

**ORDINANCE 94-18-CM
OF TIPPECANOE COUNTY, INDIANA**

An Ordinance pertaining to and regulating the sale and distribution of food within Tippecanoe County, Indiana, providing for the issuance of permits therefore, and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of the County of Tippecanoe that this Ordinance is adopted as follows:

1. TITLE. This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the Food Ordinance of Tippecanoe County, and may be cited as such and will be referred to herein as "this Ordinance".
2. PURPOSE. The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the preparation and distribution of food through food service, retail food service, temporary food service, farmers market, and mobile food service operations within Tippecanoe County, and to otherwise promote public safety and welfare.
3. AUTHORITY. The Health Officer of Tippecanoe County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.
4. ADOPTION OF REGULATIONS BY REFERENCE.
 - A. The regulations of the Indiana State Department of Health as found in Title 410 IAC 7-15.1, 410 IAC 7-16.1, and 410 IAC 7-15.5 are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein.
 - 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.
5. SUPPLEMENTAL 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 ordinance. In addition to or to otherwise supplement those definitions contained in the above referenced code sections which are incorporated herein by reference this ordinance shall include the following additional definitions:
 - A. APPROVED FACILITY: a food service establishment, retail food service establishment, commissary, mobile food unit, pushcart or temporary food service establishment which operation has been inspected and or permitted by the Tippecanoe County Health Department, or may be provided evidence of being under the inspection jurisdiction of federal, state or other local enforcement authority. The term does not include private homes where food is prepared or served for individual family consumption.

B. BED AND BREAKFAST: an occupied residence that provides sleeping accommodations to the public for a fee, has no more than fourteen guest rooms, provides breakfast to its guests as part of the fee, and provides sleeping accommodations for no more than thirty consecutive days to a particular guest.

C. BOARD: means the Tippecanoe County Board of Health.

D. COMMISSARY: any food establishment, including, but not limited to, any place in which food, beverages, food or beverage ingredients, containers, or supplies including utensils, are kept, handled, or stored. A commissary as it applies to a retail or food service establishment shall be the location at which the required equipment for manual and or automatic utensil washing and sanitizing of equipment is provided.

E. HEALTH OFFICER: Health Officer of Tippecanoe County, Indiana and, unless the term "Health Officer" is used to describe a person's right to a hearing as provided herein, his authorized representative.

F. DANGEROUS COMMUNICABLE DISEASE: includes but is not limited to diseases which epidemiological evidence indicates is subject to transmission by or through food preparation.

G. DEPARTMENT: shall mean the Tippecanoe County Health Department and its employees.

H. EMPLOYEE: shall mean and include, but is not limited to the permit holder, individuals having supervisory or management duties or any person who works in a food service establishment that may (sic) come in contact with food by sale, processing, preparation, packaging service or comes in contact with any utensil or equipment of any kind used in said process, or who is employed in a room or rooms in which food is being processed, prepared, packaged, served or sold.

1. FULL-TIME EMPLOYEE: Shall mean any employee of a food service establishment who works at least 37 1/2 hours per week in any seven day period.
2. PART-TIME EMPLOYEE: Shall mean any employee of a food service establishment who works at least one hour per week in any seven day period.
3. FULL-TIME EMPLOYEE EQUIVALENTS: Two part-time employees shall be considered the equivalent of one full-time employee.

I. ESTABLISHMENT: Shall mean any person, peddler, solicitor of food service, retail food service, mobile food service, bed and breakfast, temporary food service vending operation, farmers market, or stand offering food for human consumption at retail sale. Such establishment shall be licensed and or registered and so located as to comply with all applicable state and local building, zoning and administrative codes that are enforced in the municipality, city, town, or county of Tippecanoe in which they operate.

J. 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.

K. MOBILE FOOD ESTABLISHMENT: any food service establishment or retail food service establishment with or without a fixed location that is capable of being readily moved intact from location to location by its motorized power unit, as a trailer, or as a peddled or pushed carrier and/or tote where food intended for human consumption outside the facility is prepared, stored, sold or offered for sale in prepackaged form, fresh or frozen, at retail, for human consumption.

