

FLOYD COUNTY ORDINANCE 2000-X
AN ORDINANCE AUTHORIZING THE COLLECTION OF FEES FOR
CERTAIN SERVICES PERFORMED BY THE
FLOYD COUNTY HEALTH DEPARTMENT

WHEREAS, the Floyd County Health Department is duly established and constituted pursuant to the provisions of IC 16-20-2 et seq; and

WHEREAS, pursuant to the provisions of IC 16-20-1-27, the Floyd County Board of Health may, with the consent of the Board of Commissioners of the County of Floyd, establish and collect fees for specific services performed; and

WHEREAS, pursuant to the provisions of IC 16-42-5 et seq. and other applicable law, rule, and regulation, the Department is permitted and required to make periodic inspection of certain retail food establishments; and

WHEREAS, the Floyd County Health Board is desirous of licensing certain retail food establishments and requiring the payment of fees for required periodic inspections, and the Board of Commissioners of the County of Floyd is, by this ordinance, desirous of consenting to and approving the establishment of such fees.

NOW THEREFORE, BE IT ORDAINED:

ARTICLE I. APPLICABILITY AND ADMINISTRATION

SECTION 1. This Ordinance shall apply within the unincorporated areas of Floyd County, Indiana, expressly excluding the incorporated areas of the Civil City of New Albany, Indiana, and the towns of Greenville and Georgetown.

SECTION 2. The administration and enforcement of this ordinance is vested in the Floyd County Health Board (HEALTH BOARD) appointed pursuant to IC 16-20-2-6, the Floyd County Health Officer appointed pursuant to IC 16-20-2-16, and the Floyd County Health Department (DEPARTMENT) created and established pursuant to IC 16-20-2-2.

ARTICLE II. DEFINITIONS

SECTION 1. For purposes of this Ordinance, the following definitions shall apply:

DEPARTMENT: The Floyd County Health Department, being an agency of local government, created and acting pursuant to the provisions of IC 16-20, et seq., and its duly authorized employees and representatives.

HEALTH BOARD: The Floyd County Board of Health duly constituted and acting pursuant to the provisions of IC 16-20, et seq., and its duly authorized representatives.

HEALTH OFFICER: The Floyd County Health Officer duly appointed by the Floyd County Board of Health and acting pursuant to the provisions of IC 16-20, et seq., and his duly authorized representatives.

RETAIL FOOD ESTABLISHMENT: An operation that:

- (1) stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as (A) a restaurant, (B) satellite or catered feeding operation, (C) a catering operation if the operation provides food directly to a consumer or to a conveyance use to transport people, (D) a market, (E) a grocery store, (F) a convenience store, (G) a vending location, (H) a conveyance to used to transport people, (I) an institution, or (J) a food bank; and
- (2) that 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.

For purposes of this Ordinance, 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 (licensed) by proper authority.
- (2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises, and regardless of whether there is a charge for the food.
- (3) A bed and breakfast establishment as defined and regulated under IC 16-41-31, et seq.

MOBILE RETAIL FOOD ESTABLISHMENT: Any retail food establishment capable of being readily moved from location to location, or one without a fixed location.

TEMPORARY RETAIL FOOD ESTABLISHMENT: Any retail food establishment which shall operate for a period of time not to exceed 14 days.

ARTICLE III. REGISTRATION AND LICENSING

SECTION 1. Except as provided by applicable law, rule, or regulation, or except as expressly provided by this ordinance, no person, firm, or corporation shall operate or continue to operate a retail food establishment in Floyd County, Indiana, (including mobile and temporary establishments) without first having registered with and obtained a license from the Health Department to do so. Applications for a Retail Food Establishment License shall be submitted on forms provided by the Health Department.

SECTION 2. No license to operate a retail food establishment shall be issued except after an inspection of the proposed establishment by the Health Officer (or his designee) and a finding that same conforms with the minimum requirements therefor as established by applicable law and the rules of the Indiana State Department of Health. To allow for verification that the proposed retail food establishment is constructed, equipped, and otherwise meets the requirements of applicable law, rule, and regulation, an application for a new license shall be submitted to the Health Department at least 30 days prior to the anticipated date for commencement of operations.

SECTION 3. Licenses for non-temporary retail food establishments shall expire on the 30th day of June following the date of issuance. Licenses for temporary retail food establishments shall expire not later than the 14th day following the date of issuance.

SECTION 4. A separate license is required for each retail food establishment owned and/or operated by an applicant, and a license issued by the Health Department is not transferable. Upon issuance, a license shall be prominently displayed upon the premises of the retail food establishment.

