with electric and heat intended to be used for living, sleeping, eating, or assembly purposes including but not limited to residences, multifamily dwellings, churches, schools, food establishments and industrial buildings.

“Health Authority” means the Public Health Administrator of the McHenry County Department of Health, or their designated agent.

"High-capacity well" means a private, semi-private, non-community or non-potable well where the rate or capacity of water withdrawal is equal to or in excess of 100,000 gallons during any 24-hour period.

"Hot Tub", as it pertains to pool barriers, shall have the same meaning as spa (as defined).

"Hot Tub", as it pertains to private sewage disposal systems, means an artificial container of water with a liquid capacity greater than 100 gallons and designed with a mechanical air injection system and/or recirculating device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses.

"Human Waste" means the normal excretory waste of the human body.

"Impounded" means an animal taken into the custody of the Animal Control Administrator and/or his or her authorized agent.

"Intact Animal" means an animal that has not been surgically spayed or neutered.

"Isolation" means the complete separation from others of a person or group of persons suffering from contagious or infectious disease.

"Landscape Waste" means all accumulation of grass or shrubbery cuttings, leaves, tree limbs, and other material accumulated as the result of the care of lawns, shrubbery, vines and trees. Christmas trees are excluded.

"Leaching Pit" means a pit or receptacle having porous walls which permit the contents to seep into the ground and which only receives effluent from a septic tank or other pre-treatment device.

"Leash" means a cord, rope, strap, or chain, which shall be securely fastened to the collar or harness of a dog, cat or other animal and shall be of sufficient strength to keep such dog, cat or other animal under control.

"Licensed Environmental Health Practitioner" means a person who is licensed as an environmental health practitioner per 225 ILCS 37.

"Licensed Veterinarian" means a veterinarian licensed by the State of Illinois to engage in the practice of veterinary medicine.

"Limiting Layer" means a horizon or condition in the soil profile or underlying strata which includes:

a) A seasonal high water table, whether perched or regional, determined by direct observation of the water table or indicated by soil redoximorphic features where redox depletions comprise at least 2% to 20% of the soil in a progressive downward direction in the soil, whichever is more restrictive.

b) Masses of loose rock fragments, including gravel, with insufficient fine soil to fill the voids between the fragments.

c) Rock formation, other stratum or soil condition, which is so slowly permeable that it effectively limits downward passage of effluent.

"Liquid Capacity" means the internal volume of a tank below the invert of the outlet line.

"Litter" means any discarded, used or unconsumed substance or waste. Litter may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, newspaper, magazines, glass, metal, plastic or paper

containers or other packaging construction material, motor vehicle parts, furniture, oil, carcass of dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste, or anything else of an unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

"Lot" means a lot of record which is a part of a subdivision, the plat of which has been duly authorized and recorded in the Office of the Recorder of Deeds of McHenry County, Illinois, and which is intended to be used as a unit by one (1) principal building and its accessory buildings.

"Manure" means the excreta of livestock and poultry, which may contain some spilled feed, bedding or litter.

"Microchip" means a passive radiofrequency identification device placed by hypodermic injection under the skin of an animal for permanent identification.

"Mobile Food Unit" means a food establishment designed to be readily moveable and which returns each day to the commissary for cleaning and servicing.

"Natural Barrier" as it pertains to swimming pool barriers, means a non-seasonal lake, pond or stream greater than 20 feet in width.

"Neighboring residence" as it pertains to swimming pool barriers, means a one or two-family dwelling or a one-family townhouse not more than three stories in height, situated on improved property within 500 feet of a residential swimming pool.

"New Construction (structures)" as it pertains to water wells and private sewage disposal systems, means any of the following:

- A new structure; or
- When 50% or more of the habitable square footage of an existing structure is added; or
- When additional bedrooms are added to an existing structure; or
- When an addition to the structure will not meet required setback distances to water wells or the components of a private sewage disposal system; or
- When there will be an increase in the estimated domestic sewage flows (non-residential); or
- When a change in use will result in an anticipated increase in the strength of the domestic sewage entering the seepage system; or
- When a non-potable well will be converted to a potable water well; or
- When an existing water well will be converted to a high capacity water well; or
- When additional pumping capacity will require modification to the water well (nonresidential).

