

## HENDRICKS COUNTY

### FOOD ORDINANCE

#### ORDINANCE NO. 2010 - 08

An Ordinance pertaining to establishments requiring Permits and Permit fees for operation of a Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment; prohibiting the sale of adulterated, unwholesome, or misbranded food; regulating the inspection of food and Bed and Breakfast Establishments; providing for enforcement of this Ordinance; providing for the fixing of penalties for violations of said Ordinance; and providing for incorporation by reference the following statutes and rules: Retail Food Establishment Sanitation Requirements Title 410 Indiana Administrative Code (IAC) 7-24 or as amended; and Bed and Breakfast Establishment Rules, 410 IAC 7-15.5, Indiana Code (IC) 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2, 410 IAC 7-21, 410 IAC 7-22, and 410 IAC 7-23.

Be it ordained by the Board of Commissioners of Hendricks County, State of Indiana, that:

#### DEFINITIONS

**Bed and Breakfast Establishment** - means an Operator occupied residence that provides sleeping accommodations to the public for a fee, has no more than fourteen (14) guest rooms, provides breakfast to its guests as part of the fee, and provides sleeping accommodations to a particular guest no more than thirty (30) consecutive days.

**Catering** – means the preparation of food in an approved Retail Food Establishment and may include the transportation of such food for service and consumption at some other site.

**Commissary** - means a registered Catering establishment, restaurant, or any Retail Food Establishment in which food, food containers, or food supplies are kept, handled, prepared, packaged, or stored from which meals are catered and Mobile Retail Food Establishments or pushcarts are serviced.

**Consecutive Inspection** – means an inspection which occurs directly after another inspection, [e.g., an inspection occurs April 2010 and the next inspection occurs July 2010]. The type of inspection or period of time between inspections is not significant.

**Critical Violation** - means a violation that is more likely than other violations to significantly contribute to food contamination, illness, or an environmental health hazard. These may include items marked in the “C” column denoting Critical Violations on the Inspection Report form.

**Farmers' Market Vendor** – means a Retail Food Establishment, excluding a Mobile Food Establishment, which operates with the approval of the market master at a common facility where two (2) or more farmers or growers gather on a regular reoccurring basis to sell a variety of fruits, vegetables, and other farm products to consumers.

**Habitual Non-compliance** - means two or more inspections for an establishment meeting one of the following:

- (1) One (1) or more enforcement actions taken within the previous (3) years
- (2) Three (3) Consecutive Inspections documenting the same Critical Violation(s)
- (3) Four (4) Non-consecutive Inspections documenting the same Critical Violation(s)
- (4) Five (5) Consecutive Inspections documenting the same non-critical violations(s)
- (5) Six (6) Non-consecutive inspections documenting the same non-critical violations(s).

**Health Officer** - means the Director of Public Health of the Hendricks County Health Department in Indiana or the Health Officer's Authorized Representative.

**Imminent Health Hazard** – means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries or illnesses, and nature, severity, and duration of the anticipated injury or illness.

**Inspection Report** – means the document prepared by the Hendricks County Health Department that is completed as a result of the inspection and provided to the Person-in-charge.

**Mobile Food Establishment** - means a Retail Food Establishment that is wheeled; on skids; mounted on a vehicle; a marine vessel; or otherwise readily movable; such as a pushcart or trailer that changes location too frequently to be a candidate for permanent utility connections, as determined by the Health Officer.

**Non-consecutive Inspection** – means an inspection that does not occur directly after another inspection [e.g., inspections are conducted in October 2009, April 2010, July 2010; where October 2009 and July 2010 are non-consecutive inspections]. The type of inspection or period of time between inspections is not significant.

**Operator** – means the Person who has primary oversight responsibility for operation of the establishment through ownership, or lease or contractual agreement, and who is responsible for the storage, preparation, display, transportation or serving of food to the public.

