

TITLE XI: BUSINESS REGULATIONS

Chapter

110. FOOD OPERATIONS

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CHAPTER 110: FOOD OPERATIONS

Cross-reference:

*Health Department service fees established, see
§§ 92.15 et seq.
Retail food and bed and breakfast establishments,
see Chapter 111*

§ 110.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULTERATED OR MISBRANDED. Includes any food that does not conform to legal standards of purity, processing, labeling and the like as provided in I.C. 16-42-1-1 through 16-42-4-5, as amended, known as the Uniform Indiana Food, Drug and Cosmetic Act.

COMMISSARY. A catering establishment, restaurant or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

EMPLOYEE. The permittee, individuals having supervisory or management duties, and any other person working in a food operation.

FOOD. Any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD OPERATION. Any food service establishment, retail food store, mobile food unit, pushcart, temporary food service establishment, commissary or food vending machine.

FOOD SERVICE ESTABLISHMENT. 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 also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. 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.

HEALTH OFFICER. A medical doctor serving as the health officer for the County Board of Health or his or her authorized representative.

LAW. Includes applicable state and local statutes, ordinances, rules and regulations.

MOBILE FOOD UNIT. A vehicle-mounted food service establishment designed to be readily movable.

OWNER OR OPERATOR. Shall be any person conducting a food operation.

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PERMIT. The document used by the health officer which authorizes a person to conduct a food operation.

PERMITTEE. Any owner or operator in possession of a valid permit to conduct a food operation.

PERSON. Includes an individual, partnership, corporation, association or other legal entity.

PERSON IN CHARGE. The individual present in a food operation who is the apparent supervisor of the food operation at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

POTENTIALLY HAZARDOUS FOOD. Any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less under standard conditions or food products in hermetically sealed containers commercially processed to prevent spoilage.

PUSHCART. 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.

RETAIL FOOD STORE. Any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged non-potentially hazardous foods, roadside markets that offer only fresh fruits and fresh vegetables for sale, food-service establishments, or food and beverage vending machines.

SEASONAL FOOD ESTABLISHMENT. A food operation conducted at a fixed location for a consecutive period of more than 14 days and less than 121 days.

TEMPORARY FOOD SERVICE ESTABLISHMENT. A food service establishment that operates at a fixed location for a period of time, not more than 14 consecutive days, in conjunction with a single event or celebration.

VENDING MACHINE. Any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of perishable food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation.

WHOLESOME. In sound condition, clean, free from adulteration, and otherwise suitable for use as human food.
(BCC Ord. 1991-25A, passed 1-13-92)

§ 110.02 PERMITS REQUIRED.

(A) It shall be unlawful for any person to conduct a food operation in the county who does not possess a valid permit from the health officer. Such permit shall be posted in a conspicuous place in such operation.

(B) Only persons who comply with the applicable requirements as specified by the Indiana State Board of Health rules incorporated herein by reference shall be entitled to receive and retain such a permit.

(C) A permit for a food operation shall be for a term of one year beginning January 1 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 with a duration of 14 days or less. A permit for a seasonal food establishment shall be for a term of one continuous operation of more than 14 days and less than 120 days. Any permit issued by the health officer shall contain the name and address of the person to whom the permit is issued, the address of

the premises for which same is issued, and such other pertinent data as may be required by the health officer.

(D) A separate permit shall be required for each food operation conducted or to be conducted by any person. Only one vending permit will be required per address, regardless of number of machines; however, the fee will vary according to number of machines. A permit issued under this chapter is not transferable from one owner to another or from one location to another.

(E) A permit shall be issued to any person on application after inspection and approval by the health officer; provided, that the food operation complies with all applicable requirements of this chapter. (BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.03 PERMIT FEES.

(A) *Fee schedule.* The fee schedule for current rates shall be as follows. Note that a late fee of \$25 will be assessed on any permit not renewed by December 31.

- (1) Retail food establishment permits:
 - (a) Menu Type 1 - \$125.
 - (b) Menu Type 2 - \$175.
 - (c) Menu Type 3 - \$200.
 - (d) Menu Type 4 - \$200.
 - (e) Menu Type 5 - \$200.
 - (f) Prior to July 1, full fee.
 - (g) After July, one-half fee.
 - (h) Plan review fee - \$60.
- (2) Bed and breakfast establishment permit fees will reflect menu type.

- (3) Temporary food service establishment - \$15 per day; not to exceed \$75.
- (4) Seasonal food establishment permits - \$100 per 180 days; not to exceed \$200.
- (5) Vending machines:
 - (a) 1 to 5 machines - \$40.
 - (b) 6 to 10 machines - \$70.
 - (c) 11 to 15 machines - \$90.
 - (d) 16 or more machines - \$100.
- (6) Late fee, to be assessed on any permit not renewed by December 31 - \$25.

(B) *Permit and fee exception.* No permit shall be required and no permit fee shall be paid for food operations conducted for 30 days or less annually by religious, educational or charitable organizations. However, such establishments shall comply with the other provisions as stated division (C)(3) of this section.

(C) *Exemption from compliance.* An organization that is exempt from the state gross income tax under I.C. 6-2.1-3-20 et seq. and that offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from complying with the requirements of the chapter that may be imposed upon the sale of food at that event if:

- (1) Members of the organization prepare the food that will be sold;
 - (2) Events conducted by the organization under this section take place for no more than 30 days in any calendar year; and
 - (3) The name of each member who has prepared a food item is attached to the container in which the food item has been placed.
- (BCC Ord. 1991-25A, passed 1-13-92; Am. Ord. 2004-BCC-05, passed 2-2-04) Penalty, see § 110.99

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§ 110.04 MINIMUM REQUIREMENTS FOR FOOD OPERATIONS.

