

PURPOSE 89-27-1

This ordinance regulates "FOOD SERVICE ESTABLISHMENTS" and "RETAIL FOOD MARKETS" and provides for violations.

DEFINITIONS 89-27-2

- A. HEALTH OFFICER - Means the health officer of Tippecanoe County or his duly authorized representative.
- B. MOBILE FOOD UNIT - Means a vehicle mounted food service establishment designed to be readily movable.
- C. PUSH CART - Means a nonself-propelled vehicle limited to serving non-potentially hazardous foods or commissary wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.
- D. FOOD SERVICE ESTABLISHMENT - Means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.
- E. TEMPORARY FOOD SERVICE ESTABLISHMENT - Means a food service establishment that operates a fixed location for a period of time not more than 14 consecutive days in conjunction with a single event or celebration.
- F. RETAIL FOOD STORE - Means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, nonpotentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food-service establishment; or food and beverage vending machines.

MINIMUM SANITATION REQUIREMENTS 89-27-3

A. All food service establishments, mobile food units, pushcarts, retail food store, and temporary food service establishments shall comply with the minimum sanitation requirements specified by Indiana State Board of Health Rule 410 IAC 7-15-.1, "FOOD SERVICE SANITATION REQUIREMENTS" and 410 IAC 7-16.1, "RETAIL FOOD STORE SANITATION REQUIREMENTS", or as the same may be hereafter changed or amended.

GENERAL 89-27-4

- A. No person, within the jurisdiction of the health officer, shall operate a food service establishment, mobile food unit, pushcart, retail food store, or temporary food service establishment who does not have a valid permit issued by the health officer. A separate permit shall be required for each food service operation.
- B. Only persons who comply with the requirements of this ordinance shall be entitled to receive or retain a permit.
- C. Permits shall not be transferable.
- D. A valid permit for a food service establishment, mobile food unit, food service market, and pushcart shall be for a term of one year beginning the date of issuance and expiring the same day the following year.

E. The permit for a temporary food service establishment, shall be for the term of continuous operation and shall not exceed 14 consecutive days.

F. A valid permit shall be posted in a conspicuous place within the facility and be visible to the public.

#### ISSUANCE OF PERMITS 89-27-5

A. Any person desiring to operate a food service establishment, mobile food unit, pushcart, or temporary food service establishment, shall make a written application for a permit on forms provided by the health officer.

B. Such application shall include the name and address of each applicant, the location of the proposed facility, the owner of the facility, the signature of each applicant, and such other pertinent information as may be required by the health officer.

C. Prior to approval of an application for a permit, the health officer shall inspect the proposed facility to determine compliance with requirements of this ordinance.

D. The health officer shall issue a permit to the applicant if his/her inspection reveals that the proposed facility complied with the requirements of this ordinance and upon payment of the permit fee as stipulated in Section 89-27-6 of this ordinance.

#### PERMIT FEES 89-27-6

A. A permit fee of fifty dollars (\$50.00) shall be paid to the health officer for each mobile food unit.

B. A permit fee of twenty five dollars (\$25.00) shall be paid to the health officer for each pushcart.

C. A permit fee of one dollar (\$1.00) for each day of operation, not to exceed fourteen dollars (\$14.00), shall be paid to the health officer for each temporary food service establishment.

D. The provisions of this ordinance shall apply to all food service establishments, mobile food units, pushcarts, retail food store, and temporary food service establishments operated by fraternal organizations, religious, educational and charitable institutions. Provided, however, that no permit fee shall be paid by religious, educational or service organizations.

#### SUSPENSION OF PERMIT 89-27-7

A. The health officer may suspend any permit to operate a food service operation if the holder of the permit does not comply with the requirements of this ordinance, or if the operation of the food service facility otherwise constitutes a substantial health hazard. Suspension is effective upon service of the notice required by section 89-27-7 (B) of this ordinance.

B. Whenever a permit is suspended, the holder of the permit of the person in charge shall be notified in writing that the permit is immediately suspended and that an opportunity for a hearing is filed with the health officer by the permit holder within ten (10) days. If no written request for a hearing is filed within ten (10) days, the suspension will remain in effect. However, the officer may upon his own actions end the suspension at any time if reasons for the suspension no longer exist.

#### REVOCATION OF PERMIT 89-27-8

A. The health officer may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of this ordinance or for interference with the health officer in the performance of its duty.

B. Prior to revocation, the health officer shall notify, in writing, the holder of the permit or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of ten (10) days following service of such notice unless a written request for a hearing is filed with the health officer by the holder of the permit within such ten (10) day period. If no request for a hearing is filed within ten (10) days, the revocation of the permit becomes final.

