

ORDINANCE NO. 2022-05-CM
AMENDING TIPPECANOE COUNTY CODE
CONCERNING FOOD HANDLING REGULATIONS

WHEREAS, the Indiana General Assembly adopted HEA 1210-2020 which, among other things, modified the statutes governing regulation of food handlers; and

WHEREAS, pursuant to the adoption of HEA 1210-2020, the provisions of Title 410 IAC 7-22 have been allowed to expire by the Indiana State Board of Health; and

WHEREAS, the Board of Commissioners of Tippecanoe County wish to modify sections 110.04, 110.05, and 110.999 of the Tippecanoe County Code to make it consistent with statutory requirements;

WHEREAS, sections 110.056 and 110.057 contain references to fees which are also specified in in Section 112.20 of the County Code and should be removed to avoid redundancy;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Tippecanoe County, Indiana that Tippecanoe County Code Sections 110.04 IS hereby amended to read as follows:

§ 110.04 ADOPTION OF REGULATIONS BY REFERENCE

- (A) The regulations of the State of Indiana and Indiana State Department of Health as found in IC 16-42-5.2, Title 410 IAC 7-15.5, Title 410 IAC 7-23, and 410 IAC 7-24, are hereby incorporated by reference in this chapter and shall include any later amendments to those regulations.
- (B) Copies of the above referenced regulations are available and on file in the office of the Tippecanoe County Health Department and the Tippecanoe County Auditor.

BE IT FURTHER ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that Tippecanoe County Code Section 110.05 be amended to read as follows:

§ 110.05 DEFINITIONS

Unless the context specifically indicates otherwise, the definitions of the current food service requirements of the Indiana State Department of Health and their interpretations shall apply to the enforcement of this chapter. In addition to or to otherwise supplement or to conveniently provide definitions for interpretation, this chapter shall include the following definitions.

BOARD. The Tippecanoe County Board of Health of Tippecanoe County, Indiana.

CERTIFIED FOOD PROTECTION MANAGER. As defined in IC 16-42-5.2-4 means a food handler who holds a certificate, letter, or other document that verifies that the individual has passed an accreditation examination given by an accredited testing service recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the State Department of Health.

CRITICAL VIOLATIONS. Those violations designated as being critical in 410 IAC 7-24, and as may be amended hereafter.

COMMUNICABLE DISEASE. Includes those diseases which epidemiological evidence indicates can be transmitted through food preparation or service.

DEPARTMENT. The Tippecanoe County Health Department of Tippecanoe County, Indiana, and its employees.

FOOD OR BEVERAGE VENDING MACHINE. Any self-service device offered for public use which, upon insertion of paper money, coins or tokens, or by other similar means, dispenses unit servings of food or beverage products, either in bulk or in package.

FOOD ESTABLISHMENT. As defined in I.C. 16-18-2-137, any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. This definition also includes a retail food establishment as defined in 410 IAC 7-24; however, it does not include a bed and breakfast establishment.

FOOD PROCESSING ESTABLISHMENT. Any commercial establishment in which food is processed or otherwise prepared, packaged or manufactured for human consumption.

HEALTH OFFICER. The Health Officer of the Tippecanoe County Health Department, and his or her authorized representatives.

MACHINE LOCATION. Includes, but not limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.

MOBILE FOOD MARKET ESTABLISHMENT. Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside of the facility, is stored, sold or offered in prepackaged form, fresh or frozen.

MOBILE FOOD SERVICE ESTABLISHMENT. Any food establishment without a fixed location capable of being readily moved intact from location to location where food, intended for human consumption outside the facility is stored, sold or offered in open form, fresh or frozen.

NEW PERMITTEE. Shall be deemed to be any person, other than an immediate family member, who acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation, gift or other similar method, more 50% of the control of a prior permittee's business.

NON-CRITICAL VIOLATIONS. Violations designated as being non-critical in 410 IAC 7-24, and as amended hereafter.

OPERATE (and its derivatives). One that operates a business or operates as a business.

PERMIT. A certificate or a permit number of a size and style previously approved by the Health Officer.

PERMITTEE. Includes the person who is the owner of or responsible for the operation of a food establishment, including a food establishment's authorized representative, and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued hereunder.

PERSON. Includes, but not limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.

RETAIL FOOD MARKET ESTABLISHMENT. Any food establishment, including, but not limited to, a grocery, meat market, poultry market, fish market, egg market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any food establishment, whether fixed or movable, where food, intended for human consumption off the premises, is manufactured, produced, stored, prepared, handled, transported, sold or offered with or without charge. Provided, however, that the provisions of this chapter shall not include meat or poultry slaughterhouses.

SAFE HOLDING TEMPERATURE. As indicated in 410 IAC 7-24, as it may be hereafter amended, and as applied to potentially hazardous foods shall mean food temperatures at 41° Fahrenheit or below, and 135° Fahrenheit or above, and frozen foods at 0° Fahrenheit or below; provided, however, a tolerance of 5° Fahrenheit shall be permitted on frozen foods only.