All food operations shall comply with the minimum requirements specified by the State Board of Health in Rules 410 I.A.C. 7-15.1, 410 I.A.C. 7-16.1, and 410 I.A.C. 7-17, two copies of which are on file in the office of the County Clerk for public inspection. Copies may also be obtained from the County Health Department. (BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.05 SALE, EXAMINATION AND

**CONDEMNATION OF UNWHOLESOME,
ADULTERATED OR MISBRANDED FOOD.**

(A) It shall be unlawful for any person to sell through a food operation any food which is unwholesome, adulterated or misbranded as provided in the Uniform Indiana Food, Drug, and Cosmetic Act, being I.C. 16-42-1-1 through 16-42-4-5.

(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 or which he or she 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 or her opinion are unsound or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe. (BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.06 INSPECTION OF FOOD OPERATIONS; PERMIT REVOCATION OR SUSPENSION.

(A) Frequency of inspection.

(1) Each food operation for which a permit is required under the provisions of this chapter shall be inspected annually or as often as deemed necessary by the health officer.

(2) The County Board of Health is to be notified immediately by the owner or operator and an inspection done by the health officer in the event of a fire, new ownership, extensive remodeling, natural disasters such as flood or tornado, or the operation reopening after having been temporarily closed. Upon receiving notice of this occurrence, the health officer shall take whatever action he or she deems necessary to protect the public health.

(B) Pre-opening inspection.

(1) The owner of a new operation for which a permit is required under the provisions of this chapter must contact the health officer to schedule a pre-opening inspection. A permit approval form will be issued after the pre-opening inspection only if the inspection score is 85 or above. The permit approval form must then be presented to the County Board of Health, along with the appropriate fee, and a permit will be issued at that time. A valid permit must be obtained and conspicuously posted on business premises before the owner may begin operation.

(2) The owner of any operation opening for business without first obtaining a valid permit may be subject to penalties established in § 110.99.

(C) Procedure when violations are noted.

(1) If, during the inspection of any food operation, the health officer discovers the violation of any of the requirements in § 110.04, he or she shall issue a written order listing such violations to the

proprietor or, in his or her absence, to the person in charge, and fixing a time within which the proprietor of the food operation shall abate and remedy such violations. A copy of the written order shall be filed with the records of the health department.

(2) In the case of a violation noted in a temporary food service establishment or seasonal food establishment, the health officer may order the immediate correction of the violation.

(D) *Final inspection; prosecution or hearing for violators.* If, upon a subsequent inspection, the health officer finds that a food operation, person or employee is violating any of the provisions of this chapter which were in violation on the previous inspection, and concerning which a written order was issued, and such reinspection was conducted after the time fixed in the order for abatement and remedy of the violation, the health officer may furnish evidence of the violation to the prosecutor having jurisdiction in the county in which the violation occurs, and he or she shall prosecute all persons violating the provisions of this chapter as permitted or required by law, 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 final inspection, and at a place in the county fixed in the order, to show cause why the permit issued under the provision of § 110.02 should not be revoked.

(E) *Revocation of permit.*

(1) 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 the proceedings filed in the office of the health department.

(2) Upon failure of any person maintaining or operating a temporary food service establishment or seasonal 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.

(F) *Suspension of permit.*

(1) Any permit issued under this chapter may be temporarily suspended by the health officer without notice or hearing for a period of not to exceed 30 days for any of the following reasons:

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

(b) Interference with the health officer in the performance of his or her duties.

(2) 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 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 or her usual place of business or by delivery by registered or certified mail.

(G) *Reinstatement of permit.* Any person whose permit has been suspended may, at any time, make application to the health officer for the reinstatement of his or her permit.

(H) *Probationary Periods.*

(1) Any operation for which a permit is required under the provisions of this chapter is subject to periods of probation as follows:

(a) New operation - 30 days.

(b) Change of ownership - 30 days.

(c) Extensive remodeling - 30 days.

(d) Routine inspection score of 70 or below - 30 days.

(e) Routine inspection score of 60 or below - immediate cessation of operation and must attain a score of 85 or above to reopen.

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- (f) Reopening when following a cease order - 30 days.
- (g) Reopening by same owner after having been closed for business (seasonal operations excluded) - 30 days.
- (h) Year end rating score average below 75 - 30 days.
- (i) Repeated violations of 4 and 5 point items in inspections - 15 to 30 days.
- (j) Two consecutive rating scores below 75 - 15 to 30 days.
- (k) Failure to submit plans prior to extensive remodeling - 15 to 30 days.
- (l) Installation of non-acceptable equipment - 15 to 30 days.

(2) The health officer will visit the operation at the end of the probationary period to assess degree of compliance. If the operation has failed to meet compliance, the health officer, at his or her discretion, may either extend the probationary period or begin permit revocation proceedings. Any operation found satisfactory at the end of the probationary period will be issued a letter to that effect.

(BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.07 AUTHORITY TO INSPECT AND TO COPY RECORDS.

The person in charge of a food operation shall, upon the request of the health officer, permit the health officer access to all parts of the food operation and shall permit the health officer to collect evidence and exhibits and to copy any or all records relative to the enforcement of this ordinance.

(BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.08 APPROVAL OF PLANS.

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

(BCC Ord. 1991-25A, passed 1-13-92) Penalty, see § 110.99

§ 110.99 PENALTY.