LIMITATIONS: mobile food units without utensil washing facilities shall be limited to the sale of non-potentially hazardous foods or commissary wrapped potentially hazardous food maintained at proper temperature or limited to the preparation and serving of frankfurters. This unit shall report to a commissary at least once each day for cleaning, sanitizing and servicing.

L. RETAIL FOOD SERVICE ESTABLISHMENT: 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 or offer for sale only prepackaged non-potentially hazardous foods, roadside markets that offer only fresh produce and vegetables for sale, the Farmers Market of Lafayette, a food service establishment, or any food and beverage vending machines.

M. TEMPORARY ESTABLISHMENT: means a food service establishment, retail food service establishment or mobile food service establishment operation at one site or location for a period of time not to exceed fourteen consecutive days in conjunction with a fair, carnival, circus or public exhibition, or any other gathering whether or not the facility is fixed or movable.

N. FARMERS MARKET: shall mean the area on the west half of 5th Street from the south line of Main Street to the north line of Columbia Street, and a portion of City Center Mall or as assigned by the Board of Public Works and Safety of the City of Lafayette and is set apart for the use of market gardeners and other retail dealers in articles and plant materials produced primarily by themselves, used or intended for human consumption offering the same to consumers, subject to the rules of this ordinance and the subchapter of this rule that pertains to the Farmers Market.

O. FOOD: shall include, but is not limited to, all raw, cooked, or processed edible substances which may be used in whole or part for human consumption, whether solid or liquid, packaged or unpackaged, confectionery or condiment, whether simple, mixed, or compound, and all substances or ingredients used in the preparation thereof or which becomes components thereof.

P. IMMINENT HEALTH HAZARD: means any event, circumstance or situation which in the sole discretion of the Health Officer or the Officer's authorized representative, presents a serious and present health risk to a person or the public.

Q. LATE FEE: an additional fee assessed an establishment or permit holder for failure to renew an annual permit fee by January 1 or prior to expiration of a permit.

R. LIMITED PREPARATION: shall refer to any food that requires minimal cooking or reheating and seasoning prior to being served.

S. NEW ESTABLISHMENT: shall mean any newly constructed establishment or an existing establishment that has been closed for a period of 3 consecutive months. Seasonal establishments are exempt from this definition.

T. OPERATE (and its derivatives): means the doing of practical work or involving the practical application of principles or processes.

U. PERMIT: means a certificate of a size and style previously approved by the Health Officer of Tippecanoe County.

V. PERMITS/SEPARATE: That permit required for each food establishment and vending operator regardless of whether or not they are contained in the same building, where the person owning the building or operating the food establishment are not identical. For each kitchen within a food establishment, a separate license shall be obtained and a separate license fee shall be paid. However, this requirement as to separate permits shall not apply to those arrangements where a bar and restaurant are being operated under a management agreement as long as the applicant on the food establishment permit is one and the same person as the holder of the Alcoholic Beverage Commission permit.

W. PERMITTEE: shall include the person who is the owner of or responsible for the operation of a food establishment including an 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.

X. PERSON: shall include, but not be limited to, an individual, a 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 local representatives thereof.

Y. PERSON IN CHARGE: means the individual placed in actual or apparent authority by a Permittee or present in an establishment who possesses the appropriate credentials or training to supervise the processing, production, packaging, and handling of all food offered to the public for human consumption, whether or not a fee is charged.

Z. PESTICIDE: shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

AA. PESTICIDE/TRAINED: any establishment permitted under this ordinance shall have pest control performed by a licensed and certified applicator as required by the Officer of the Indiana State Chemist and Seed Officer.

BB. POTENTIALLY HAZARDOUS FOOD: any perishable food that consist in whole or part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, ice or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a PH level of four and six-tenths (4.6) or below or a water activity (Aw) value of (sic) eighty-five hundredths (0.85) or less under standard conditions or food products in hermetically sealed containers processed to prevent spoilage.