**Permit** – means the document issued by the Hendricks County Health Department that authorizes a Person to operate a Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment.

**Person** – means an association; a corporation; an individual; partnership; or other legal entity, government, or governmental subdivision or agency.

**Person-in-charge** – means the individual present at a Retail Food Establishment who is responsible for the operation at the time of inspection.

**Retail Food Establishment-** means an operation that:

- (1) Stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as the following:

- (A) A restaurant.
- (B) A satellite or catered feeding location.
- (C) A Catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people.
- (D) A market.
- (E) A grocery store.
- (F) A convenience store.
- (G) A conveyance used to transport people.
- (H) An institution.
- (I) A food bank.
- (J) A Commissary.
- (K) A cottage industry.
- (L) A health facility as defined in IC 16-18-2.
- (M) An assisted living facility as defined in IC 12-10-15.

(2) Relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(a) The term includes the following:

(1) An element of the operation, such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority.

(2) An operation that is conducted in a:

- (a) mobile;
- (b) stationary;
- (c) temporary; or
- (d) permanent;

facility or location, where consumption is on or off the premises and regardless of whether there is a charge for the food.

(b) The term does not include the following:

- (1) An establishment that offers only prepackaged foods that are not potentially hazardous.
- (2) A produce stand that offers only whole, uncut fresh fruits and vegetables.
- (3) A food processing plant operated under IC 16-42-5.
- (4) A Bed and Breakfast Establishment as defined and regulated under IC 16-41-31 and 410 IAC 7-15.5.
- (5) A private home that receives catered or home-delivered food.
- (6) A private home.
- (7) Those exempted from the definition of "Food establishment" by IC 16-18-2.

**Temporary Food Establishment** - means a Retail Food Establishment that operates for a period of time no more than fourteen (14) consecutive calendar days; in conjunction with a single event or celebration with the approval of the organizers of the event or celebration.

## **SECTION I APPROVAL OF PLANS**

### **A. Submit Plan Review**

All Retail Food Establishments, except for those listed under Subsection I B, that are hereafter constructed or re-constructed shall conform to the applicable requirements of the Indiana State Department of Health and the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted to and approved by the Hendricks County Health Department, in writing, before starting any construction work. Any new or remodeled establishment must submit a completed plan review application on forms provided by the Hendricks County Health Department at least thirty (30) working days prior to scheduling the pre-opening compliance inspection.

### **B. Establishments Exempt from Hendricks County Food Permit Plan Review**

Regulated establishments are exempt from the plan review requirements of this Ordinance if:

- (1) The entire operation of the establishment is receiving inspections by an appropriate State or Federal governmental agency, or
- (2) The establishment is a Mobile Food Establishment, or
- (3) The establishment is a Temporary Food Establishment, or
- (4) The establishment is a Farmers' Market Vendor, or
- (5) The establishment is a Bed and Breakfast Establishment.

## **SECTION II PERMITS**

It shall be unlawful for any Person to operate a Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment in Hendricks County, who does not possess a valid Permit from the Health Officer; except when the entire operation of the establishment is receiving inspections by an appropriate State or Federal governmental agency. Valid Hendricks County Food Permits shall be posted in a conspicuous place at the establishment at all times.

A. Only Persons who comply with the applicable requirements of this Ordinance will be entitled to receive and retain such a Permit.

B. Permit duration for:

(1) Retail Food Establishments and Bed and Breakfast Establishments shall be one year beginning from the date of issuance and shall be applied for by the establishment annually.

(2) Mobile Retail Food Establishments shall include expiration on December 31<sup>st</sup> of the calendar year in which the permit is issued.

(3) Temporary Food Establishments shall be for the term of one continuous event at one location. This Permit is not to exceed fourteen (14) consecutive days.

(4) Farmers' Market Vendors permits shall expire on December 31<sup>st</sup> of the calendar year in which the Permit is issued.