In addition to any civil penalty that may be imposed under state law, any person who violates any provisions of this chapter shall be fined as follows: first violation, \$100; second violation, \$200; third violation, \$500; all violations in excess of three, \$2,500 each. For purposes of assessing penalties under this section only, no more than one violation per inspection may count toward determining the amount of penalty assessed hereunder.

(BCC Ord. 1991-25A, passed 1-13-92)

CHAPTER 111: FOOD ESTABLISHMENT AND BED AND BREAKFAST ESTABLISHMENT

Section

- 111.01 Definitions
- 111.02 Permits
- 111.03 Permit fees
- 111.04 Inspection
- 111.05 Compliance and enforcement
- 111.06 Appeal

Cross-reference:

Food operations, see Chapter 110

Health Department service fees established, see

§§ 92.15 et seq.

§ 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BED AND BREAKFAST ESTABLISHMENT. As defined in 410 I.A.C. 5-15.5, means an operator-occupied residence that:

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Has no more than 14 guest rooms;
- (3) Provides breakfast to its guests as part of the fee; and
- (4) Provides sleeping accommodations for no more than 30 consecutive days to a particular guest.

BOARD OF HEALTH. Local board of health as defined in I.C. 16-18-2-210 and referred to in I.C. 16-20.

CONFLICT OF INTEREST. As derived from 68 I.A.C. 9-1-1(b)(2), means a situation in which the private financial interest of a County Official, County

Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the County Official's judgment in the performance of a public duty. Note: The County Officials should follow the code of ethics if a code of ethics was established for County Officials.

FOOD ESTABLISHMENT. As defined in I.C. 16-18-2-137:

(1) For purposes of I.C. 16-42-5 and I.C. 16-42-5.2, **FOOD ESTABLISHMENT** means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(2) The term does not include the following:

(a) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(b) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

1. The individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

2. The gathering is for a purpose of the organization. Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

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(c) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(d) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(e) Except for food prepared by a for-profit entity, a venue of the sale of food prepared for the organization:

1. That is organized for:
 - a. Religious purposes; or
 - b. Educational purposes in a nonpublic educational setting.
2. That is exempt from taxation under Section 501 of the Internal Revenue Code; and
3. That offers the food for sale to the final consumer at an event held for the benefit of the organization, unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(f) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

1. Is organized for civic, fraternal, veterans, or charitable purposes;
2. Is exempt from taxation under Section 501 of the Internal Revenue Code; and
3. Offers food for sale to the final consumer at an event held for the benefit of the organization, if the events conducted by the organization take place for not more than 15 days in a calendar year.

This definition also includes a retail food establishment as defined in 410 I.A.C. 7-24; however, it does not include a bed and breakfast establishment.

HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN. As defined in 410 I.A.C. 7-24, means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

HEALTH OFFICER. The person, appointed as specified in I.C. 16-20-2-16, or his or her duly authorized representative, as specified in I.C. 16-2-1-14, who may conduct inspections and make a final decision on an enforcement action.

HEARING BOARD. Shall be comprised of three individuals, the current Health Officer or his or her designee, and two current County Board of Health Board members appointed by the Board's president to serve.

HOWARD COUNTY HEALTH DEPARTMENT. The local health department in Howard County or authorized representative having jurisdiction over a bed and breakfast establishment and/or food establishment.

HOWARD COUNTY OFFICIAL. Any Official of Howard County, Indiana.

IMMINENT HEALTH HAZARD. 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 and illnesses and the nature, severity and duration of the anticipated injury or illness (e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials).

INSPECTION. A visit by the regulatory authority to determine compliance with food laws.

INSPECTION REPORT. The document prepared by the County Health Department that is completed as the result of the inspection and provided to the operator.

MENU TYPE. Assignment of risk for an establishment based on type of food served, the preparation steps required, the volume of food, the population served, and previous compliance history.

OPERATOR. The person who has a 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.

ORDER. As derived from I.C. 4-21.5-1-9, means a County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. The term includes a permit.

PERMIT. The document issued by the County Health Department that authorizes a person to operate a bed and breakfast establishment and/or food establishment.

PERSON. An association; a corporation; an individual; partnership; or other legal entity, government, or governmental subdivision or agency.
(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09)

§ 111.02 PERMITS.

(A) General.

(1) It is unlawful for a person to operate any bed and breakfast establishment and/or food establishment in the county, without first obtaining a valid permit from the Health Officer. The valid permit must be posted in a conspicuous location in the bed and breakfast establishment and/or food establishment.

(2) A separate permit shall be required for each bed and breakfast establishment and/or food establishment operated or to be operated by any person.

(3) A permit issued under this chapter is not transferable.

(4) A bed and breakfast establishment and/or food establishment permitted by the County Health Department shall be considered registered as required in I.C. 16-42-1-6.

(B) Permit type. A standard bed and breakfast establishment permit and/or retail food establishment permit shall be issued for a term beginning February 1, and/or before commencement of operation, and expiring January 31 of the following year, for a single permanent location, or transport and/or delivery service for pre-packaged food when there is no food handling, and shall be applied for by the person and/or operator annually.

(C) A seasonal retail food establishment permit shall be for a term of one continuous operation of more than 14 days and not to exceed six months. A seasonal or mobile retail food establishment may be operated at various locations within the county, provided the operator submits a schedule of events disclosing the dates and locations where food will be served.