CC. SEASONAL ESTABLISHMENT: an establishment that remains under continual proprietorship but may arbitrarily close at the operator's discretion at various times.

DD. RINSING: the act of cleansing by spraying, swabbing or rubbing with a towel or sponge, or by immersion with a solution of clean, clear water so as to remove any soil and debris, soap, detergents; and abrasives, or that which may still be present as the result of washing.

EE. SAFETEMPERATURES (sic)/SAFEHANDLING OF FOOD:

1. Safe Temperatures as applied to potentially hazardous food shall mean food temperatures at 45 degrees F or below, and 140 degrees F or above, and frozen foods at 0 degrees F or below.

2. Safe Handling of Foods that have been previously cooked, must be cooled to a temperature of 45 degrees F within four hours shall be rapidly heated to a temperature of 165 degrees F within two hours. Such reheating must be done prior to the addition of this product to any other food.

FF. SANITIZING: the bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial content including pathogens to a safe level on surfaces of utensils and equipment.

GG. SQUARE FOOTAGE: the measurement of the interior perimeter of all areas used for a retail establishment.

HH. TRANSFER OF OWNERSHIP: a transfer of ownership shall be deemed to have occurred when any person acquires through an asset purchase agreement, stock purchase agreement, merger, consolidation or other similar method, more than 50% of the control of a currently permitted or previously permitted establishment under this chapter.

II. VENDING MACHINE/FOOD OR BEVERAGE: 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, either in bulk or in package. This term shall include machines that dispense purified and filtered water.

1. LOCATION/VENDING MACHINE: shall include, but not limited to, any room, enclosure, space or area where one or more food or beverage vending machines are installed or operated.
2. OPERATOR/VENDING MACHINE: shall include, but not necessarily be 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.

JJ. WASHING (and pre-washing): the act of cleansing by spraying, swabbing, rubbing or scraping with a towel or sponge, or by immersion in a solution of soap and detergent in water at a concentration strong enough to dislodge from the surface any dirt, soil, debris or other pollutants known to be toxic to man.

6. PERMITS

A. OCCUPANCY PERMIT. All food establishments must fully comply at all times with all local and state building and fire codes. Such compliance is a precondition to the issuance, reinstatement or renewal of any permit. Failure of any permittee to fully comply with said building and fire codes shall be the basis for the Tippecanoe County Health Department to deny, suspend, or revoke any permit issued, and pursue immediate closure. Any permit required for construction, renovation, or conversion of a food service establishment by the local building code official shall not preclude denial, suspension, or revocation of a permit from the Department.

B. OPERATIONAL PERMIT. It shall be unlawful for any person to sell any food or to operate a food establishment, bread and breakfast, or to act, whether actually or ostensible, as a vending operator in Tippecanoe County, Indiana, who does not possess a valid permit for each such operation from the Health Officer, or is otherwise exempted from the provisions of this ordinance.

1. Posting: All permits shall be posted in a conspicuous place in each food establishment. With respect to mobile food service establishment, or mobile food market, the name, address and telephone number of the permittee shall be conspicuously displayed on each vehicle in clearly legible lettering not less than two inches in height. Vending machines shall have such information displayed on each vending machine and the size and location of such information shall be sufficient to permit easy identification of the permittee.

2. Lapse of Permit: If an establishment should close for a period of more than three months in any calendar year for which a permit has been issued, the permit shall be considered void and of no further force or effect. A Permittee must then apply for a new permit. Issuance of a new permit will be subject to a reinspection by the Health Officer or Building Code Official having jurisdiction. Any applicable fees for the reinspection and issuance of a new permit shall be paid prior to the issuance of a new permit.

7. TERMS OF PERMITS AND FEES. The permit shall be for a period of one year and the permit shall be renewed annually prior to expiration of the permit.