C. Any Permits issued by the Health Officer shall contain the name of the establishment, the address of the establishment, duration of Permit, and other pertinent information required by the Health Officer.

D. Required Permits shall be provided by the Hendricks County Health Officer subject to a completed application, payment of fees, and compliance with all applicable state statutes, rules and regulations and local Ordinances. The applicant must be an owner and/or Operator of the Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment.

E. A late renewal fee will apply if a Permit for a Retail Food Establishment or Bed and Breakfast Establishment is not renewed by the date of expiration. Application for a Mobile Food Establishment, Temporary Food Establishment, or Farmers' Market Vendor Permit must be submitted to the Health Department at least 48 hours prior to start of the event or operation, or late application fees will apply.

F. Public events where catered food is served or prepared shall occur at a facility holding a valid Hendricks County Establishment Permit. This permitted establishment shall obtain a current copy of the caterer's local health department food Permit. If the site or the caterer is not permitted, the caterer must obtain a Temporary Food Establishment Permit for the event.

G. Any Person who desires to operate a Temporary Food Establishment in Hendricks County shall obtain from the Health Officer a Permit for a Temporary Food Establishment. Such Temporary Permit shall be provided by the Health Officer if a completed application for a Permit and appropriate fees are presented and the Temporary Food Establishment demonstrates compliance with all critical requirements.

H. A Temporary Permit will not be issued to a Temporary Food Establishment in operation in one location for more than thirty (30) days in one calendar year.

I. A separate Permit shall be required for each Retail Food Establishment, Mobile Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment operated or to be operated by any Person. Any Permit issued under this Ordinance is not transferable from one Person to another, from one establishment to another, from one mobile unit to another, or from one type of operation to another.

J. A nonrenewable provisional Permit is available for a Person taking over an existing, permitted establishment. The following conditions apply:

- (1) The provisional Permit shall be provided by the Hendricks County Health Officer if a completed application and the appropriate fee are received by the Hendricks County Health Department.
- (2) The provisional Permit will be valid for ninety (90) days from the date of issue. No extensions will be provided.
- (3) An annual Permit must be obtained before the expiration of the provisional Permit. The annual Permit will not be issued until all outstanding violations, if any, have been corrected and an acceptable compliance inspection by the Hendricks County Health Department is recorded.

- (4) The annual Permit shall have the anniversary date of the original date of provisional Permit.

### **SECTION III PERMIT FEES**

#### **A. Permit Fees**

Except as provided in Subsection III B, all permitted establishments must pay Permit fees as specified in the Hendricks County Board of Health Ordinance for Collection of Fees. A receipt for the payment of such fee shall be provided by the Hendricks County Health Department. The fees paid under this Ordinance are not transferable or refundable. A Permit may not be issued to any establishment where outstanding or unpaid fees or penalties are due.

#### **B. Permit Fee Exception**

No Permit fee shall be required for a food establishment operated by a Public School as defined in IC 20-18-2, or for a food establishment owned and operated by Hendricks County Government.

### **SECTION IV MINIMUM REQUIREMENTS**

#### **A. General Requirements**

All Retail Food Establishments, Mobile Food Establishments, Temporary Food Establishments, Farmers' Market Vendor, and Bed and Breakfast Establishments shall comply with the minimum requirements specified in the applicable Indiana Administrative Code, 410 IAC 7-24 or 410 IAC 7-15.5. Copies of each are kept on file in the Hendricks County Health Department Office, Danville, Indiana, for public inspection.

#### **B. Water Source**

Each facility must have an adequate supply of potable water at all times of operation. In addition, the following requirements must be met:

- (1) Those facilities regulated by the Indiana Department of Environmental Management (IDEM) and/or Indiana Administrative Code 327 IAC 8 must be in substantial compliance with applicable regulations.
- (2) Facilities with a private water supply not subject to IDEM regulations must submit satisfactory water samples results at least one time a year to the Hendricks County Health Department.
- (3) The Hendricks County Health Department must be notified of any interruption in water service. If there is a possibility of water supply contamination, an establishment must cease operation until water is restored and until two separate water samples tested twenty-four hours apart show satisfactory results. An establishment must receive approval from the Hendricks County Health Department before resuming operations after an interruption of water service.