SECTION 5. No license under this ordinance shall be required of an organization which is exempt from the application of IC 16-42-5-4, and no fee shall be collected pursuant to Article V, hereof. However, the remaining provisions of this

ordinance shall apply to the retail food establishment operated by such organization.

ARTICLE IV, OPERATIONAL REQUIREMENTS AND INSPECTIONS

SECTION 1. All retail food establishments shall be maintained and operated in accordance with applicable provisions of Title 16 of the Indiana Code, together with such rules and regulations which may be promulgated, from time to time, by the Indiana Department of Health and the Floyd County Health Department, all of which code provisions, rules, and regulations are incorporated herein by reference and made a part hereof.

SECTION 2. All retail food establishments shall be subject to inspection by the Health Officer, from time to time, to assure compliance with this ordinance and applicable law, rule, and regulation, and the operator of a retail food establishment shall, upon request, permit access to all parts thereof and allow the copying of all records relative to the enforcement of this ordinance.

SECTION 3. Upon finding a violation of this Article, including the laws, rules, and regulations made a part hereof by reference, the Health Officer, shall proceed in accordance with the requirements of IC 16-42-5-25, PROVIDED, upon finding such a violation by the holder of a license for a temporary retail food establishment, the Health Officer, may order immediate corrective action, and upon the failure to comply with such order in a timely manner, the Health Officer may summarily revoke the temporary license and forbid the further sale or serving of food pursuant to such temporary license.

ARTICLE V. LICENSE FEES

SECTION 1. The following fees shall be payable by the applicant for a retail food establishment license:

- a. For a temporary retail food establishment license, the sum of \$5.00 per day of operation, but not to exceed the sum of \$25.00.
- b. For a restaurant, tavern, retail food store, or similar retail food establishment, the sum of \$75.00.
- c. For all other retail food establishments, the sum of \$50.00.

NOTE: In addition to the foregoing fees, the Floyd County Health Department shall collect the printing costs of plan review packets if required in connection with new or remodeled retail food establishments.

SECTION 2. For licenses which upon initial issuance will expire in fewer than 180 days from the date thereof, the applicant shall pay one-half of the fee set forth in subparagraphs b. and c. of Section 1 of this Article.

ARTICLE VI. ENFORCEMENT

SECTION 1. Except as otherwise expressly set forth herein, and except in those instances of a violation of a statute, rule, or regulation having an established penalty or remedy therefor, enforcement of this Ordinance as against a person violating the terms and provisions of same shall be in accordance with the provisions of I.C. 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of the Health Officer or the Health Board, as appropriate, and upon proof by a preponderance of the evidence of a violation hereof, judgment shall be entered against the defendant for a sum of not less than \$100.00 for each violation. A separate violation of this Ordinance shall be deemed to occur for each day that a person shall be in violation of the terms and provisions hereof.

SECTION 2. In addition to the remedy set forth in Section 1 of this Article, an action may be brought for mandatory or injunctive relief as against any person violating the terms and provisions of this Ordinance, which action shall be brought in the name of the Health Officer or Health Board, as appropriate.

SECTION 3. To the extent permitted by law and this Ordinance, an action under Section 1 of this Article may be joined with an action under Section 2, and to any judgment in favor of the Health Officer and/or Health Board shall be added costs of the action, reasonable attorney fees, and expenses incurred by the Department in the enforcement of this Ordinance.

SECTION 4. In all actions under this Article, the Health Board and/or the Health Officer shall be represented by the attorney retained by the Health Board pursuant to IC 16-20-1-1.

ARTICLE VII. MISCELLANEOUS PROVISIONS

SECTION 1. Should any term or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the remainder of this Ordinance which shall remain in full force and effect.

SECTION 2. In the interpretation and application of this Ordinance, the masculine form shall mean and apply to the feminine, and the singular form shall mean and apply to the plural. The title hereof and those of all Articles of this Ordinance shall be disregarded

SECTION 3. Any provision of any ordinance, rule, or regulation heretofore adopted by the Board of Commissioners of the County of Floyd which is inconsistent or in conflict with this Ordinance is hereby repealed.

SECTION 4. This Ordinance shall be in full force and effect on an after it passage and publication as required by law.

SO ORDAINED this 3rd day of October, 2000.

BOARD OF COMMISSIONERS
OF THE COUNTY OF FLOYD

Michael Schindler
MEMBER

John C. Reese
MEMBER

MEMBER

ATTEST:

Barbara Sillings
FLOYD COUNTY AUDITOR