"Non-Critical Soils" means suitable soils (as defined) where the actual or estimated seasonal high groundwater or other limiting layer is a minimum of thirty (30) inches from the natural soil surface.

"Non-habitable Structure" means any structure not identified as habitable as defined and would include but is not limited to garages, sheds, barns, and swimming pools.

“Non-Residential Property” means any property that is not used for a single family home.

“Non-seasonal” Mobile Food Establishment” means a mobile food establishment that operates five (5) or more months per permit year.

“Noxious Weed” means Canada thistle (*Cirsium arvense*), perennial Sowthistle (*Sonchus arvensis*), Musk Thistle (*Carduus nutans*), and perennial members of the sorghum genus including Johnson grass (*Sorghum halepense*), and *Sorghum almum*, Kudzu (*Pueraria labata*) and within the corporate limits of cities, villages, and incorporated towns, Giant ragweed (*Ambrosia trifida L.*) and Common ragweed (*Ambrosia artemisiifolia L.*).

“NRCS” means Natural Resource Conservation Service.

“NSF” means NSF International, an independent testing laboratory.

“Nursing Home, Hospital, Other Institutions” as it pertains to food establishments means the primary fixed food establishment in a nursing home, hospital, long-term care facility or other similar institution. It includes satellite food dispensing areas on patient floors but does not include additional food establishments such as bars and restaurants throughout those facilities.

“Offal” means the intestines and discarded parts from the slaughter of animals.

“One For One Replacement” means a replacement structure of the same number of bedrooms (for commercial properties the same estimated domestic sewage flows and type of operation) and the same square footage of habitable space as of the adoption date of this Ordinance or indicated on the most recently issued construction permit.

“Open Burning” means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under the provisions of the Environmental Protection Act.

“Original Soil Surface” means the natural or native soil surface exclusive of fill material.

“Owner” means legal owner, or the person or persons in whose name(s) legal title to the real estate in question is vested as evidenced by the records contained in the McHenry County Recorder’s office, or any person having a right of property in an animal, or who keeps or harbors an animal, or who has an animal in his or her care, or acts as its custodian, or who knowingly permits a dog, cat or other animal to remain on or about any premises occupied by him or her. “Owner” does not include a feral cat “caretaker” participating in a trap, spay/neuter, vaccinate for rabies, and return program.

“Parcel” means an area of land described by metes and bounds or by division, making reference to the original government survey. For purposes of this ordinance, a parcel is not a LOT.

“Permeability” means the ease with which liquids move through a soil.

“Person” means any individual, group of individuals, association, society, trust, partnership, copartnership, firm, corporation, joint stock company, person doing business under an assumed name, municipal corporation or political subdivision, or any other legal entity, government and/or private, or its legal representative, agent or assigns.

“Physical Injury” means the impairment of a physical condition.

“Physical Injury, Serious” means a physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or requires plastic surgery.

“Plan Review, Major” means a food service plan review where the extensively remodeled area is greater than 250 square feet.

“Plan Review, Minor” means a foodservice plan review where the extensively remodeled area is less than or equal to 250 square feet.

“Planning & Development Department” means the McHenry County Department of Planning and Development.

“Porous Earth Fill” means mineral soil, not organic soil such as peat or muck. The organic matter content shall be less than 6%. Soil texture shall include silt loam, loam, or sandy clay loam, or sandy loam of a consistent USDA texture. Clay content shall range from 10% to 27%, and sand content shall range from 30% to 80%. The content of gravel (>2mm) shall be less than 5% by volume. Clods shall be less than 10% by volume and less than four (4) inches in size. The material shall be free of extraneous, non-soil material such as construction or vegetative debris.

“Portable Toilet” see CHEMICAL TOILET.

“Portable Sanitation Technician” means any individual who is certified by the Illinois Department of Public Health to be an employee for a portable sanitation business and who has completed the required Illinois Department of Public Health training.