### **C. Wastewater Treatment**

Each facility must have adequate wastewater treatment and disposal at all times of operation as determined by the Health Officer. In addition, sewage shall be disposed through an approved facility that is:

- (1) A public sewage treatment plant; or
- (2) An individual sewage disposal system that is:
  - (a) sized;
  - (b) constructed;
  - (c) maintained; and
  - (d) operated;according to law.

### **D. Responsibilities of the Operator**

Upon acceptance of the Permit issued by the Hendricks County Health Department, the Operator in order to retain the Permit shall:

- (1) Comply with the provisions of this Ordinance and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;
- (2) Immediately discontinue affected operations and notify the Hendricks County Health Department if an Imminent Health Hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health;
- (3) If a Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Hendricks County Health Department before resuming operations;
- (4) Allow representatives of the Hendricks County Health Department access to all parts of the Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment at all reasonable times; to collect evidence and/or exhibits; and to routinely inspect, investigate complaints, and copy any or all records relative to the enforcement of this Ordinance;
- (4) Comply with the directives of the Hendricks County Health Department including time frames for corrective actions specified in Inspection Reports, notices, orders, warnings, and other directives issued by the Hendricks County Health Department in regard to the Operator's Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, Bed and Breakfast Establishment, property or facility, or in response to community emergencies;
- (5) Accept notices issued and served by the Hendricks County Health Department;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized by law for failure to comply with this Ordinance or a directive of the Hendricks County Health Department.

**SECTION V            SALE, EXAMINATION, AND CONDEMNATION OF**  
**UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD.**

A. It shall be unlawful for any Person to sell through a Retail Food Establishment, Mobile Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment any food which is unwholesome, adulterated or misbranded, as provided in the Indiana Food, Drug and Cosmetic Act; IC 16-42-1 through IC 16-42-2.

B. Samples of food may be taken and examined by the Health Officer as often as may be necessary to determine freedom from contamination, adulteration, or misbranding. The Health Officer may, on written notice to the owner or Operator, impound and forbid the sale of any food which is unwholesome, adulterated or misbranded, or which he has probable cause to believe is unfit for human consumption, unwholesome, adulterated, or misbranded; provided that in the case of misbranding which can be corrected by proper labeling, such food may be released to the Operator for correct labeling under the supervision of the Health Officer. The Health Officer may also cause to be removed or destroyed, any dairy product, meat, meat product, seafood, poultry, poultry product, confectionery, bakery product, vegetable, fruit, or other perishable articles which the Health Officer determines are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

**SECTION VI            INSPECTIONS**

**A.        Schedule of Inspection**

The Health Officer may establish an inspection schedule, the frequency of which is at the discretion of the Health Officer. The schedule will be based on public health risk associated with the establishment's menu; type of operation including the methods and extent of food storage, preparation, and service; the number of people served; and past performance.

**B.        Procedure when Violations Are Noted**

If during an inspection of any establishment, the Health Officer discovers a violation of this Ordinance, he shall issue a written order in the form of an Inspection Report listing such violation to the Operator, or in the Operator's absence, to the Person-in-charge, and setting a date by which the violation shall be abated. A copy of the Inspection Report shall be filed with the records of the Hendricks County Health Department.

**C.        Public Access to Inspection Records**

After the Inspection Report is completed, the establishment, under IC 16-20-8-5, has the opportunity to review the reports and submit to the Hendricks County Health Department a written response. The public will have access to Inspection Reports either ten (10) days after the completion of the inspection; or after a written response to the Inspection Report has been submitted to the department under IC 16-20-8-5, whichever is earlier, except as provided in IC 16-20-8-8.