A. FEE SCHEDULE:

1. Food Service Establishments

01 - 09 employees	\$ 75.00
10 - 40 employees	\$125.00
41 - up employees	\$150.00

2.	<u>Retail Food Service</u>	
	Under 2,000 sq. ft.	\$ 50.00
	2,000 - 7,999 sq. ft.	\$ 75.00
	8,000 - 9,999 sq. ft.	\$165.00
3.	<u>Bed and Breakfast</u>	\$ 75.00
4.	<u>Mobile Food Service</u>	
	Each unit	\$ 50.00
5.	<u>Temporary Food Service</u>	
	1 - 3 days	
	each additional day	\$ 5.00
	(up to 14 consecutive days)	\$ 2.00
6.	<u>Vending Fee</u>	
	1 - 20 machines	\$ 50.00
	each additional machine	\$ 2.00
7.	<u>Other Fees</u>	
	One time new food establishment fee	\$ 50.00
	Transfer of ownership fee	\$ 25.00
	Late fee on renewal	\$ 25.00

Permits in effect at the time of passage of this Ordinance shall continue to be renewed on an annual basis prior to the expiration date of the existing permit.

8. ESTABLISHMENTS EXEMPT FROM PERMIT FEES ONLY. The following shall be exempt from the requirements to apply for, receive and pay for a permit:

A. Vendors at the Farmer's Market of Lafayette or any individual selling fresh fruit, vegetables, honey or cider grown and sold on lands owned or occupied by the vendor.

B. A food service, retail food service, mobile food service temporary establishment or vending operator which comply with the terms and provisions of I.C. 16-1-20-26 unless they waive said exemption and/or operate for a period of more than thirty days in a calendar year, and provide food service to persons other than members, guests or students on a regular basis. This thirty day limitation shall not apply to little leagues, church sponsored soup kitchens, churches, temporary senior citizen sites, public and parochial school food service operations. Applicants for this exemption shall provide the Health Officer with a copy of its 501 (C) (3) status.

C. Food Service, retail food service, mobile food service, temporary food service or vending machines that offer for retail sale or dispense to the consumer any only prepackaged confections such as candy, chewing gum, nut meats, potato chips, pretzels, popcorn, coffee, and soft drink beverages or prebottled non-potentially hazardous foods and beverages.

D. Transient merchants, peddlers, or itinerant dealers as defined under Chapter 117 of the Municipal codes of the City of Lafayette.

E. Commissaries outside the Jurisdiction of Health Officer, subject to the following requirements:

1. Foods from commissaries and other sources outside the jurisdiction of the Health Officer may be sold within the County, if such commissaries or other sources of supply conform to the provisions of the applicable food service establishment or food market provisions of this chapter, or to the provisions of the applicable State Department of Health Regulations.
2. To determine the extent of compliance with such provisions, the Health Officer may accept reports from the responsible authority in the jurisdiction where the commissaries are located.

9. FREQUENCY OF INSPECTION. All establishments will be inspected as often as necessary for the enforcement of this ordinance.

10. CONSTRUCTION, RENOVATION AND ALTERATION OF FOOD ESTABLISHMENTS AND EQUIPMENT. All food establishments constructed, renovated or converted shall conform to the current design and construction rules for equipment of the Indiana State Department of Health. Equipment installed in an establishment prior to the effective date of this rule that does not meet current design and construction criteria shall be deemed acceptable in an establishment if:

A. equipment is maintained in good repair and continues to be maintained in a sanitary condition.

B. the food contact surfaces are nontoxic.

C. the establishment has been under the same continuous ownership since the effective date of this rule.

11. TRANSFER OF OWNERSHIP. Once ownership is transferred the food service establishment and the equipment therein installed shall conform to the current equipment design, construction, fabrication, and installation requirements of the Indiana State Department of Health and the Tippecanoe County Health Department.

12. EQUIPMENT.

A. Exhaust/Ventilation Hood Systems equipped with make up air shall be tempered before venting into the exhaust hood such that grease laden steam, condensation and vapor generated by any cooking appliance required to be vented will exhaust properly. Such tempered air will prevent the formation of frost on the inside of the hood surface as a result of mixing cold air with warm.