(D) A public school concession stand permit shall be issued to a school corporation before commencement of operation and shall expire July 31, and shall not exceed 12 consecutive months. A public school concession stand may be operated in conjunction with school-sponsored events within various approved permanent structures on the school grounds, provided the operator submits a schedule of events disclosing the dates and locations where the food will be served. If the operator is an organization that is exempt from taxation under Section 501 of the Internal Revenue Code, documentation should be provided to the Health Department.

(E) A probationary retail food establishment permit or a probationary bed and breakfast permit may be issued to an operator whose inspection reports show a history of noncompliance or, upon expiration of a provisional permit, or when the operator is not in substantial compliance with 410 I.A.C. 7-22, 410 I.A.C. 7-24 and this chapter. Probationary permits are issued for a period of up to 30 days, and may be renewed once for up to 30 additional days. A probationary permit also may be issued to

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establishment operators who fail to notify the Health Department of an intent to operate, a change of ownership, or who fail to submit construction plans for new or extensively remodeled establishments.

(F) (1) A provisional retail food establishment permit or provisional bed and breakfast permit may be issued for a retail food establishment or bed and breakfast for the following reasons:

- (a) New business.
- (b) Change of operator.
- (c) Extensive remodeling or change of menu type.

(2) A provisional permit may be issued for up to 60 days and may not be renewed.

(G) A temporary retail food establishment permit shall be for a period of no more than 14 consecutive days in conjunction with a single event or celebration in one location. A permit for a temporary food establishment shall be for the term of one continuous operation.

(H) Permit content. Any permit issued by the Health Officer shall contain:

- (1) The name of the establishment for whom the permit is granted;
- (2) The location of the establishment or name of the event for which the permit is issued;
- (3) The name of the establishment operator;
- (4) The permit type;
- (5) The issuance and expiration date(s); and
- (6) Other such pertinent data as may be required by the County Health Officer.

(I) Application. A person desiring to operate a bed and breakfast establishment and/or food establishment shall submit to the County Health

Department a written application for a permit on a form provided by the County Health Department.

(J) Qualification. To qualify for a permit, an applicant must:

- (1) Be an owner and/or operator of the bed and breakfast establishment and/or food establishment;
- (2) Comply with the requirements of this chapter and applicable law;
- (3) Agree to allow access to the bed and breakfast establishment and/or food establishment and provide required information; and
- (4) Pay the applicable plan review fees and/or permit fees at the time the application is submitted.

(K) Plans requirements.

(1) The owner or other authorized agent of an existing or proposed bed and breakfast establishment and/or food establishment shall submit to the County Health Department properly prepared plans and specifications for review and approval before:

- (a) The construction of a bed and breakfast establishment and/or food establishment;
- (b) The conversion of an existing structure for use as a bed and breakfast establishment and/or food establishment; or
- (c) The remodeling of a bed and breakfast establishment and/or food establishment or a change of type of bed and breakfast establishment and/or food establishment or food operation if the County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(2) The plans and specifications for a bed and breakfast establishment and/or food establishment shall include the type of operation, type of food preparation (as specified in Appendix A of the

published version of 410 I.A.C. 7-24), the required plan review fee and the menu.

(3) The plans and specifications shall be deemed satisfactory and approved by the County Health Department before a permit can be issued.

(4) A pre-operational inspection shows that the bed and breakfast establishment and/or food establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-15.5.

(L) Change of ownership. The County Health Department may renew a permit for an existing bed and breakfast establishment and/or food establishment, or may issue a provisional or standard permit to a new owner of an existing and operating bed and breakfast establishment and/or food establishment after a properly completed application is submitted, reviewed, and approved, and the fees are paid.

(M) Responsibilities of the operator. Upon acceptance of the permit issued by the County Health Department, the operator, in order to retain the permit, shall:

(1) Comply with the provisions of this chapter 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 County Health Department if an imminent health hazard may exist;

(3) Allow representatives of the County Health Department access to the bed and breakfast establishment and/or food establishment at all reasonable times;

(4) Timely comply with directives of the County Health Department;

(5) Accept notices issued and served by the County Health Department;

(6) Be subject to the administrative, civil, injunctive, and injunctive remedies authorized in law for failure to comply with this chapter or a directive of the County Health Department; and

(7) Post the permit in a location in the bed and breakfast establishment and/or food establishment that is conspicuous to consumers.

(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09) Penalty, see § 111.05

§ 111.03 PERMIT FEES.

It shall be unlawful for any person to operate a bed and breakfast establishment and/or food establishment in the county, who has not paid the permit fee and/or any fines required to be paid for the operation of such establishment. The fee shall be paid for a term beginning February 1, and/or before commencement of operation and expiring January 31 of the following year, and shall be paid by the person and/or operator annually.

(A) *Fees.*

(1) Permit fees for the issuance of a permit under this chapter to a bed and breakfast establishment and/or a food establishment, or fees for plan review, shall be set by the County Health Department Fee Collection Ordinance, as provided by the Statutes of the State of Indiana. See I.C. 16-20-1-27.

(2) A receipt for the payment of such fee shall be provided by the County Health Department.

(3) The payment of such fees shall be required for each bed and breakfast establishment and/or food establishment operated or to be operated by any person.

(B) *Exemption from permit fees.* An organization that is element of the county government is exempt from the payment of fees.

(C) *Late fees.*

(1) The late fee for failure to renew a permit after the expiration of the permit to operate bed

and breakfast establishment and/or food establishment shall be assessed as set by the current County Health Department Fee Collection Ordinance.

(2) Fees paid under this chapter are not transferable or refundable.