“Portable Sanitation Technician Trainee” means any individual who is certified by the Illinois Department of Public Health as an employee for a portable sanitation business for less than one year.

“Portable Sanitation Technician or Trainee Permit” means a permit issued by the Department to a portable sanitation technician or portable sanitation technician trainee, allowing the cleaning or pumping of portable toilets in McHenry County or hauling and disposing of portable toilet waste in McHenry County.

“Potable” means generally fit for human consumption in accordance with accepted water supply principles and practices.

“Potentially Dangerous Dog” means a dog that is unsupervised and found running at large with 3 or more other dogs.

“Pre-packaged” means food that is bottled, canned, cartoned, bagged, or securely wrapped.

“Private Sewage Disposal System” means any sewage handling or treatment facility receiving domestic sewage for disposal on the property where it was generated, or on property where the same owner has legal access, and having no ground surface discharge there or on any parcel, lot or property. Private Sewage Disposal System shall also mean septic system and onsite wastewater treatment system.

“Private Sewage Disposal System Classified As A Class V Injection Well” means any private sewage disposal system considered to be a Class V injection well under the 35 Illinois Administrative Code Part 704.

“Private Sewage Disposal System in Acceptable Condition” means a septic tank or pre-treatment device that does not have actual or indications of sewage or effluent levels over the outlet pipe; pretreatment devices and electrical components and pumps or motors are operating properly, and an absorption area (mound, field, trench, chamber, etc.) that does not have actual or indications of sewage on the ground

surface, or ponding in the trench or seepage bed above the stone level, gravelless pipe or chamber or ponding above the sand within the basal area of a Type 5 system.

"Private Sewage Disposal Installation Contractor" means any person operating with a valid license from the Illinois Department of Public Health for the constructing, installing, repairing, modifying or maintaining private sewage disposal systems.

"Private Sewage Disposal System Pumping Contractor" means any person with a valid license from the Illinois Department of Public Health who cleans or pumps waste from a private sewage disposal system (excluding chemical toilets) or hauls or disposes of wastes removed therefrom.

"Private Sewage Disposal System Pumping Contractor Permit" means a permit issued by the Department to a private sewage disposal system pumping contractor, allowing the cleaning or pumping of private sewage disposal systems in McHenry County or hauling and disposing of domestic septage in McHenry County.

"Privy" means a structure allowing for the disposal of human excreta into a sealed vault in the ground.

"Property" means a parcel of land or lot for which legal title has been recorded.

"Public Charge" is any animal who becomes the financial responsibility of the County.

"Qualified Water Well Designer" means a Licensed Water Well Installation Contractor, Registered Professional Engineer (as that term is defined in 225 ILCS 325) or Licensed Private Sewage Disposal Installation Contractor (as that term is defined in 225 ILCS 25/3) or a Licensed Environmental Health Practitioner (as defined in 225 ILCS 37).

"Qualified Private Sewage Disposal System Designer" means a Registered Professional Engineer (as that term is defined in 225 ILCS 325) or Licensed Private Sewage Disposal Installation Contractor (as that term is defined in 225 ILCS 225/3) or Licensed Environmental Health Practitioner (as defined in 225 ILCS 37).

"Quarantine" means separating and restricting the movement of a person or a group of persons who were exposed to a contagious disease to monitor for illness.

"Reasonably Available" means that the Illinois Environmental Protection Agency approved public water supply shall be reasonably available for connection if

1. there are no local ordinances or restrictions preventing a property owner from connection, and

2. the public water supply is located in a public right-of-way or easement contiguous to the property and further provided that the water main can be reached without tunneling or boring under a roadway, building, or flowing stream for a distance no farther than 300 feet from the lot line of a residential building or 1000 feet to the lot line of a commercial/industrial building. It is not the intent for an individual to subsidize the extension costs of a public water system; therefore, only an individual connection with an individual line will be required.

"Reckless Dog Owner" means a person who owns a dog that while anywhere other than upon the property of the owner, and without justification, kills another dog that results in that dog being deemed a dangerous dog and who knowingly allows the dog to violate **§ 8.04.870** Public Nuisance, A. Running at Large on 2 occasions within 12 months of the incident for which the dog was deemed dangerous or is involved in another incident that results in the dog being deemed dangerous on a second occasion within 24 months of the original dangerous determination.

