

TITLE XI: BUSINESS REGULATIONS

Chapter

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CHAPTER 110 INNKEEPER'S TAX

Section

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Statutory reference:

Innkeeper's Tax Administration, see I.C. 6-9-29-1 through 6-9-29-3

§110.01 INNKEEPERS TAX; COLLECTION

(A) Innkeepers Tax Generally

(1) Tax Levied. A tax is hereby levied on every person or corporation engaged in the business of renting or furnishing, for periods of less than 30 days, any room, rooms, lodgings or accommodations in the county in any hotel, motel, boat motel, inn, college or university memorial union or tourism cabin.

(2) Exemptions. The tax does not apply to gross income received in a transaction in which:

(a) Students rent lodgings in a college or university residency hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or

(b) A person rents a room, lodging or accommodations for a period of 30 days or more.

(3) Rate. The tax shall be levied at the rate of 3% on the gross retail income

derived from lodging income only and is in addition to the state gross retail tax imposed under I.C. 6-2.5.

(4) Payment and Collections. The tax shall be paid to the County Treasurer as provided for in this Chapter. All rules for the collection of state gross retail tax under Indiana Code §6-2.5, except for payment to the Department of Revenue, shall apply, unless such provisions conflict with this Chapter. Taxpayers desiring a refund of innkeepers tax paid must apply for such a refund by submitting to the County Treasurer of Revenue a claim for refund.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed --. Ord. 2012-18, passed 12-28-12; Am. Ord. 2017-11, passed 8-14-17).

§110.02 CONVENTION AND VISITOR PROMOTION FUND

(A) Source of Funds. There is established a Convention and Visitor Promotion Fund. This Fund shall consist of monies collected from the Innkeepers Tax which are deposited by the County Treasurer.

(B) Use of Funds. The monies deposited into the Fund will be transferred to the Treasurer of the Visitor and Convention Commission by the County Auditor by warrant and may be used only to promote and encourage conventions, visitors and tourism in Montgomery County.

(C) Non-Reverting Fund. This Fund is a non-reverting fund.

(Ord. 2012-18, passed 12-28-12).

§110.03 VISITOR AND CONVENTION COMMISSION

(A) Commission Generally.

(1) Establishment of Commission. There is hereby created the Visitor and Convention Commission, referred to as “the Commission” in this chapter, to promote the development and growth of the convention, visitor and tourism and festival industry in the county.

(2) Composition. The Commission will be comprised of seven (7) members. Four members will be appointed by the County Commissioners, and three (3) members will be appointed by the Mayor of the City of Crawfordsville. Of the four (4) members appointed by the County Commissioners, at least one (1) appointee must be engaged in a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism and at least one (1) appointee must be a member of the Montgomery County Council. Of the three (3) members appointed by the Mayor,

one (1) appointee must be engaged in the business of renting rooms or lodging and one (1) appointee must be engaged in a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism and one (1) must be a member of the Crawfordsville City Council. The appointees who are engaged in the a convention, visitor or tourism business or involved in or promoting conventions, visitors or tourism cannot be from the same business. All appointees must be residents of Montgomery County, except that a person engaged in a convention, visitors or tourism business or involved in or promoting conventions, visitors or tourism need not be a resident of Montgomery County if: (1) he or she is the owner or executive level employee of such a business; (2) the business is located in Montgomery County; and (3) he or she is a resident of the State of Indiana.

(Ord. 2018-23, passed 9-13-18)

(3) Terms. All terms of office of Commission members begin on January 1. Members of the Commission serve terms of two years, except that three of the original members will have one-year terms in order to stagger the terms. All terms must be staggered. A member whose term expires may be re-appointed to serve one (1) additional term. A member who has served two (2) consecutive terms is not eligible for reappointment until at least one (1) year has elapsed since his or her last term. If an initial appointment is not made by February 1, or a vacancy is not filled within 30 days, the Commission shall appoint a member by majority vote to serve for the remainder of the term.

(4) Removal. A member of the Commission may be removed for cause by his or her appointing authority.

(5) No Salary. Members of the Commission may not receive a salary. However, Commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(6) Oaths. All members of the Commission must take an oath prior to serving.

(7) Officers. The Commission shall elect a President, Vice President, Treasurer and Secretary. Each officer shall serve for one year.

(B) *Commission Rules and Procedure*

(1) Powers Generally. The Commission may:

(i) Accept and use gifts, grants and contributions from any public or private source, under terms and conditions that the Commission considers necessary and desirable;

- (ii) Sue and be sued;
- (iii) Enter into contracts and agreements;
- (iv) Make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (v) Receive and approve, alter or reject requests and proposals for funding by corporations qualified under division (B)(1)(f) below;
- (vi) After its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under § 110.02, to any state not-for-profit corporation for the purpose of promotion and encouragement in the county of conventions, trade shows, visitors, tourism, festivals or other special events in the county; and
- (vii) Require financial or other reports from any corporations that receive funds under this chapter.

(2) *Quorum and Majority Action.* A majority of the Commission constitutes a quorum for the transaction of business and the concurrence of a majority of the Commission is necessary to authorize any action.

(3) *Expenses of Commission.* All expenses of the Commission shall be paid from the Fund established under § 110.02.

(C) *Meetings.* The Commission shall meet at least four (4) times per year.

(D) *Budget.* On or before July 31 of each year, the Commission will approve a budget for the following year. This budget must be presented to the Montgomery County Council on or before August 15 of each year, and the Council will review the budget and determine appropriations for the Commission during the Council's annual budget process.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98; Am. Ord. 2012-18, passed 12-28-12).

§110.04 DISPOSITION OF MONIES

All money coming into possession of the Commission shall be deposited, held, secured, invested and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the Commission is subject

to audit and supervision of the State Board of Accounts. Expenditures cannot be made without appropriation by the County Council.