(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09) Penalty, see § 10.99

§ 111.04 INSPECTION.

(A) *General.*

(1) The County Health Department may inspect a bed and breakfast establishment and/or food establishment at least once every six months.

(2) The County Health Department may increase the interval between inspections beyond six months if:

(a) The bed and breakfast establishment and/or food establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s);

(b) The bed and breakfast establishment and/or food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction.

(c) The County Health Department may contact the operator to determine that the nature of the food operation has not changed.

(B) *Temporary food establishment.* The County Health Department shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect temporary food establishment that prepares, sells or serves unpackaged, non-potentially hazardous food.

(C) *Performance and risk-based inspections.* Within the parameters specified in divisions (A) and (B) of this section, the County Health Department

shall prioritize, and conduct more frequent inspections based upon its assessment of a bed and breakfast establishment and/or food establishment's history of compliance with this chapter and the bed and breakfast establishment and/or food establishment's potential as a vector of foodborne illness.

(D) *Access allowed at reasonable times after due notice.*

(1) After the County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, investigation, collect food or water samples or take photographs, the operator shall allow the County Health Department to determine if the bed and breakfast establishment and/or food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter. The County Health Department is entitled to the information and records according to I.C. 16-42-1-13 and I.C. 16-42-5-23, during the bed and breakfast establishment and/or food establishment's hours of operation and other reasonable times.

(2) Access is a condition of the acceptance and retention of a food establishment's permit to operate.

(3) If access is denied, an order issued by the appropriate authority allowing access may be obtained according to law. See I.C. 16-20-1-26.

(E) *Inspection reports.* At the conclusion of the inspection, the County Health Department shall provide a copy of the completed inspection report and the notice to correct violations to the operator or to the person-in-charge, as required under I.C. 16-20-8-5.

(F) *Timely correction of critical violations.*

(1) Except as specified in division (F)(2), an operator shall, at the time of inspection, correct a critical violation of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-22, and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(2) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the County Health Department may agree to or specify a longer time frame after the inspection, for the operator to correct critical code violations or HACCP plan deviations.

(3) After receiving notification that the operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the County Health Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the County Health Department's records.

(G) Refusal to sign acknowledgment.

(1) 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 time frames specified.

(2) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the County Health Department historical record for the bed and breakfast establishment and/or food establishment.

(3) The operator is not necessarily in agreement with the findings of the County Health Department inspection by acknowledgment of receipt.

(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09) Penalty, see § 111.05

§ 111.05 COMPLIANCE AND ENFORCEMENT.

(A) Fines and penalties.

(1) The penalty for operating a food establishment without a valid permit, as defined in this ordinance, shall not exceed \$2,500.

(2) Title 410 I.A.C. 7-23, Schedule of Civil Penalties, will be used to determine the dollar amounts of civil penalties sought for violations of the food establishment rules, and I.C. 16-42-5. For violations

listed under the schedule, the regulatory authority may seek civil penalties as part of an enforcement action. A range of civil penalties is established to allow flexibility for the regulatory authority and the courts. Any fines or penalties collected shall be deposited into the health fund.

(3) Title 410 IAC 7-22, Certification of Food Handler Requirements, Section 19 schedule of monetary penalties, will be used for violation of I.A.C. 7-22, unless adjusted by administrative order.

(B) *Outstanding fees.* All fines and penalties owed by any food establishment or bed and breakfast establishment shall be paid in full prior to the issuance of a valid permit or the renewal of a current permit.

(C) *Application denial.* If an application for a plan review and/or permit to operate a bed and breakfast establishment and/or food establishment is denied, the 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; and

(3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

(D) *Permit revocation.* The County Health Department may revoke a permit to operate a bed and breakfast establishment and/or food establishment for a time period not to exceed 90 calendar days. If the permit has been revoked in the past and a clear demonstration of noncompliance is demonstrated by the permit holder, then the permit may be revoked for a longer period of time as determined by the Health Officer.

(E) *Permit suspension.*

(1) The County Health Department may suspend a permit to operate a bed and breakfast

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establishment and/or food establishment if it determines, through inspection or examination of employee, food, records, or other means as specified in this chapter, that an imminent health hazard exists or that there is no certified food handler as required by 410 I.A.C. 7-22, and shall not exceed 30 calendar days.

(2) The Regulatory Authority may at any time summarily suspend a person's permit:

(a) By providing written notice to the permit holder or person-in-charge, without prior warning, notice of a hearing, or a hearing, if it is determined that an imminent health hazard exists; or

(b) For interference with the Regulatory Authority in the performance of its duties.

(3) The suspension shall remain in effect until the Regulatory Authority confirms that the conditions cited in the notice of suspension no longer exist.

(4) A permit holder may request a hearing to address concerns about the Regulatory Authority's compliance actions, except that a hearing request does not stay the Regulatory Authority's restriction or exclusion order, a hold order, or the imposition of a summary suspension.

(F) *Ceasing operation and contacting the County Health Department.*

(1) An operator of a bed and breakfast establishment and/or food establishment shall immediately discontinue operations and notify the 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 an apparent food-borne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

(2) An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(G) *Resuming operation.* If a bed and breakfast establishment and/or food establishment has discontinued operations for the reasons stated above or otherwise according to law, the operator must obtain approval from the County Health Department before resuming operations.

(H) *Enforcement options.* The following are options available to County Health Department for consideration:

(1) Conduct administrative proceeding for suspension and/or revocation of the bed and breakfast establishment and/or food establishment permit in front of the Health Officer.