The Inspection Report and related public records may be inspected and copied under IC 5-14-3 if the Hendricks County Health Department takes any of the following actions with respect to an establishment that is the subject of the records:

- (1) schedules a hearing by the local health department or designee,



- (2) orders closure,
- (3) requests revocation of a Permit,
- (4) finds the existence of an imminent danger to the public health or a gross deception of or fraud upon the consumer.

#### **D. Refusal to Sign Acknowledgement**

Refusal to sign an acknowledgment of receipt will not affect the Operator's obligation to correct the violations noted in the Inspection Report within the date by which the violation shall be abated.

### **SECTION VII COMPLIANCE AND ENFORCEMENT**

#### **A. Application Denial**

If an application for a Permit to operate a Retail Food Establishment, Mobile Retail Food Establishment, or Bed and Breakfast Establishment is denied, the Hendricks County Health Department shall provide the applicant with a notice that includes:

- (1) The specific reasons and rule citations for the Permit denial;
  - (2) The actions, if any, that the applicant must take to qualify for the Permit; and
- Notice of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

#### **B. Follow-up Inspection - Health Officer Response to Violators**

If upon a follow-up inspection, the Health Officer finds that a food operation, Person, or employee is violating any provisions of this Ordinance which were in violation on the previous inspection concerning which a written order was issued, and the date by which the violation shall be abated has passed, the Health Officer may do any or all of the following:

- (1) Offer the alleged violator an opportunity to enter into an agreed order providing for:
  - (a) the actions required to correct the violation; and
  - (b) if appropriate, the payment of a civil penalty.

The Health Officer is not required to extend the offer for more than thirty (30) days.

- (2) Promptly issue a written order to the permittee of the food operation to appear at a certain time and place in the County, in order to show cause why the Permit issued under the provision of Section II should not be revoked.
- (3) Furnish evidence of the violation to Hendricks County legal representatives for enforcement.

#### **C. Suspension of Permit**

Any Permit issued under this Ordinance may be temporarily suspended by the Health Officer, without notice or hearing, for a period not to exceed thirty (30) days if the Health Officer determines through inspection, or examination of employee, food, records, or other means as specified in this Ordinance, that an Imminent Health Hazard exists.

#### **D. Revocation of Permit**

The Health Officer may revoke the Permit and promptly give written notice of the action to the permittee due to any of the following:

- (1) Upon a meeting with the Operator, as described in Subsection VII B(2), if the Operator should fail to show cause why their Permit should not be revoked;
- (2) Interference with the Health Officer in the performance of their duties;
- (3) Habitual Non-compliance with the requirements set forth by the Indiana State Department of Health or by this Ordinance.

The Health Officer shall maintain a permanent record of proceedings, filed in the office of the Hendricks County Health Department.

#### **E. Permit Reinstatement**

Any Person whose Permit has been suspended or revoked may, at any time, make application with demonstration of compliance to the Health Officer for reinstatement of his/her Permit.

### **SECTION VIII APPEALS SECTION**

Any Person(s) aggrieved by an application denial, as described in Subsection VII A, or revocation of Permit, as described in Subsection VII D, shall be entitled to a review of the final order before the Hendricks County Health Board by filing a written request therefore with the Health Officer. The written request must be mailed certified or hand delivered to Health Officer; 355 South Washington Street #210; Danville, IN 46122 and must be received within fifteen (15) days after such final order is issued.

Upon the Health Officer's receipt of such request, the Hendricks County Health Board shall hear the matter in an open hearing after at least five (5) days written notice of the time, place and nature thereof to the aggrieved Person. (A shorter period of time may be granted, if requested by either party and agreed upon.)

The notice of the hearing shall be served upon the Person requesting the review by hand delivering or mailing by certified mail the notice to the address listed on the Permit application or such other address as the Person shall designate in the letter, of request to the Health Officer.