“Recreational Fire” means a temporary outdoor fire for warmth, cooking for human consumption, or for non-ceremonial purposes where the fire is not larger than three feet by three feet by three feet (3’x3’x3’) and excludes leaves, grass or shrubbery clippings, cuttings or litter.

“Redox Depletions” means localized zones of decreased pigmentation that are grayer, lighter, or less red than the adjacent soil matrix. Redox depletions have low chroma equal to or less than 2 and a value of 4 or more (Munsell Color Chart).

“Redoximorphic Features” means color patterns in a soil caused by loss (depletion) or gain (concentration) of pigment formed by the oxidation/reduction of iron and/or manganese.

“Repetitious violation” as it pertains to a food establishment, means any violation, which has been noted on two or more consecutive inspection reports.

“Residential Property” means a single family home intended for occupation as living quarters that is not used to conduct any business that generates wastewater or domestic sewage.

“Retail Food, No Food Preparation” means a fixed food establishment that provides only pre-packaged food and/or beverages for retail sale.

“Retail Food with Food Preparation” means a fixed food establishment whose primary business is providing pre-packaged foods and/or beverages for retail sale, but also includes food services such as a coffee station, soda dispenser, deli, bakery, etc.

“Running at Large” means any owned domestic animal that is not under control and constraint, or on its owner’s property.

“Sanitary Sewer” means a wastewater treatment facility permitted by the Illinois Environmental Protection Agency.

“Satellite Food Establishment” means a fixed food establishment which receives all prepared food from an approved food establishment or commissary. The service of prepared foods may take place at a satellite food establishment. Satellite food establishment does not include facilities that only provide a venue for private parties and all food is provided by a variety of caterers.

“Schools, Daycares, Churches” means a fixed food establishment located in a private or public school, daycare facility (child or adult) or church.

“Seasonal Food Establishment” means a fixed or mobile food establishment that operates less than five (5) months per permit year.

“Seasonal Temporary Food Permit” means a permit issued to a single temporary food vendor to operate multiple times at a single location throughout the permit year. A seasonal temporary food permit is not intended to replace a seasonal fixed food establishment permit for non-compliant facilities.

“Self-Contained Outdoor Burning Device” means a free standing or stationary apparatus that contains a burn chamber that prevents the products and emissions from combustion from immediately entering the ambient air by use of a chimney, flue, baffle, screen, grill, hood or other similar device.

“Septage” means the liquid and solid material removed from domestic septic tanks or other approved pretreatment systems, and specifically excluding wastes from portable toilets, holding tanks, grease traps and sewage treatment plant sludge material.

“Septic Restricted Areas” means those areas not considered suitable for septic system installation due to critical soils, excessive slopes, required setback distances, etc.

“Service Dog” means a dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed must be directly related to the person’s disability.

“Sewage” means all of the domestic wastewater and all wastewater other than domestic derived from plumbing fixture drains in a dwelling, business or office building, food establishments, and similar facilities. It shall include industrial and commercial processing waste.

“Soil Boring” means an observation pit, dug by hand or backhoe, or an undisturbed soil core taken intact and undisturbed by a probe.

“Soil Classifier” means a certified soil classifier of the Illinois Soil Classifiers Association (ISCA) or a certified soil scientist certified by the Soils Certifying Board of the Soil Science Society of America.

“Soil Characteristics, Limiting” means those soil characteristics which preclude the installation of a Type 1 through Type 5 System (See § 8.04.460 - § 8.04.490 and Illustrations 1, 3, 4, 5 and 6 Appendix C) including but not limited to fill material, bedrock, soils with permeability of less than .2 inches per hour, actual or seasonal high groundwater tables, etc.

“Soil Saturation” means the state when all the pores in a soil are filled with water.

“Soil Textural Classification” where soil particle sizes or textures are specified in this Ordinance, means the soil textural classification in the USDA/NRCS Field Book for Describing and Sampling Soils.

