

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF FLOYD, INDIANA, AUTHORIZING THE FLOYD COUNTY BOARD OF HEALTH TO ESTABLISH AND COLLECT FEE FOR SERVICES, AS AUTHORIZED BY THE PROVISIONS OF I.C. 16-1-4-24,

FLOYD COUNTY ORDINANCE NO. 91-III

WHEREAS, the Floyd County Health Department has been heretofore formed by the joint resolution of the Board of Commissioners of the County of Floyd and the City Council of the Civil City of New Albany, Floyd County, Indiana, all as provided under the provisions of I.C. 16-1-3.8; and

WHEREAS, the Board of Commissioners of the County of Floyd is presently desirous of authorizing the Floyd County Board of Health to establish and collect fees for specific services and records as may be presently or hereafter established by local ordinance, or state law, all as provided by the provisions of I.C. 16-1-4-24.

NOW THEREFORE, BE IT ORDAINED:

SECTION ONE. DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this ordinance.

(a) Adulterated and Misbranded The terms "adulterated and misbranded" shall have the meanings as provided in I.C. 16-1-28-3, known as the Indiana Food, Drugs and Cosmetics.

(b) Closed The term "closed" shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

(c) Corrosion-Resistant Material The term "corrosion-resistant material" shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds, and sanitizing solutions which may contact it.

(d) Easily Cleanable The term "easily cleanable" shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

(e) Employee The term "employee" shall mean any person working in a food-service establishment who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food, food utensils or equipment.

(f) Equipment The term "equipment" shall mean all stoves, ranges, hoods, tables, counters, food or utensil carts, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of a food-service establishment.

(g) Food The term "food" shall mean any raw, cooked, or processed edible substances, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(h) Food-Contact Surfaces The term "food-contact surfaces" shall mean those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces with which food may come in contact and drain back into food or onto surfaces normally in contact with food.

(i) Food-Processing Establishment The term "food-processing establishment" shall mean a commercial establishment in which food is processed or otherwise prepared, packaged, or

manufactured for human consumption.

(j) Food-Service Establishment The term "food-service establishment" shall mean any food-service establishment, restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, industrial feeding establishment, private, public, or nonprofit organization or institution, a catering kitchen, a commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for human consumption with or without charge. The term "food-service establishment" however, shall not include a food establishment licensed by the State Board of Health or one that is known as a food market or vending machine.

(k) Health Officer The term "health officer" shall mean the health authority having jurisdiction in the County of Floyd, or his authorized representative.

(l) Kitchenware The term "kitchenware" shall mean all multi-use utensils other than tableware used in the storage, preparation, conveying, or serving of food.

(m) Mobile Food-Service Establishment The term "mobile food-service establishment" shall mean any food-service establishment capable of being readily moved from location to location, one without a fixed location.

(n) Perishable Food The term "perishable food" shall mean any food of such type or in such condition as may spoil.

(o) Person The term "person" shall mean, but not limited to, any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, or municipality, or his or its legal representative or agent.

(p) Potentially Hazardous Food The term "potentially hazardous food" shall mean any food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other food capable of supporting growth or infectious or toxigenic micro-organisms.

(q) Safe Temperatures The term "safe temperatures" as applied to potentially hazardous food, shall mean food temperatures of 45° F. or below and 140° F or above.

(r) Sanitize The term "sanitize" shall mean effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the health officer as being effective in destroying micro-organisms, including pathogens.

(s) Sealed The term "sealed" shall mean free of cracks or other openings which permit the entry or passage of moisture.

(t) Single-service Articles The term "single-service articles" shall mean cups, containers, lids, or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping material, and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible material, and which are intended by the manufacturers and generally recognized by the public as for one usage only, then to be discarded.

(u) Tableware The term "tableware" shall mean all multi-use eating and drinking utensils, including flatware (knives, forks and spoons).

(v) Temporary Food-Service Establishment The term "temporary food-service establishment" shall mean any food-service establishment which operates for a temporary period of time, not to exceed two (2) weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

(w) Utensil The term "utensil" shall mean any tableware and kitchenware used in the storage, preparation, conveying or serving of food.

(x) Wholesome The term "wholesome" shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

SECTION TWO. PERMITS

(a) Permits It shall be unlawful for any person to operate a food-service establishment, mobile food-service establishment or temporary food-service establishment in the County of Floyd, Indiana, who does not possess a valid permit from the Health Officer. Such permit shall be posted in a conspicuous place in such food-service establishment, mobile food-service establishment or temporary food-service establishment. Only persons who comply with the applicable requirements of this ordinance shall be entitled to receive and retain such a permit. The permit for a food-service establishment and a mobile food-service establishment shall be for a term of one year beginning January 1st and expiring December 31st of the same year and shall be renewed annually. The permit for a temporary food-service establishment shall be for the term of one continuous operation. Any permit issued by the Health Office shall contain the name and address of the person to whom the permit is granted, the address of the premises for which the same is issued, and such other pertinent data as may be required by the Health Officer.

