

ORDINANCE NO. 1998 - 5

**AN ORDINANCE OF
THE BOARD OF COMMISSIONERS
MARTIN COUNTY, STATE OF INDIANA,
FOOD ESTABLISHMENT ORDINANCE**

WHEREAS, there exists in the County of Martin a need for an ordinance providing for the establishment of the regulation and inspection of food establishments; and

WHEREAS, the Martin County Board of Commissioners deem it desirable to provide for the regulation and inspection of food establishments and for the collection and disposition of such fees for inspection;

NOW, THEREFORE, BE IT ORDAINED BY THE MARTIN COUNTY BOARD OF COMMISSIONERS, as follows:

Section A: Permits

1. Permits: It shall be unlawful for a person to operate a retail food establishment, temporary food establishment, bed and breakfast, mobile food establishment, or push cart in Martin County, who does not possess a valid permit from the health officer. Such permit shall be posted in a conspicuous place in such retail food establishment.

Only persons who comply with the applicable requirements of 410 IAC 7-15.1, Food Service Sanitation; 410 IAC 7-15.5, Bed and Breakfast Establishments; 410 IAC 7-16.1, Retail Food Sanitation; and 410 IAC 7-17, Sanitation of Vending of Foods and Beverages, shall be entitled to retain such a permit.

A permit for a retail food establishment and a bed and breakfast establishment shall be for a term of one year beginning January and expiring December 31, of the same year and shall be renewed annually. The permit for a temporary retail food establishment shall be for the term of one continuous operation. Any permit issued by the health officer shall contain the name and address of the person to whom the permit is granted, the form of ownership of the establishment, the address of the premises for which same is issued, and such other pertinent data as may be required by the health officer.

A separate permit shall be required for each retail food establishment and bed and breakfast 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 establishment complies with applicable requirements.

Section B: License and Inspection Services

1. License and fee for services: It shall be unlawful for any person to operate a retail food establishment or a bed and breakfast establishment in Martin County, who does not possess a valid license for the operation of such establishment. The license shall be for a term on 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 Martin County Health Department if a valid permit from the health officer is presented. A fee for inspection services of \$25, or \$12.50, if the application for license is made after June 1.

Any person who desires to operate a temporary food establishment in the County of Martin, shall after securing a permit from the health officer, obtain from the Martin County Health Department, a license for temporary food establishment. Such license shall be provided by the Martin County Health Department, if a valid permit from the health officer is presented.. A fee for inspection services of \$10, for one continuous operation.

A separate license shall be required for each retail food establishment, bed and breakfast, or temporary food establishment operated or to be operated by any person. A license issued under this ordinance is not transferable.

2. Fee for Services and Fee Exception: No license shall be required and no fee for services shall be paid for retail food or bed and breakfast establishments, operated by organizations that are exempt from the Indiana gross income tax under IC 6-2.1-320 through IC-2.1-3-22. However, such establishments shall comply with the other provisions of this ordinance.

3. Exemption From Compliance: An organization that is exempt from the Indiana gross income tax under IC 6-2.1-3-20 through IC 6-2.1-3-22 and that offers food for sale to the final consumer at and event held for the benefit of the organization is exempt from the complying with the requirements of the ordinance that may be imposed upon sale of food at that event if:

- a) members of the organization prepare the food that will be sold;
- b) events conducted by the organization under this section take place for no more than thirty (30) days in any calendar year; and
- c) the name of each member who has prepared a food item is attached to the container in which the food has been placed.

This section does not prohibit an exempted organization from waiving the exemption and applying for a license under this chapter.

Section C: Minimum Requirements

All retail food establishments ,bed and breakfast establishments, and vending machines shall comply with the minimum requirements of Rules 410 IAC 7-15.1, 410 IAC 7-15.5, 410 IAC 7-

16.1, and 410 IAC 7-17, two copies of which are on file in the office of the Clerk of Martin County, Shoals, Indiana, for public inspection,

**Section D: Sale, Examination, and Condemnation of Unwholesome,
Adulterated, or Misbranded Food**

It shall be unlawful for any person to sell through a retail food establishment, mobile food establishment, temporary food establishment, bed and breakfast establishment, or vending machine, any food which is unwholesome, adulterated, or misbranded as provided in the Indiana Food, Drug, and Cosmetic Act, IC 16-42-1 and 16-42-1.