“Spa, Portable, Non-portable, Hot tub”, as it pertains to pool barriers, means a non-permanent structure intended for recreational bathing in which all controls, water-heating and water-circulating equipment are an integral part of the product.

“Special Flood Hazard Area” means any area subject to flooding from a river, creek, intermittent stream, ditch or any other identified channel or ponding and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V30, VE, V, M, E, D, or X.

“Special Waste Holding Tank” means a watertight tank, which receives the wastewater discharge from fixtures or drains, which receive waste products such as automotive grease, oils, solvents and chemicals or any other processing or industrial wastewater that is not allowed to discharge into a private sewage disposal system.

“Structure” means the results of a man-made change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building or any addition to a building; installing a manufactured home on a site; preparing a site for a manufactured home or installing a recreational vehicle or travel trailer on a site for more than one hundred eighty (180) consecutive days.

“Substantial compliance” as it pertains to a food establishment, means that there are no outstanding or repetitious Priority or Priority Foundation items at the food establishment.

“Suitable Soil” means undisturbed soil materials that meet the permeability and minimum separation distance requirements as indicated in Tables IA and 1B, Appendix B.

“Supplemental Health Permit” means a permit issued by the Health Authority to a fixed food establishment, in addition to the annual or seasonal health permit, which allows the outdoor grilling or cooking of food items and/or operation of an outdoor bar.

“Swimming Pool” means any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

“Swimming Pool, Indoor” means a swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

“Swimming Pool, Outdoor” means any swimming pool, which is not an indoor pool.

“Temporary Food Establishment” means a food 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 or celebration. For the purposes of this Ordinance, “Temporary Food Events” and Temporary Food Establishments” shall have the same meaning. Temporary Food Establishments shall be classified into three categories as follows:

a) Category I: Foods with extensive or complicated preparation of high-risk foods, or high-risk populations.

b) Category II: Food with limited preparation or handling.

c) Category III: Pre-packaged ice cream products.

“Tether” means to restrain by tying to an object or structure, including, without limitation, a house, tree, fence, post, garage, shed, or clothes line at a person's residence or business, by any means, including, without limitation, a chain, rope, cord, leash, or running line.

“Uniformity Coefficient” means a number obtained by dividing that size of sand in millimeters of which 60% by weight is smaller, by that size of sand in millimeters of which 10% by weight is smaller.

“USDA” means United States Department of Agriculture.

“Variation” means a written document, issued by the Health Authority, that authorizes a modification or waiver of one or more requirements of this Ordinance if, in the opinion of the Health Authority, a health hazard or nuisance will not result from the modification or waiver. For the purposes of this Ordinance, variation and variance shall have the same meaning.

“Vending Machine” means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. Vending machines shall be classified into two categories as follows:

1. Category A: vending machines that vend in part or in total time/temperature control for safety foods and/or beverages into an open container.

2. Category B: vending machines that vend only gum or loose candy.

“Vicious Dog” is a dog that, without justification, attacks a person and causes serious physical injury or death or any individual dog that has been found to be a “dangerous dog” upon three (3) separate occasions.

“Wastewater” means all wastewater other than domestic sewage derived from plumbing fixture drains in a dwelling, business or office building, food establishment, and/or similar facility. It shall include industrial and commercial processing waste.

“Water Table” means the upper limit of the portion of the soil which is completely saturated with water. The seasonal high water table is the highest level to which the soil is saturated, as may be indicated by soil redoximorphic features (soil color patterns).

“Water Well In Acceptable Condition” means a water well that that has no apparent sanitary defects, is sampled for arsenic, total coliform, nitrates and E. coli and is confirmed, through sample analysis at a Certified Laboratory, to be negative for E. coli bacteria.

“Water Well Sanitary Defect” means any physical condition that may prevent the well from providing a reliable potable water source including but not limited to a missing or insecure well cap, well casing that is not intact, a well located in a pit that is not watertight, or similar.