(2) The County Health Officer may issue an Order To Abate based on a condition that may transmit, generate, or promote disease. Failure on the part of the operator to comply with the order could result in the enforcement of the order in the court of jurisdiction by the initiation of an action by the County Attorney or County Prosecuting Attorney.

(3) If the action concerning public health is an ordinance violation, request the County Attorney, the Assistant County Attorney or their designee to institute a proceeding in the courts for the enforcement of the ordinance violation. See I.C. 34-28-5-1.

(I) *Hearing procedure.*

(1) Any owner of a bed and breakfast and/or food establishment upon which a violation is alleged to exist who disputes the existence of a violation, or disputes the nature of the abatement action ordered in the abatement notice, may, within ten calendar days of service of the abatement notice, serve upon the director of the Board of Health a written request for a hearing. The written request does not need to be in any particular form, but shall clearly indicate that a hearing is requested, and shall set out the nature of the individual's disagreement with the content of the abatement notice.

(2) Upon receipt of the written request for a hearing, the Director shall schedule the matter with the Hearing Board. The Hearing Board shall be

comprised of the Health Officer or his or her designee and two appointed members of the County Board of Health's Board of Directors. This Hearing Board shall function as hearing body to adjudicate the matter.

(3) The County Health Department, by its director or designee, shall give written notice to the party requesting the hearing of the date and time of the hearing. Such notice shall be given no less than five calendar days prior to the date set for hearing. A shorter period of time may be granted, if requested by either party and agreed upon.

(4) At the hearing, which may be adjourned from time to time, it shall be the County Health Officer's burden to go forward with evidence sufficient to demonstrate that a violation exists, and that the actions required are reasonably calculated to abate the violation within a reasonable period of time. The party requesting the hearing shall have the right to dispute the existence of the violation, the reasonableness of the remedy, or the reasonableness of the time allowed to remedial action. The party requesting the hearing may propose alternative remedies or time periods for remedial action, or alternate remediation plans.

(5) All such hearings shall be open to the public pursuant to Indiana statutes on open meetings.

(6) Upon conclusion of the presentation of evidence and oral argument, if any, the County Board of Health's Board of Directors shall deliberate and render a decision either confirming, amending or rescinding the disputed content of the abatement notice.

(7) All time parameters set out in the abatement notice for completion of compliance actions shall be tolled, pending the outcome of the Hearing Board's decision. In cases where the actions of the Health Officer are upheld, or are upheld as modified by the Hearing Board, it shall be the responsibility of the Hearing Board, in its decision, to establish time periods for completion of compliance activities held in abeyance during the hearing process.

(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09)

§ 111.06 APPEAL.

Pursuant to I.C. 36-1-6-9(e), a person who received a penalty under this chapter may appeal the order imposing the penalty to a court of record in Howard County no later than 60 days after the day on which the order is entered.

(Ord. 2005-BCC-22, passed 5-16-05; Am. Ord. 2009-BCC-08, passed 2-16-09)

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§ 112.01 JURISDICTION.

This chapter shall apply to all of Howard County, except for the City of Kokomo and the Town of Greentown which have enacted similar Ordinances.
(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. The business carried on by any person who is a peddler or solicitor.

COUNTY. All of Howard County, except for the City of Kokomo and the Town of Greentown.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, books, magazines, wares and foodstuffs.

PEDDLER. Any person who travels from house to house by any means carrying goods for sale, or making sales, or making deliveries; or any person who, without traveling from house to house, sells or offers goods for sale from any public place within the county; provided, that the term shall not include a transient merchant under I.C. 25-37-1-2 et seq.

SOLICITOR. Any person who travels by any means from house to house taking or attempting to take orders for sale of goods delivered in the future or for services or repairs to be performed presently or in the future.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.03 LICENSE REQUIRED.

Any person who is a peddler or solicitor shall obtain a license before engaging in such activity within the county; provided that no such license is required for persons, firms, or organizations (1) who solicit funds or sell goods or services for the purpose of raising revenue on behalf of not-for-profit organizations, or (2) which have transacted business from a fixed business location in the county continuously for a one-year period prior to enactment of this chapter. The license shall entitle the licensee to peddle or solicit goods or services from house to house in the county only between the hours of 9:00 a.m. and 6:00 p.m.

(Ord. 2006-BCC-35, passed 8-21-06) Penalty, see § 112.99

§ 112.04 LICENSE APPLICATION.

(A) All applicants for licenses required by this chapter shall file a form application with the County Sheriff's Department. Such application shall be signed by the applicant if an individual, or by all partners in a partnership, or by the president if a corporation.

(B) The Sheriff's Department shall make available a form application which shall state:

(1) The name and address of the applicant.

(2) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the county and the local address of such individual, his or her permanent address, and the capacity in which he or she will act.

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation.

(4) The time period or periods during which it is proposed to carry on applicant's business.

(5) The nature, character, and quality of the goods or services to be offered for sale or delivered, and if goods, their invoice value, whether they are to be sold by sample as well as from stock, where and by whom such goods are manufactured or grown, and where such goods are at the time of the application.

(6) The nature of the advertising proposed to be done for the business.

(7) Whether or not the applicant, or the individual identified in division (B)(2) or (3) above has been convicted of any crime or misdemeanor, and if so, the nature of each offense and the penalty assessed for it.

(8) The applicant's date of birth, social security number and a current picture of the applicant.

(9) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(10) A consent for the Sheriff to perform a criminal background check on the applicant.