B. Any grease trap or grease interceptor, and all wastelines leading to sinks, drains, and other fixtures or equipment shall in all matters comply with all Local, State, and Federal requirements for discharge of wastewater and to the requirements of the local building code official having jurisdiction.

13. MINIMUM SANITARY REQUIREMENTS FOR FOOD ESTABLISHMENTS, VENDING MACHINES AND BED AND BREAKFASTS.

A. All food establishments, with the exception of Farmer's Market vendors, vending operators and food and beverage vending machines shall comply with the minimum sanitary requirements specified by the Indiana State Department of Health as provided in its Regulations 410-IAC 7-15.1 and 7-16.1, as amended and as may be modified in the future.

B. Whenever access to a public water supply or sewage disposal system is not available, potable water from a private well shall be available with any waste water discharged to a public sewer or on-site sewage disposal system. Any temporary food service and Mobile food service shall have enough potable water available to the establishment for food preparation, cleaning and sanitizing utensils and equipment and for hand washing. A heating facility capable of producing enough hot water for these purposes shall be provided. All sewage including liquid waste shall be disposed of according to law.

C. The menus of temporary and mobile food service establishments shall be limited to serving non-potentially hazardous prepackaged foods and any potentially hazardous foods require limited preparation such as hamburgers and frankfurters that only require seasoning and cooking. Such foods shall be stored and maintained at proper temperature prior to preparation and service.

14. HEALTH AND DISEASE CONTROL.

A. INFECTED PERSONS PROHIBITED: No person, who has a communicable or infectious disease such as an open wound, and acute respiratory infection, vomiting or diarrhea caused by an infection shall work in a food service establishment in any capacity in which epidemiological evidence indicates the person may spread the disease. If the manager or person in charge of the food establishment has reason to believe that any employee has contracted any disease in a communicable form or has become a carrier of such disease, that person shall notify the Health Officer immediately.

B. PROCEDURE WHEN DISEASE SUSPECTED: The Health Officer may require any or all of the following measures when there is a probable cause to determine that there exists a reasonable possibility of the transmission of disease from any food establishment:

1. The immediate exclusion of all persons determined to be possible carriers or transmitters of disease from any and all food establishments.
2. The immediate closure of the affected food establishment upon order of the Health Officer until the Health Officer determines that no further danger of transmission of the disease exists.
3. The medical examination of any person determined to be a possible carrier or transmitter of the disease, and said person's associates, to such extent as may be deemed necessary to satisfy the Health Officer that the termination or absence of the disease can be made to a reasonable medical certainty.

C. HAND WASHING: Before starting to work, each food handler shall thoroughly wash their hands, arms and fingernails with soap and warm water and use such other facilities as to assure good personal hygiene of the hands, arms and fingernails. Such hand washing must be repeated during working hours after smoking, after using the restrooms, after coughing into hands or as often as may be necessary to remove soil and contamination. The hands and fingernails of all food handlers are to be kept out of their hair, nose and mouth and are to be kept clean while engaged in handling food and food contact services. Except for essential taste testing in an approved manner, food handlers are not to consume food or beverages during the preparation or serving of any food.

D. MANUAL DISH WASHING PROCEDURES: All food establishments involved with the onsite preparation of uncooked and cooked food shall be required to install and maintain a three compartment sink that is of proper design for manual washing, rinsing and sanitizing of utensils.

15. SALE, EXAMINATION, CONDEMNATION OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD OR BEVERAGE.

A. It shall be a violation of this Ordinance for any person to sell through a food establishment any food or beverage or substances which is unwholesome, adulterated or misbranded; provided, however, that the term "MISBRANDED" as used in this Ordinance does not mean a meal item, prepared to an individual recipe, that is denominated by commonly accepted menu terminology.

B. Samples of food, or beverage and other substances may be taken and examined by the Health Officer as often as deemed necessary to determine freedom from unwholesomeness, adulteration or misbranding.

C. The Health Officer may condemn, forbid the sale of or cause to be removed or destroyed, any food or beverage which is unwholesome, adulterated or misbranded.