A separate permit shall be required for each food-service establishment, mobile food-service establishment or temporary food-service establishment operated or to be operated by any person. A permit issued under this ordinance is not transferable.

A permit shall be issued to any person on application after inspection and approval by the Health Officer; provided, that the food-service establishment, mobile food-service establishment or temporary food-service establishment complies with all the applicable provisions of this ordinance.

No permit or renewal thereof shall be denied or revoked on arbitrary or capricious grounds.

(b) License and License Fee It shall be unlawful for any person to operate a food-service establishment or mobile food-service establishment in the County of Floyd, who does not possess a valid license for the operation of such establishment. The license shall be for a term of one year beginning January 1 and expiring December 31 of the same year and shall be renewed annually.

Such license shall be provided by the Floyd County Health Department, if there is presented at the office a valid permit from the Health Officer together with \$35.00, or with \$55.00, if the application for license is made on or after January 1st of the year of operation.

Any person who desires to operate a temporary food-service establishment in the County of Floyd, shall, after securing a permit from the Health Officer, obtain from the Floyd County Health Department, a license for a temporary food-service establishment. Such license shall be provided by the County of

Floyd, if there is presented at the Floyd County Health Department a valid permit from the Health Officer, together with \$35.00 for each day of operation, not to exceed two (2) weeks, for any one continuous operation.

A separate license shall be required for each food-service establishment, mobile food-service establishment or temporary food-service establishment operated or to be operated by any person. A license issued under this ordinance is not transferable.

(c) License and Fee Exception No license shall be required and no license fee shall be paid for food-service establishments, mobile food-service establishments or temporary food-service establishments operated by religious, educational, or charitable organizations. However, such establishments shall comply with the other provisions of Section Two (a) of this ordinance.

SECTION THREE. MINIMUM REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS

All food-service establishments mobile food-service establishments and temporary food-service establishments shall comply with the minimum requirements specified by the Indiana State Board of Health as now provided in its Regulation HFD 410 or as the same may be hereafter changed or amended. Such regulation and any changes and amendments thereto which may be hereafter adopted or promulgated are by reference incorporated herein and made part hereof, two copies of which are on file in the Office of the Clerk of Floyd County, Indiana, for public inspection.

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

It shall be unlawful for any person to sell through a food-service establishment, mobile food-service establishment or temporary food-service establishment any food which is unwholesome, adulterated or misbranded.

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 in his opinion are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

SECTION FIVE. INSPECTION OF FOOD SERVICE ESTABLISHMENTS

(a) Frequency of inspection At least once each three months the Health Officer shall inspect each food-service establishment and mobile food-service establishment for which a permit is required under the provisions of this ordinance.

(b) Procedure to Follow when any Violation is Noted If during the inspection of any temporary food establishment the health officer discovers the violation of any of the requirements of this ordinance, he may order the immediate correction of the violation.

(c) Revocation of Permit and Penalties for Continued Operation Upon failure of any person maintaining or operating a temporary food establishment to comply with any order of the health officer, it shall be the duty of the health officer summarily to revoke the permit of the person and establishment and to forbid the further sale or serving of food therein.

SECTION SIX. AUTHORITY TO INSPECT AND TO COPY RECORDS

The retail food establishment operator shall, upon the request of the health officer, permit the health officer or his authorized representative access to all parts of the food establishment and shall permit the health officer or his authorized representative to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this ordinance.

SECTION SEVEN. APPROVAL OF PLANS

All retail food establishments which are hereafter constructed or altered shall conform with the applicable requirements of the Indiana State Board of Health and by the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted to and approved by the health officer, or in the absence of a local plan review program by the Division of Retail and Manufactured Foods, Indiana State Board of Health, as may be required before starting any construction work.

SECTION EIGHT. PENALTIES

In addition, to any civil penalty that may be imposed under Indiana law, any person who violates any provisions of the ordinance shall be deemed guilty of a class B misdemeanor. A person who commits a class B misdemeanor (IC 35-50-3-3), may be imprisoned for a fixed term of not more than one hundred eighty (180) days; in addition, he may be fined not more than one thousand dollars (\$1,000.00).

SECTION NINE. UNCONSTITUTIONALLY 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 TEN. REPEAL AND DATE OF EFFECT

(a) 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 its publication as provided by law.

(b) Passed and adopted by the Commissioners of Floyd County, State of Indiana, on this 19th day of FEBRUARY, 1991.

Charles L Ziff
Edmund R Inable
Larry R Demas
Board of Commissioners of
Floyd County, Indiana.

ATTEST:

Beth Sharp
Auditor, Floyd County

Environmental Health Service

Food Service Establishment	\$35.00
Septic System Permit	\$25.00
Water Sample	\$10.00
Septic System Inspection for Loan Approval	\$25.00
Penalty fee against any business waiting until after January 1 of each year to obtain their Food Service Establishment License	\$20.00

Exhibit A