(C) In addition, all applicants for licenses required by this chapter shall attach to their license application the following:

(1) Two letters of recommendation from any person residing or doing business in the county certifying the applicant's good moral character and business responsibility or, in lieu of such letters, other evidence may be used by the Sheriff to satisfy his duties under § 112.08.

(2) If required by the Sheriff, copies of all printed advertising proposed to be used in connection with the applicant's business.

(3) Credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to all other attachments, a statement from a licensed physician, dated not more than ten calendar days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.05 LICENSE FEE.

A fee reflecting the actual cost of processing an application and issuing a license shall be charged by the Sheriff. The fee shall be in the amount of \$50 for the first application filed under § 112.04 in any given calendar year, and \$20 for a second application in the same calendar year.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.06 INVESTIGATION OF APPLICANT.

On receipt of an application for a license required by this chapter, the Sheriff shall cause an investigation of the applicant's business reputation, moral character and criminal background.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.07 STANDARDS FOR ISSUANCE OF LICENSE.

(A) The Sheriff shall approve an application for a license required by this chapter and issue the license unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare.

(B) In particular, any of the following shall constitute valid reasons for disapproval of the application: tangible evidence that the applicant:

- (1) Has been convicted of a crime of moral turpitude.
- (2) Has made willful misstatements in the application.
- (3) Has committed prior violations or ordinances pertaining to peddlers, solicitors, and the like.
- (4) Has committed prior fraudulent acts.
- (5) Has a record of continual breaches of solicited contracts.
- (6) Has an unsatisfactory moral character.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.08 AGENT FOR SERVICE OF PROCESS.

(A) On the receipt of notice of approval of his or her application, an applicant for a license required by the provisions of this chapter shall file with the Sheriff an instrument appointing the County Auditor as his or her true and lawful agent with full power and authority to acknowledge service of process for and on behalf of the applicant in respect to any matter arising under this chapter.

(B) Forms for the required statement shall be available at the Sheriff's office. Such form or instrument shall contain recitals to the effect that the applicant consents and agrees that service of any

notice or process may be made on the agent, and when made shall be taken and held to be as valid as if personally served on the applicant, according to the law of this or any other state, and waiving all claim or right of error by reason of such acknowledgment.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.09 DUTY OF AUDITOR.

Immediately on service of any process on the Auditor pursuant to this chapter, the Auditor shall send, by registered mail, a copy of the process to the person licensed under this chapter at his or her last known address.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.10 TERM OF LICENSE.

All licenses issued under this chapter shall automatically expire 60 calendar days after the date of the issuance thereof.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.11 TRANSFERABILITY OF LICENSE.

No license issued under the provisions of this chapter shall be transferable.

(Ord. 2006-BCC-35, passed 8-21-06) Penalty, see § 112.99

§ 112.12 EXHIBITION OF REGISTRATION.

(A) The Sheriff shall issue a registration receipt to each peddler or solicitor licensed under this chapter. The registration shall contain the words "licensed peddler" or "licensed solicitor", the licensee's picture, the expiration date of the license, and the number of the license.

(B) All peddlers or solicitors shall exhibit their registration at the request of any person.

(Ord. 2006-BCC-35, passed 8-21-06) Penalty, see § 112.99

§ 112.13 HOURS OF SOLICITING OR PEDDLING.

It shall be unlawful for any person to peddle or solicit goods or services from house to house at any time other than between 9:00 a.m. and 6:00 p.m.

(Ord. 2006-BCC-35, passed 8-21-06) Penalty, see § 112.99

§ 112.14 GROUNDS FOR LICENSE REVOCATION.

A license granted under this chapter may be revoked for:

(A) Any fraud or misrepresentation contained in the license application.

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license.

(C) Any violation of this chapter.

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude.

(E) The licensee conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals or general welfare of the public.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.15 LICENSE REVOCATION PROCEDURE.

Any license granted under this chapter may be revoked by the Sheriff after notice of hearing to be held before the Sheriff or his designee. A notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten calendar days prior to the date set for the hearing.

(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.16 APPEAL TO COUNTY BOARD OF COMMISSIONERS.

(A) Any person aggrieved by a decision under §§ 112.07 or 112.15 shall have the right to appeal to the County Board of Commissioners. Such appeal shall be taken by filing with the County Board of Commissioners within 14 calendar days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Board shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 112.15.

(B) The order of the County Board of Commissioners after such hearing shall be final.
(Ord. 2006-BCC-35, passed 8-21-06)

§ 112.99 PENALTY.

(A) In addition to the revocation of license provided in § 112.15, any person, organization, partnership, firm or corporation who violates this chapter shall be subject to a fine not to exceed \$250 for a first offense, not to exceed \$500 for a second offense, and not to exceed \$1,000 for each subsequent offense. The Sheriff may impose such fines and such fines may be enforced, if necessary, by the County Board of Commissioners.

(B) In addition to all other remedies, actions and penalties provided for herein, the county in its discretion may seek injunctive relief to prevent ongoing violations of this chapter.
(Ord. 2006-BCC-35, passed 8-21-06)

Section

- 113.01 Definitions
- 113.02 Facility permits
- 113.03 Artist/piercer permits
- 113.04 Fees
- 113.05 Inspection
- 113.06 Compliance and enforcement
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CHAPTER 113: TATTOO AND BODY PIERCING REGULATIONS

§ 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HEALTH OFFICER. The duly appointed health officer or his or her duly authorized representative.