D. Whenever the Health Officer has probable cause to believe that any food or beverage is adulterated or misbranded, the Health Officer shall tag label or otherwise identify as outlined in the Indiana Food Drug and Cosmetic Act I.C. 16-1-28-22 or 23 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.

The hold order shall state that a request to the Health Officer 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 and shall be conducted by the Health Officer. 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.

16. FOOD HANDLER KNOWLEDGE/EDUCATION: Every person who is employed or is about to be employed as a food handler in a permitted establishment under this rule shall be familiar with the requirements of the current Food Service Sanitation Requirements of the Indiana State Department of Health and the Tippecanoe County Health Department.

Should inspection of the permitted establishment (sic) reveal that these rules or other proper sanitary procedures are not being followed, the Health Officer can at his discretion mandate that a permittee, operator, or person in charge of the establishment attend a one on one training session or an educational seminar conducted by the Tippecanoe County Health Department from time to time. Depending on the severity of the unsanitary conditions a permit may be revoked or a request for renewal denied.

17. FARMERS MARKET.

A. The Health Department may inspect the articles offered for sale at the market.

B. The following are the minimum sanitary requirements for temporary farmer's food markets:

1. Each stand of the farmers market shall be located in clean surroundings and be kept in a clean sanitary condition.
2. All equipment and utensils used in storing and displaying fresh fruits and vegetables shall be sanitized.
3. Only fresh fruits, honey, cider and vegetables that are clean, wholesome, free from spoilage and adulteration as well as other nonperishable foods shall be sold.
4. All fresh fruits, honey, cider and vegetables and other foods shall be stored or displayed at least thirty (30) inches above the floor level and in such manner as to protect the food from contamination by splash, foot traffic, dust, animals and other means.
5. Garbage and refuse shall be kept in tightly covered, watertight containers until removed and shall be disposed of daily in a place and manner that does not create a public health hazard.
6. All employees shall wear clean outer garments and shall keep their hands and fingernails clean at all times while engaged in the handling of food, utensils, or equipment, (sic) Employees shall not expectorate or use tobacco in any form within the establishment.
7. It shall be unlawful for any person to bring or suffer or permit to come with him any dog or other animal or to permit the same to occupy or frequent the space set off to him at the market.
8. The Health Officer may supplement such requirements when deemed necessary to prevent a condition which may constitute a public health hazard.

18. BED AND BREAKFASTS. Such establishments are required to obtain an operational permit from the Tippecanoe County Health Department and are subject to the regulations thereof.

19. ESTABLISHMENTS ON PRIVATE WELLS. Each food service establishment that is on a private well shall comply with current federal safe drinking water act standards and results of required testing shall be submitted to the Tippecanoe County Health Department.

20. DRINKING WATER MACHINES. Samples shall be submitted semi-annually and conform to federal drinking water standards.

21. INSECT AND VECTOR CONTROL. Each food service, retail food service, temporary mobile, or vending operation shall have all pest control performed by an individual that is pesticide trained. Such control shall be done at intervals and in a manner that will effectively eliminate from, or prohibit from entering into an establishment, any pests and shall prevent the cross contamination of food or food products intended for human consumption.

22. POWER FOR INSPECTION; ENFORCEMENT; SERVICE OF NOTICES AND ORDER HEARINGS.

A. The Health Officer or his duly authorized agent, bearing proper credentials and identification, shall be permitted to enter upon all properties at proper times for the purpose of inspection or monitoring necessary to carry out the provisions of this Ordinance.

B. Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, notice shall be given for such alleged violation to the person or persons responsible therefore, and to any known agent of such person, as hereinafter provided. Such notice shall:

1. be in written form;
2. include a statement of reason why it is being issued;
3. allow a reasonable time for the performance of any act it requires;
4. be served upon the owner or owner's agent, or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent if a copy thereof is sent by certified mail to his last known address or if a copy thereof is posted in a conspicuous place in or about the facility affected by notice, or if he is served with such notice by any other method authorized or required under the laws of this state;
5. such notice must contain an outline of remedial action, which, if taken, will effect compliance with the provisions of the Ordinance.