“Wholesome Food” means in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

§ 8.04.020 INTENT AND PURPOSE

- **Title:** This ordinance shall be known as, referred to or cited as the Public Health Ordinance for McHenry County Illinois.

- **Purpose:** The purpose of this Ordinance is to:

    1. Promote the health, safety and general welfare of the people within McHenry County, IL.

    2. To prohibit, abate, suppress and prevent all acts, practices, conduct and uses of property and all other things detrimental or which may be detrimental to the health of the inhabitants of McHenry County, IL.

    3. To control and prevent nuisances of public health significance.

    4. To establish standards for food and sanitary facilities and controls in food establishments, to regulate the inspection of food establishments, and to provide for examination and condemnation of food.

    5. To establish a system of controls over the site review, design, construction, materials, installation, operation and maintenance of private sewage disposal systems and the disposal of residues therefrom, and the disposal of wastewater from structures served by private sewage disposal systems.

    6. To establish a system of controls over the site review, design, construction, materials, installation, operation and maintenance of private, semi-private, closed loop and non-community water wells.

    7. To protect residents of McHenry County from rabies by specifying preventive and control measures, to provide security to residents from annoyance, intimidation and injury from dogs and other animals, to protect animals from improper use, abuse, neglect, inhumane treatment and health hazards, to encourage responsible pet ownership, to educate residents regarding rabies and other animal related issues.

    8. To provide for assessment of penalties and fines for violations and enforcement and administration of this Ordinance.

- **Intent:**

    1. The general intent of this Ordinance is to regulate all acts which may be necessary or expedient for the promotion of health or the suppression of disease; including but not limited to regulating public health nuisances; food establishments; vending of food and beverage; private, semi-private, closed loop and non-community water supplies; onsite wastewater treatment and disposal; public swimming beaches; housing; solid waste management; environmental health and safety and animal control.

    2. It is intended that this Ordinance will protect the health of residents, businesses and transients; will secure safety from disease and pestilence; will further the healthful use of land and water resources of McHenry County, Illinois and its communities. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation. Unless otherwise stated, all Articles and Sections of this Ordinance apply to all areas within McHenry County, Illinois.

- **Severability Clause:** If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

- **Conflict:** In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, or safety ordinance or code in force or adopted subsequent to the effective date of this Ordinance, the more stringent provision, as determined by a court of competent jurisdiction, shall prevail.

§ 8.04.025 INCORPORATED MATERIALS: The following State administrative rules are adopted and incorporated by reference:

- The Illinois Administrative Code, Title 77: Public Health, Part 690, Control of Notifiable Diseases and Conditions Code, et seq., effective July 1, 1977 and as amended from time to time; and

- The Illinois Administrative Code, Title 77: Public Health, Part 693, Control of Sexually Transmissible Infections Code, et. Seq., effective May 27, 1988 and as amended from time to time; and

- The Illinois Administrative Code, Title 77: Public Health, Part 696, Control of Tuberculosis Code, et seq., effective June 5, 1998 and as amended from time to time.

- The Illinois Animal Control Act (510 ILCS 5/)

§ 8.04.030 ENFORCEMENT PROVISIONS

A. Powers and Duties of the Department:

1. To issue permits or registrations as required in this Ordinance.

2. To make such inspections as are necessary to determine satisfactory compliance with this Ordinance.

3. To cause investigations to be made when a violation of any provision of this Ordinance is reported to the Department.

4. To cause investigations for all mandated reportable infectious diseases as incorporated by IL Administrative Code, Section 690.30, a) and IL Administrative Code, Section 693.

5. To enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of this Ordinance; subject to constitutional restrictions on reasonable searches and seizures. If entry is refused or not obtained, the enforcing officer is authorized to pursue recourse as provided by law, which is typically through an administrative search warrant.

6. To institute or cause to be instituted legal proceedings in the Circuit Court of McHenry County in cooperation with the State's Attorney's Office where a condition presents a hazard to the public health.

7. To issue and enforce orders of quarantine, isolation or exclusion to a person or groups of persons, as incorporated by IL Administrative Code 690.30, c), d), e), Section 690.1300 – 690.1410, Section 693.60, and Section 696.180.