HEPATITIS B VACCINE SERIES. A series of vaccinations received at the recommended interval of 0 months, one month, and six months, as a measure to prevent the spread of Hepatitis B virus among individuals who are exposed to blood and body fluids.
(Ord. 2009-BCC-04, passed 2-16-09)

§ 113.02 FACILITY PERMITS.

(A) *General.* It is unlawful for a person to operate any tattoo facility, body piercing facility, or temporary tattoo or piercing facility in the county without first obtaining a valid permit from the Health Officer. The valid permit must be posted in a conspicuous location in the facility. A separate permit shall be required for each tattoo or piercing facility operated by any person. Permits are not transferable from person to person or place to place.

(B) *Facility permit period.* A tattoo and/or body piercing facility permit shall be issued for a term beginning January 1, and/or before commencement of

operation, and expiring December 31 of the same year, and shall be applied for by the operator annually. The valid permit shall be posted in a conspicuous location within the facility.

(C) *Facility permit content.* The permit shall provide the name and address of the owner of the business and the name and address of the tattoo/ piercing facility, the date of issue and the date of expiration. It shall bear the signature of the Health Officer and the County Seal. The permits shall not be transferable.

(D) *Facility permit application.* The Health Department shall provide the application forms for the facility permits. The permit application shall be completed, signed, and submitted by the operator, along with proof of annual Blood-Borne Pathogen Training for anyone employed by or acting on behalf of the facility that might reasonably be exposed to blood or body fluids.

(Ord. 2009-BCC-04, passed 2-16-09) Penalty, see § 113.06

§ 113.03 ARTIST/PIERCER PERMITS.

(A) *General.* It is unlawful for any tattoo artist who does not possess a valid tattoo artist permit to provide a tattoo to an individual, or any body piercer who does not possess a valid body piercer permit to perform body piercing on any individual. Permits are not transferable from person to person.

(B) *Tattoo artist permit or body piercer permit period.* The permit shall be issued for a term beginning January 1 and/or before performing any piercing or before providing a tattoo to an individual. The applicant shall submit an application provided by the Health Department, accompanied by proof of receipt of Hepatitis B vaccination series. After having

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met all prerequisite requirements, a permit may be issued and shall expire on December 31 of the same year and shall be applied for by the artist or piercer annually, accompanied by required proof of vaccination series status, as required.

(C) *Tattoo artist or body piercer applicant qualification.* In addition to meeting all the regulations of the Indiana State Department of Health as found in Title 410 I.A.C. 1-5, each tattoo artist and each body piercer shall provide documentation showing at least the first of the series of Hepatitis B vaccinations has been received, and must show proof of completion of the series within six months of issue of first license.

(D) *Change of ownership.* The facility operator and each artist and body piercer have the responsibility to notify the County Health Department of any change of ownership or employee at the permitted facility.

(E) *Training responsibilities of the operator.* An individual or entity that is an operator shall comply with the following training responsibilities listed in 410 I.A.C. 1-5-24:

(1) Ensure that the training described in the Indiana Occupational Safety and Health Administration's blood-borne pathogens standard (as found in 29 C.F.R. 1910.1030) is provided to all tattoo artists and body piercers, anyone employed by the facility or anyone acting on behalf of the facility, who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(2) Ensure that training on the handling of infectious waste is provided to all tattoo artists and body piercers, or anyone employed by the facility or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.

(3) Ensure that a record of training described in division (E)(1) of this section is maintained, as required under the Indiana Occupational Safety and Health Administration's

blood-borne pathogens standard (as found in 29 C.F.R. 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(4) Ensure that a record of training described in division (E)(2) of this section is maintained.

(F) *Operator responsibilities.* The operator shall comply with the following responsibilities listed in 410 I.A.C. 1-5-25.

(1) The operator shall ensure that tattoo artists, body piercers, or anyone employed by the facility or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood have and use personal protective equipment and expendables needed to implement the precautions required by this rule and the Indiana Occupational Safety and Health Administration's blood-borne pathogens standard (as found in 29 C.F.R. 1910.1030).

(2) The operator shall require tattoo artists and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in this chapter.

(3) The operator shall display a description of compliance with the requirements contained in division (F)(4) of this section.

(4) The operator shall display, and provide to each patron, written materials prepared or approved by the Department explaining universal precautions and patrons' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the Department's duties to investigate.

(Ord. 2009-BCC-04, passed 2-16-09) Penalty, see § 113.06

§ 113.04 FEES.

Permit fees and licensure fees under this chapter shall be set by the County Health Department Fee Collection Ordinance, as provided by the Statutes of the State of Indiana, I.C. 16-20-1-27.
(Ord. 2009-BCC-04, passed 2-16-09)

§ 113.05 INSPECTION.

The County Health Department shall inspect a tattoo or body piercing facility annually at a minimum, to determine compliance with this chapter. The Health Department may modify the interval between inspections by reviewing the facility's historical demonstration of compliance with inspection criteria.
(Ord. 2009-BCC-04, passed 2-16-09)

§ 113.06 COMPLIANCE AND ENFORCEMENT.

Any person who willfully violates any of the provisions of this chapter shall be subject to a fine of not more than five hundred dollars (\$2,500) for each violation. Each day the violation exists shall be considered a separate offense.
(Ord. 2009-BCC-04, passed 2-16-09)

§ 113.07 APPEALS.

Pursuant to I.C. 36-1-6-9(e), a person who received a penalty under this resolution may appeal the order imposing the penalty to a court of record in Howard County no later than 60 days after the day on which the order is entered.
(Ord. 2009-BCC-04, passed 2-16-09)

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