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 food which is unwholesome, adulterated, or misbranded, or which he has probable cause to believe is unfit for human consumption, provide 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 supervision of the health officer. The health officer may also cause to be removed or destroyed and dairy products, meat, meat product, seafood, poultry, poultry product, confectionery, bakery product, vegetable, fruit, or other perishable articles which in his opinion are unsound, or contain and filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

Section E: Inspection of Food Establishments

1. Frequency of Inspection: At least once each six months the health officer may inspect each food operation for which a permit is required, or at whatever frequency he determines appropriate, under the provisions of this ordinance.

2. Procedure When Violations are Noted: If during the inspection of any food operation the health officer discovers the violation of the requirements in Section C., of this ordinance, he shall issue a written order listing such violations to the proprietor or, in his absence, to the person in charge, and fixing a time within which the proprietor of the food establishment shall abate and remedy such violations. A copy of the written order shall be filed with the records of the health department.

3. Final Inspection, Prosecution, or Hearing for Violators: If upon a second and final inspection, the health officer finds a food operation, person, or employee is violating any provisions of this ordinance which were in violation on the previous inspection, and concerning which a written order was issued, the health officer shall furnish evidence of the violation to the Martin County Prosecutor, and he shall prosecute all persons violating the provisions of this

ordinance; or the health officer may promptly issue a written order to the permittee of the food operation to appear at a certain time, no later than ten days from the date of the final inspection, at the Martin County Health Department in order to show cause why the permit issued under the provision of Section A., should not be revoked.

4. Revocation of Permit: The health officer upon a hearing, if the permittee should fail to show cause, may revoke the permit and promptly give written notice of the action to the permittee. The health officer shall maintain a permanent record of his proceedings filed in the office of the health department.

5. 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, for any of the following reasons:

a) insanitary or other conditions which in the health officer's opinion endanger the public's health;

b) interference with the health officer in the performance of his duties; provided, however, that upon written application from the permittee, served upon the health officer within 15 days after the suspension, the health officer shall conduct a hearing upon the matter after giving at least

five (5) days written notice of the time, place, and purpose thereof to the suspended permittee; provided, further, that any suspension order shall be issued by the health officer in writing and served upon the permittee by leaving a copy at his usual place of business or by delivery of Registered or Certified Mail.

6. Reinstatement of Inspection: Any person whose permit has been suspended may at any time make application to the health officer for the reinstatement of his permit.

Section F: Inspection of Temporary Food Establishments

1. Frequency of Inspection: At least once during the continuous operation the health officer should inspect each temporary food establishment for which a permit is required, or at whatever frequency he determines appropriate, under the provision of this ordinance.

2. Procedure to follow when any Violation is Noted: If during the inspection of any temporary food establishment the health office discovers the violation of any of the requirements of this ordinance, he may order the immediate correction of the violation.

3. 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 of serving food therein.

Section G: Authority to Inspect and Copy Records

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

Section H: Approval of Plans

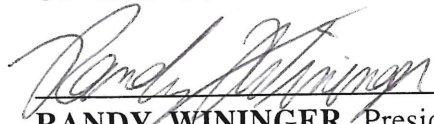
All food establishments which are hereafter constructed or altered shall conform with the applicable requirements of the Indiana State Department of Health and by the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted to and approved by the health officer or by the Indiana State Department of Health before starting any construction work.

Section I: Repeal and Date of Effect

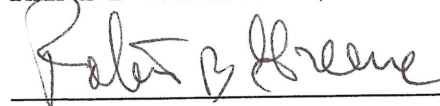
1. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect after its adoption and publication as provided by law.

PASSED AND ADOPTED this 5TH day of June, 1998.

THE BOARD OF COMMISSIONERS OF THE COUNTY OF MARTIN



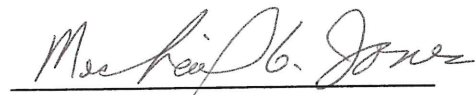
RANDY WININGER, President



ROBERT B. GREENE, Commissioner



ROBERT L. PEOPLES, Commissioner

ATTEST: 

MICHAEL G. JONES, Auditor