B. Enforcing Officer: Any duly authorized member or representative of the McHenry County Department of Health is hereby designated as an enforcing officer of this Ordinance. Any enforcing officer shall hereby be given specific power to make inspections and for that purpose may enter buildings, structures and premises at all reasonable times in order to enforce the provisions of this Ordinance and to that end shall make such orders, requirements, decisions and determinations as are necessary with respect to the enforcement of this Ordinance subject to ¶ A.5 above.

C. Permits: It shall be unlawful for any person to operate any establishment, business or operation, or conduct any activities within McHenry County, Illinois, requiring permits under this Ordinance, who does not possess a valid permit issued by the Health Authority. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such permit. Permits shall not be transferable from one person to another or from one place to another.

D. Issuance of Permits: Any person desiring to conduct any activity requiring a permit under this Ordinance shall make an application for a permit on forms provided by the Department. The application shall include all information required by this Ordinance. Upon receipt of such application, the Health Authority shall conduct the necessary evaluation and/or make an inspection of the referenced business, establishment, operation or property to determine compliance with all provisions of this Ordinance. When the applicable requirements of this Ordinance have been met and all permit fees and/or other outstanding fees due to the Department have been paid, a permit shall be issued to the applicant by the Health Authority.

E. Notices of Violations: Whenever the Department determines through inspection or other means that there is a violation of any provision of this Ordinance, the Department shall give notice of such alleged violation. Such notice shall:

1. Be in writing.

2. Include a Statement of the reason(s) for its issuance which shall include a citation of the applicable Ordinance Section related to the violation.

3. Allow a period of time not to exceed ten (10) calendar days to effect compliance with this Ordinance unless an extension of time has been granted by the Health Authority or the Public Health Ordinance specifically provides otherwise. Within said same ten (10) calendar days, the responsible person or their designated agent shall have the right to seek, in writing, a review by the Health Authority for McHenry County of the Notice or Order of Violation or

determination of a violation by its Enforcing Officer, with the exception of actions taken by the Animal Control Administrator specific to their authority as established in 510 ILCS 5/. The Health Authority shall provide a written response to that review within 10 business days of receipt.

4. Be served upon the owner, operator, occupant, licensee or permit holder, or their agent as the case may require. Such notice or order shall be deemed to have been properly served upon such owner, operator, occupant, licensee, permit holder or agent when:

i. a copy thereof has been sent by regular, registered or certified mail. Notices sent by mail shall be mailed to the last known address of the owner, operator, occupant, licensee or permit holder or their agent. An affidavit or testimony of the enforcing officer, who mails such notice, shall be prima facie evidence of the receipt of such notice by the owner, operator, occupant, licensee, permit holder or their agent; or

ii. when such notice has been posted on the property where the violation exists; or

iii. when such notice has been posted to the front door of the permit holder's establishment; or

iv. when such notice is posted or left at the owner's, operator's, occupant's or permit holder's residence; or

v. when such notice is personally delivered to the owner, operator, occupant, permit holder or licensee or person in charge.

5. Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this Ordinance.

6. Explain the procedure for review or appeal of the alleged violation.

F. Extension of Time: Any person, firm or corporation affected by a notice which has been issued in connection with the enforcement of any provisions of this Ordinance, may request and may be granted a time extension, by the Health Authority, when circumstances warrant such an extension and it is in harmony with the general purpose of this Ordinance to safeguard and secure the public health, safety and welfare.

G. Variations: When circumstances exist, which make impractical full compliance with the requirements of this Ordinance, an applicant may request that the Health Authority grant a variation. Such request shall be made in writing, shall cite the relevant Ordinance requirement and shall accompany any other pertinent data which might support the request or which the Health Authority may require. An explanation of how the potential public health hazards and nuisances addressed by the relevant Sections of the Ordinance will be alternatively addressed shall be included. The Health Authority may grant the request for variance provided the variance does not conflict with the stated purpose of this Ordinance. The Health Authority may attach conditions to a variance and/or may require the owner to record the variance at the McHenry County Recorder of Deeds, as a covenant running with the land. Failure to adhere to the conditions of the variance represents a violation of the Public Health Ordinance.