C. Any person affected by any such notice issued by the Health Officer may request and shall be granted a hearing on the matter before the Health Officer provided that such person shall file in the office of the latter within ten (10) days after serving of the notice, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. Upon receipt of such petition, the Health Officer shall arrange a time and place for such hearing and shall give the petitioner written notice thereof. Such hearing shall be heard as soon as practical after the receipt of request therefore. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause why compliance with this Ordinance should not be met.

D. After such hearing, the Health Officer shall sustain, modify, or withdraw the notice, depending upon the findings as to whether compliance with the provisions of this Ordinance have been met. If the Health Officer shall sustain or modify such notice, it shall be deemed to be an order. Any notice served pursuant to the provisions of this Ordinance shall automatically become an order if a written petition for a hearing is not filed in the office of the Health Officer within ten (10) days after such notice is served.

E. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately, but upon petition to the Health Officer a petitioner shall be afforded a hearing which will be conducted as provided above. Depending upon the finding as to whether the provisions of this Ordinance have been complied with, the Health Officer shall continue such order in effect, or modify it, or revoke it.

23. PENALTIES.

A. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be served by the Health Officer with a written order stating the nature of the violation and providing a time limit for satisfactory correction thereof.

B. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be subject to penalty as hereinafter prescribed in this Section. On being found to have violated the provisions of this Ordinance, the violator shall be punished for the first offense by a fine of One Hundred Dollars (\$100.00); for the second offense by a fine of not more than Three Hundred Dollars (\$300.00) and for the third and each subsequent offense a fine of not more than Five Hundred Dollars (\$500.00). Each day after the expiration of the time limit for abating any violation of this Ordinance or completing other actions as ordered by the Tippecanoe County Health Department, or by the duly appointed Health Officer of the County, shall constitute a distinct and separate offense.

C. Any person violating any of the provisions of this Ordinance shall become liable to said County for any expense, loss or damage occasioned by reason of such violation, including, but not limited to, reasonable attorney fees.

24. ENFORCEMENT. The Health Officer may initiate any procedures deemed necessary for proper enforcement and to carry out the purpose and intent of this Ordinance.

25. SEVERABILITY. 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 and shall remain in full force and effect. Unless the context requires a different interpretation, any reference to the masculine, feminine, or neuter gender shall include any other gender.

26. EFFECTIVE DATE. The Ordinance shall apply to all of Tippecanoe County, Indiana, as of the date from and after its adoption and approval by the Commissioners as stated herein and any publication as required by law.

27. REPEAL. The provisions hereof supersede Tippecanoe County Ordinance No. 89-27-CM which is hereby repealed. The provisions of Lafayette City Code Section 114.001 through Section 114.075, Section 114.086, and Section 114.090 through Section 114.999, inclusive, and the provisions of West Lafayette City Codes Chapter 64, Section 64.01 through Section 64.50 and Chapter 82, Section 82.01 through Section 82.96 inclusive as well as any city codes of Lafayette and West Lafayette directly inconsistent herewith are superseded by this Ordinance as provided in Public Law 87-1994.

28. DATE. Passed and adopted by the Tippecanoe County Board of Commissioners on the date hereafter stated.

Vote: THE BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

yes William D. Haan
William D. Haan, President

yes Nola J. Gentry
Nola J. Gentry, Member (sic)

yes Hubert D. Yount
Hubert D. Yount, Member
Dated: 6-13-94

Attest:
Betty J. Michael
Betty J. Michael, Auditor
Dated: 6-13-94

Enacted and passed on final reading this the 20th day of June, 1994.

Vote: BOARD OF COMMISSIONERS OF THE
COUNTY OF TIPPECANOE, INDIANA

yes William D. Haan
William D. Haan, President

yes Nola J. Gentry
Nola J. Gentry, Vice President

yes Hubert D. Yount
Hubert D. Yount, Member

Attest:
Betty J. Michael
Betty J. Michael, Auditor