The Hendricks County Health Board establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.

The minutes from the hearing may act as the final order or determination of this matter. This completes the Appeals procedure.

### **SECTION IX INSPECTION OF TEMPORARY and FARMERS' MARKET VENDOR FOOD ESTABLISHMENTS**

#### **A. Schedule of Inspection**

The Health Officer may establish a routine inspection schedule, the frequency of which is at the discretion of the Health Officer.

#### **B. Procedure to Follow When Any Violation is Noted**

If during the inspection of any Temporary Food Establishment or Farmers' Market Vendor the Health Officer discovers a violation of the requirements of this Ordinance, he may order immediate correction of the violation or set a reasonable time for correction.

**C. Revocation of Permit for Continued Operation**

Upon failure of any Person maintaining or operating a Temporary Food Establishment or Farmers' Market Vendor to comply with any order of the Health Officer, it shall be the duty of the Health Officer to revoke the Permit of the establishment and to forbid the further sale or serving of food therein.

**D. Temporary Food Establishment or Farmers' Market Vendor Application Denial**

If an application for a Permit to operate a Temporary Food Establishment or as a Farmers' Market Vendor is denied, the Hendricks County Health Department shall provide the applicant with a notice that includes:

- (1) The specific reasons and rule citations for the application and/or Permit denial;
- (2) The actions, if any, that the applicant must take to qualify for the application and/or Permit.

**SECTION X PENALTIES**

**1. Certification of Food Handler Requirements Penalties**

Unless adjusted by an administrative order, the following schedule of monetary penalties shall be used if penalties are to be assessed for violations of Indiana Administrative Code 410 IAC 7-22:

<i>Indiana Code (IC) Section</i>	<i>Penalty Range</i>
<i>Section 15(a), (b), (c), (d), (e), and (f) [Section 15(a) through 15(f) of 410 IAC 7-22]</i>	<i>\$0-100 per day per violation</i>
<i>Section 16(a) of 410 IAC 7-22</i>	<i>\$0-100 per day per violation</i>
<i>Section 16(b) 410 IAC 7-22</i>	<i>\$0-50 per day per violation</i>
<i>Section 17(a), 1, 2, 3 and 4 [Section 17(1) through 17(4) of 410 IAC 7-22]</i>	<i>\$0-100 per day per violation</i>

**2. Civil Penalties**

(a) The Hendricks County Health Department may commence an action, under IC 16-42-5-28, to levy civil penalties against a Person who:

- (1) fails to comply with IC 16-42-5, 410 IAC 7-21, or 410 IAC 7-24; or
- (2) interferes with or obstructs the Hendricks County Health Department or its designated agent in the performance of duties under IC 16-42-5, 410 IAC 7-21, or 410 IAC 7-24.

(b) A civil penalty in an amount in the appropriate range specified in subsection (d), (e), or (f), or any combination thereof, may be sought for each day of each violation.

(c) In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the Hendricks County Health Department will consider, but is not limited to, the following:

- (1) The potential for harm or imminent threat to public health.
- (2) The extent of deviation from statutory or regulatory requirements.
- (3) Degree of willfulness or negligence.
- (4) History of noncompliance.

The absence of direct harm will not result in assessment of a lower penalty for a violation.

(d) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a food establishment, as defined in IC 16-42-5, then they shall be assessed in accordance with the following:

<i>INDIANA CODE (IC) SECTION</i>	<i>PENALTY RANGE</i>
<i>IC 16-42-5-6; IC 16-42-5-11; IC 16-42-5-19; IC 16-42-5-21</i>	<i>\$0 to \$1,000</i>
<i>IC 16-42-5-7; IC 16-42-5-12; IC 16-42-5-13; IC 16-42-5-14; IC 16-42-5-15; IC 16-42-5-17; IC 16-42-5-18; IC 16-42-5-20</i>	<i>\$0 to \$500</i>
<i>IC 16-42-5-8; IC 16-42-5-9; IC 16-42-5-10; IC 16-42-5-16; IC 16-42-5-22</i>	<i>\$0 to \$100</i>