H. Appeal Permit Denial Any permit applicant shall have the right to seek, in writing, a review by the Health Authority for McHenry County, of any denial of any permit application. The Health Authority shall provide a written response to that review within 10 business days of receipt.

I. **Suspension of Permits:**

1. The Health Authority may suspend any permit authorized by this Ordinance, upon violation by the property owner or permit holder of any of its terms in the manner set forth in the following paragraph:

2. Notwithstanding the provisions of this Ordinance, whenever the Health Authority finds conditions which in their judgment constitutes imminent danger to the public health, or the permit holder, owner or operator has ignored, neglected, or carelessly responded to notices to correct issued by the Department, or in any other way has blatantly jeopardized the public's health by their manner of response to such notice, said Health Authority may without warning, notice or hearing, issue a written notice to the permit holder, owner or operator, citing such conditions and such order shall state the permit is immediately suspended and all operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon a written petition to the Board of Health Hearing Committee, shall be afforded a hearing within thirty (30) calendar days unless mutually continued or extended.

J. **Reinstatement of Suspended Permits:** Any person whose permit has been suspended may, at any time, make application for a re-inspection for the purpose of reinstatement of the permit. Within two (2) business days following receipt of a written request, including a statement signed by the applicant that in their opinion the conditions causing suspension of the permit have been corrected, the Health Authority shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance, the permit shall be reinstated.

K. **Revocation of Permits:** For serious or repeated violation of any of the requirements of this Ordinance, or for interference with the enforcing officer in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Board of Health Hearing Committee. Prior to such action, the Health Authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) business days following service of such notice, unless request for a hearing is filed with the Board of Health, by the permit holder within such five (5) business day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

L. **Emergency Abatement:** Whenever, in the judgment of the Department, an emergency exists which requires immediate action to protect the Public Health, safety, or welfare, a court order may be requested without notice, conference, or hearing, directing the person, owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. All expenses involved in abatement shall be borne by the owner.

§ 8.04.040 HEARINGS

Hearing: Any person, firm or corporation affected by an order or notice issued by an enforcing officer, or a denial of a permit application, after receiving a review by the Health Authority consistent with § 8.04.030 ¶ E3, may file in the office of the Department within ten (10) business days of the date of the Health Authority's review, a written Petition for a hearing before the McHenry County Board of Health Hearing Committee. Such a Petition to the said Board of Health Hearing Committee shall stay the order, notice of violation or order of suspension or revocation until the McHenry County Board of Health has determined and decided the appeal, except that situations requiring emergency abatement as provided in § 8.04.030 K. shall not be stayed. The Petitioner for the Hearing shall be notified of the time and place of the Hearing not less than three (3) days

prior to the date on which the Hearing is to be held. The Hearing shall be held within thirty (30) calendar days after the Petition is filed unless mutually continued or extended.

A. Petition: Whenever a Petitioner requests a Hearing before the McHenry County Board of Health Hearing Committee, the Petition shall:

1. Be in writing.

2. Be made to the McHenry County Department of Health

3. State the reason(s) for the appeal.

A. Hearing Process: The Board of Health Hearing Committee shall hear the petition, make a finding of fact, and make a recommendation to the Board of Health. The Board of Health shall consider the recommendation at their next regular meeting. The Health Authority shall notify the petitioner, in writing, of the findings of the Board of Health within ten (10) business days of the Board of Health meeting.

§ 8.04.050 PENALTIES

A. Any person, firm, or corporation who violates any of the provisions of this Ordinance shall be punished by a fine of not less than one-hundred dollars ($100) nor more than one-thousand dollars ($1,000) for the first and each subsequent violation. In addition, thereto, such persons may be enjoined from continuing such violations. Each day upon which such violation occurs shall constitute a separate violation.

B. In addition to penalties provided in subsection A above, the Department may maintain a complaint to enjoin all persons from maintaining or permitting a nuisance, and to abate same.

C. Other penalties and fees may apply, as stated in any later Article of this Ordinance.