SERVICE OF NOTICE 89-27-9

A. A notice provided for in this ordinance is properly served when it is delivered to the permit holder or the person in charge, or when it is sent by registered or certified mail to the last known address of the permit holder. A copy of the notice shall be filed in the record of the health officer.

HEARINGS 89-27-10

A. The hearings provided for in this ordinance shall be conducted by the Tippecanoe County Board of Health at a time and place designated by it. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provisions for sufficient copies of the transcript. The health officer shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the health officer.

APPLICATION AFTER PERMIT REVOCATION 89-27-11

A. Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.

SALE, EXAMINATION AND CONDEMNATION OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD 89-27-12

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

B. Food may be examined or sampled by the health officer as often as necessary for enforcement of this ordinance. The health officer may, upon written notice to the permit holder in charge, specifying the reason therefore, place a hold order on any food which it believes is in violation of this ordinance.

C. The health officer shall tag, label, or otherwise identify any food subject to the hold order. No food, subject to a hold order, shall be used, served, or moved from the food establishment. The health officer shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished by the permit holder.

D. The hold order shall state that a request for a hearing may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed. If a request for a hearing is received, the hearing shall be held within thirty (30) days after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be vacated, or the permit holder or person in charge of the food may be directed by written order to denature or destroy such food or bring it into compliance with the provisions of this ordinance.

AUTHORITY TO INSPECT AND COPY RECORDS 89-27-13

A. The health officer or his agent, after presenting proper identification, shall be permitted to enter any food service operation at any reasonable time for the purpose of making inspection to determine compliance with this ordinance. The health officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used.

INSPECTION FREQUENCY 89-27-14

A. Inspections of the food service establishment will be performed as often as necessary for the enforcement of this ordinance.

B. An inspection of a mobile food unit, pushcart, retail food store, or temporary food service establishment shall be performed as often as deemed necessary by the health officer for the enforcement of this ordinance.

REPORT OF INSPECTION 89-27-15

A. Whenever an inspection of a food service operation is made, the findings shall be recorded on an inspection report form approved by the health officer. The inspection report form shall summarize the inspectional remarks and shall state the corrections to be made.

B. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection.

CORRECTION OF VIOLATIONS 89-27-16

A. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified.

B. If an imminent health hazard exists, as determined by the health officer, the establishment shall immediately cease food service operations. Operations shall not resume until authorized by the health officer.

C. In the case of mobile food units, pushcart, and temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized by the health officer.

D. The inspection report shall state that failure to comply with any time limits for corrections may result in suspension of the permit as set out in section 89-27-7.

E. Whenever a food service establishment is required under the provisions of section 89-27-16 to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist.

REVIEW OF PLANS 89-27-17

A. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Tippecanoe County health Department before remodeling or conversion is begun.

B. Plans and specifications shall indicate the layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.

PRE-OPERATIONAL INSPECTION 89-27-18

A. Whenever plans and specifications are required by section 89-27-17 of this ordinance to be submitted to the health officer, the health officer shall inspect the food service establishment prior to the start of operations, to determine compliance with the approved plans and specification and with the approved plans and specifications and with the requirements of this ordinance.

UNCONSTITUTIONALITY CLAUSE 89-27-19

A. 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.

PENALTIES 89-27-20

A. Any person, firm, or corporation who shall knowingly violate any provision of this ordinance shall be subject to a fine, if found guilty. On conviction the violator shall be punished for the first offense by a fine of not more than five hundred dollars (\$500.00); for the second offense by a fine of not more than one thousand dollars (\$1,000.00); and for the third offense and each subsequent offense by a fine of not more than one thousand dollars (\$1,000.00) to which may be added imprisonment of term seen fit. Each day after the expiration of the improvements to abate such conditions as ordered by the County Board of Health, or by the duly appointed Health Officer of the County, shall constitute a distinct and separate offense.

First reading of this Ordinance passed on this 19th day of June, 1989.

Final reading of this Ordinance passed on this 17th day of July, 1989.

Adopted and passed by the Board of Commissioners of Tippecanoe County, Indiana this 17 day of July, 1989.

THE BOARD OF COMMISSIONERS  
OF THE COUNTY OF TIPPECANOE

Bruce V Osborn

Bruce V. Osborn, President

ABSENT

Sue W. Scholer, Member

Eugene R Moore

Eugene R. Moore, Member

ATTEST:

Sarah S. Brown  
Sarah S. Brown, Auditor