TEMPORARY FOOD SERVICE ESTABLISHMENT. Any food establishment in any enclosure, stall or other facility, whether fixed or mobile, operating at one site or location for a period of time not in excess of 14 consecutive days, in conjunction with a single event or celebration, where food in open form intended for human consumption on or off the premises is offered with or without charge.

UTENSIL. Any implement used in the storage, preparation, service, consumption, display, transportation, or cleaning of food or drink products.

VENDING OPERATOR. Includes, but not limited to, any person who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food or beverage vending machines which dispense potentially hazardous food or beverage products.

BE IT FURTHER ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that Tippecanoe County Code Section 110.056 be amended to read as follows:

§ 110.056 APPLICATION FEES

(A) Each new food establishment or bed and breakfast or any existing food establishment or bed and breakfast desiring to remodel or build any additions requiring a building or other permit which includes renovations to the food preparation area shall be required to pay an initial fee for the review of plans and specifications and for the initial inspection of the food establishment bed and breakfast. This fee is in addition to the permit fee. In the instance where there are multiple food establishments or areas within one building which will require staged final inspections at separate times, an application fee as set out below will be required for each final inspection.

(B) Application fees shall be those set forth in Section 112.20.

(C) *Additional inspections or review.* In those circumstances where building or remodeling of a food establishment results in more than three inspections of the food establishment's premises or continuing review of or consultations regarding the plans thereof by the Health Officer, and which inspections or review or consultations are necessitated due to failure to have the plans completed or finalized at the time of application for a permit or the failure to implement

construction or remodeling consistent with the original plans, or any other cause within the control of the food establishment which results in continuing and extra review of or consultation regarding the plans for the food establishment, there shall be an additional fee of \$100 payable prior to opening the food establishment.

BE IT FURTHER ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that Tippecanoe County Code Section 110.057 be amended to read as follows:

§ 110.057 FEES FOR RENEWAL

Upon renewal or transfer (not requiring plan review) of permits, the fees set forth in Section 112.20 will apply.

BE IT FURTHER ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that Tippecanoe County Code Section 110.999 be amended to read as follows:

§ 110.999 PENALTY

The provisions of Title 410 IAC 7-23 provides local health departments with authority to assess civil penalties (fines) for violators of laws intended to suppress disease and health risks associated with preparation and distribution of food. For purposes of tracking critical item violations and imposing fines under this chapter the Department shall maintain inspection records for not less than one year from the date of any inspection conducted after the effective date of this chapter. No fine is payable the first time a "critical item" violation is noted within any one year period after the effective date of this chapter. For a second or subsequent "critical item" violation of this chapter after its effective date, or within one year of the date of an inspection conducted after the effective date of this chapter, a civil penalty is payable as provided in this chapter.

(A) Except as set forth under IC 16-42-5.2, the following civil penalties (fine) shall apply for a "critical item" violation which reoccurs for a second or subsequent time within any one year period after the effective date of this chapter, regardless if that "critical item" can be corrected immediately:

(1) The second time the same "critical item" violation is determined within any one year period, there will be a fine of \$50.

(2) The third time the same "critical item" violation is determined within any one year period, there will be a fine of \$100.

(3) If the same "critical item" reappears as a violation for a fourth (or more) time within any one year period, there will be a fine of \$200.

Violations of IC 16-42-5.2 concerning food handling shall be subject to the civil penalties set forth in IC 16-42-5.2-12.

(B) Each day after the expiration of the time limit for abating any violation of this chapter or completing other actions as ordered by the Health Department or the Health Officer of the county, shall constitute a distinct and separate offense.

(C) All fines shall be payable in full within 30 days of assessment, unless otherwise ordered by the Hearing Officer. Failure to pay fines by the due date will result in an additional 10% late

fee. No permit is to be issued or renewed until all fines have been paid in full. Any fines and late fees may be collected in any manner provided herein or as provided by law including any law for collection of debts, along with attorney fees incurred to collect said amounts owing and with all costs of collection.

(D) Any assessment of a civil penalty by this chapter is subject to the right of appeal and a public hearing which will be scheduled, conducted, and concluded as provided in § [110.120](#) of this chapter. Any request for an appeal shall be filed in writing with the Health Officer within ten days of assessment of the civil penalty.

This Ordinance shall be in full force and effect upon its passage and signing as required by law.

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on first reading this ____ day of _____, 2022, by the following vote:

BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

David S. Byers, President

Tracy A. Brown, Vice President

Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga,
Auditor of Tippecanoe County

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on second reading this ____ day of _____, 2022, by the following vote:

BOARD OF COMMISSIONERS OF
TIPPECANOE COUNTY

VOTE

David S. Byers, President

Tracy A. Brown, Vice President

Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga,
Auditor of Tippecanoe County