(e) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a retail food establishment, as defined in 410 IAC 7-24, then they shall be assessed in accordance with the following:

<i>SECTIONS OF 410 IAC 7-24</i>	<i>PENALTY RANGE</i>
<i>107; 121, 129; 139; 142; 165; 171; 182; 269; 376; 423</i>	<i>\$0-\$500</i>
<i>108; 109; 110; 111; 114; 117; 120; 137; 141(d); 143; 144; 146; 147; 149; 150; 151; 153; 154; 155; 157; 160; 162; 164; 166; 167; 168; 169; 172; 173; 181(a); 183; 186; 187; 188; 189; 193; 195; 196; 205; 241; 274; 294; 303; 320; 321; 322; 323; 324(a)(1); 325; 329; 334; 336; 337; 339; 343; 344; 350; 357; 375; 377; 415; 437; 438; 439; 440; 441; 442; 443; 444; 445; 446; 447; 448; 450</i>	<i>\$0-\$250</i>
<i>113; 115; 118; 123; 128; 131; 132; 135; 136; 141(a); 141(b); 141(c); 152; 156; 190; 191; 201; 204; 229; 240; 259; 264; 295(a); 296; 297; 326; 368; 424; 435; 436</i>	<i>\$0-\$100</i>
<i>119; 122; 130; 133; 134; 138; 140; 145; 148; 158; 159; 161; 163; 170; 174; 175; 176; 177; 178; 179; 180; 181(b); 181(c); 185; 197; 198; 199; 202; 203; 206; 207; 208; 209; 210; 211; 212; 213; 214; 215; 216; 217; 218; 219; 220; 221; 222; 223; 224; 225; 226; 227; 228; 230; 231; 232; 233; 234; 235; 236; 237; 238; 239; 242; 243; 244; 245; 246; 247; 248; 249; 250; 251; 252; 253; 254; 255; 256; 257; 258; 260; 261; 262; 263; 265; 266; 267; 268; 270; 271; 272; 273; 275; 276; 277; 278; 279; 280; 281; 282; 283; 284; 285; 286; 287;</i>	<i>\$0-\$50</i>

288; 289; 290; 291; 292; 293; 295(b); 295(c); 298; 301; 302; 304; 305; 306; 307; 308; 309; 310; 311; 312; 313; 314; 315; 316; 317; 318; 324(a)(2); 327; 328; 330; 331; 332; 333; 335; 338; 340; 341; 342; 345; 346; 347; 348; 349; 351; 352; 353; 354; 355; 356; 358; 359; 360; 361; 362; 363; 364; 365; 366; 367; 369; 371; 372; 373; 378; 379; 380; 381; 382; 383; 384; 385; 386; 387; 388; 389; 390; 391; 392; 393; 394; 395; 396; 397; 398; 399; 400; 401; 402; 403; 404; 405; 406; 407; 408; 409; 410; 411; 412; 413; 414; 416; 417; 418; 419; 420; 421; 425; 426; 427; 428; 429; 430; 431; 432; 433; 434; 449; 451	
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(f) Unless adjusted as provided in subsections (g) and (h), and if penalties are to be assessed to a wholesale food establishment, as defined in 410 IAC 7-21, then they shall be assessed in accordance with the following:

<i>SECTIONS OF 410 IAC 7-21</i>	<i>PENALTY RANGE</i>
35; 36(1); 36(2); 36(3); 36(4); 36(5); 39(b)(8); 40; 41; 42(b); 45(c); 45(n); 45(p); 45(q); 45(r); 46; 47(9)(B); 48; 49(d); 49(e); 50(d)	\$0-\$1,000
36(8); 37; 38; 39(a); 39(b)(1); 39(b)(2); 39(b)(3); 39(b)(4); 39(b)(5); 39(b)(6); 39(b)(7); 42(a); 42(d); 42(e); 44(i); 45(a); 45(b); 45(d); 45(e); 45(f); 45(g); 45(h); 45(i); 45(j); 45(k); 45(l); 45(m); 45(o); 45(s); 47(2); 47(3); 47(4); 47(5); 47(6); 47(7); 47(9)(A); 47(9)(C); 50(c); 50(f); 51(a); 51(c); 51(d)	\$0-\$500
36(6); 36(7); 42(c); 43(b); 43(c); 43(d); 44(c); 44(e); 44(h); 47(1); 47(8); 49(a); 49(b); 49(c); 50(b); 51(b)	\$0-\$250
36(9); 43(a); 43(e); 44(a); 44(b); 44(d); 44(f); 44(g); 45(t); 47(10); 47(11); 47(12); 47(13); 47(14); 47(15)	\$0-\$100

(g) After re-inspection and determining the appropriate penalty based on the schedule in subsection (d), (e), or (f), or any combination thereof, the Hendricks County Health Department, or its authorized representative, may adjust the penalty to reflect a good faith effort to comply as follows:

(1) Each individual penalty will be multiplied by the number of days the particular violation has been documented by the Hendricks County Health Department, or its authorized representative.

(2) Penalties for violations documented in two (2) consecutive inspections by the Hendricks County Health Department, or its authorized representative, shall be assessed on the basis that the violations have remained uncorrected over the period of time between the two (2) inspections.

(3) If the Person found in violation has requested re-inspection and has produced substantive evidence that the violation or violations have been corrected, the penalties shall be assessed for the period between initial discovery of violation and the receipt of request for re-inspection.

(4) Penalties for all violations documented in an inspection or series of inspections at an establishment will be totaled and sought under one (1) cause of action.

(h) After filing an action under IC 4-21.5, and in an attempt to resolve violations of said Indiana Code and this rule without resort to a hearing, the Hendricks County Health Department may negotiate and enter into agreed orders. An agreed order may suspend all or part of the civil penalty calculated under the requirements and deadlines established in this Ordinance.

In addition to the foregoing, civil penalties, which may include injunctive relief, may be imposed under Indiana law on any Person who violates any provision of this Ordinance.

In the event a lawsuit is necessary to collect the cost of fees, penalties, or services for this Ordinance, the individual or business entity found to be liable shall also pay for reasonable attorney fees and cost of litigation to the county.

**SECTION XI UNCONSTITUTIONALITY CLAUSE**

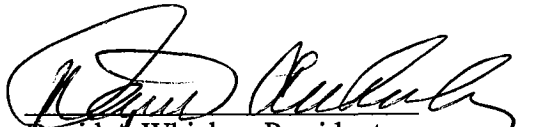
Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

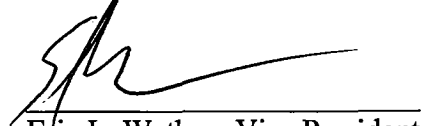
**SECTION XII REPEAL AND DATE OF EFFECT**

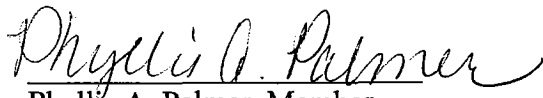
All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed, and this Ordinance shall be in full force and effect upon its adoption and publication as provided by law.

Passed and adopted by the Board of Commissioners of Hendricks County, State of Indiana, on this 23<sup>rd</sup> day of February, 2010.

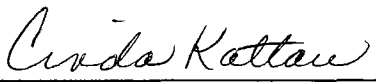
BOARD OF COMMISSIONERS:

  
David A. Whicker, President

  
Eric L. Wathen, Vice President

  
Phyllis A. Palmer, Member

ATTEST:

  
Cinda Kattau  
Hendricks County Auditor