(Ord. 2-86 passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-7-92; Am. Ord. 98-, passed 4-28-98. Ord. 2012-18, passed 12-28-12)

§110.05 DELINQUENCIES; FAILURE TO FILE

(A) *Time for Payment of Tax.* The due date for filing the return and paying the tax is the twentieth day of the month immediately following the month of collection. A delinquent return is subject to:

(1) Loss of the collection allowance provided for in Indiana Code §6-2.5-6-10;

(2) A penalty of 10% of the gross tax collected, but not less than \$5; plus

(3) Interest payable on the gross tax due. The time factor will be the number of days delinquent divided by 365. The rate, determined by the Commissioner of the State Department of Revenue, takes effect on January 1 each year.

(B) *Failure To Collect Or Remit Tax.* An individual who has the duty to collect and remit these taxes to the Treasurer, holds these funds in trust and is personally liable for their payment, plus any penalties and interest attributable thereto to the state or political subdivision. The individual who knowingly fails to collect or remit these taxes as prescribed commits a level 6 felony.

(C) *Authority of Treasurer.* Since a section has been adopted requiring payment of the innkeeper's tax to the County Treasurer instead of the Department of State Revenue, the County Treasurer has the same right and powers with respect to collecting this tax as the Department of State Revenue. In addition, the rights and powers of the Treasurer includes the power to grant refunds of innkeepers tax. Persons desiring a refund should submit a claim for a refund to the County Treasurer, as provided for by Indiana law.

(D) *List of Delinquent Taxpayers.* On or before December 31 of each year, the Commission will deliver to the County Treasurer a list of businesses and individuals who have failed to remit the Innkeepers Tax as required by law, and the Treasurer will collect the tax as provided for by law.

(Ord. 2-86, passed 5-19-86; Am. Ord. 88-4A, passed 9-6-88; Am. Ord. 92-5, passed 12-92; Am. Ord. 98-, passed 4-28-98. Ord 2012-18, passed 12-28-12; Am Ord. 2017-11, passed 8-11-17).

CHAPTER 111: RETAIL FOOD ESTABLISHMENTS

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§111.01 TITLE

This chapter and all ordinances supplemental or amendatory hereto shall be known as the Food Establishments Regulations of Montgomery County, and may be cited as such and will be referred to herein as "this chapter".

§111.02 PURPOSE

The purpose of this chapter is to provide minimum standards for the prevention and suppression of disease and health risks associated with the preparation and distribution of food through foodservice operations within Montgomery County, and to otherwise promote the mission of the food protection program to protect the health of all persons in Montgomery County, Indiana.

§111.03 AUTHORITY

The Health Officer of Montgomery 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 chapter, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this chapter.

§111.04 ADOPTION OF REGULATIONS BY REFERENCE

(A) The regulations of the Indiana State Department of Health as found in Title 410 IAC 715.5, Title 410 IAC 7-22, 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 Montgomery County Health Department.

§111.05 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.

111.05.01 BOARD. The Montgomery County Board of Health of Montgomery County, Indiana.

111.05.02 CERTIFIED FOOD HANDLER. As defined in Rule 410 IAC 7-22 means a food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program.

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

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

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

111.05.06 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 724; however, it does not include a bed and breakfast establishment.

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

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

111.05.09 MICRO MARKET. An unstaffed self-checkout retail food establishment not accessible by the general public; with displays that do not exceed 75 linear feet which contain an automated payment kiosk, located within a business and only accessed by customers of business, employees, or escorted guests known to business.

111.05.10 MICRO MARKET DISPLAY. An open rack; refrigerator; freezer; vending machine; or beverage dispenser for use of food display

111.05.11 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.

111.05.12 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.

111.05.13 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 than 50% of the control of a prior permittee's business.

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

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

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

111.05.17 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.

111.05.18 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.

111.05.19 PERSON IN CHARGE. Means, as defined in 410 IAC 7-24-60, the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

111.05.20 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.

111.05.21 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.

111.05.22 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.

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

111.05.24 VENDING MACHINE. Means the same as the same term defined in 410 IAC 7-24-102; and a self-service device that, upon activation, through insertion of coin, paper currency, token card, key, or by manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

PERMITS

§111.06 PERMIT REQUIREMENTS

It shall be unlawful for any person to sell or give away any food or to operate a food establishment or to act, whether actually or ostensibly, as a food establishment operator within Montgomery County, Indiana, without possessing a valid permit for each such operation from the Health Officer, unless otherwise exempted from the provisions of this chapter. Penalty, see § 111.99

§111.07 POSTING

All permits shall be posted in a conspicuous place in view of the public in each food establishment. With respect to mobile food service establishments, the name, address and telephone number of the permittee shall be conspicuously displayed on each licensed mobile unit not less than two inches in height. In addition, a copy of the permit must be located in each mobile unit at all times for purposes of identification.

Penalty, see § 111.99

§111.08 SEPARATE PERMITS

(A) Separate permits will be required for each food establishment or vending operator regardless of whether or not they are contained in the same building when:

- (1) The management or ownership is separate at the same location; or
- (2) The food establishment is operated by the same management, but as or at separate locations.

(B) Separate permits will not be required for a food establishment that serves alcoholic beverages and is operated under a lease management agreement or similar agreement in which the operator of the food establishment is not the same as the holder of the alcohol license issued by the State of Indiana.

Penalty, see § 111.99

§111.09 APPLICATION FOR PERMIT

(A) The application for a permit shall be made to the Health Officer on forms provided by the Health Officer. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, 24 hour emergency contact information, the address of the establishment, and the number of food establishment personnel employed at the establishment (which shall include the permittee's manager, or other supervisory personnel). Said application shall include the signature of the permittee or an authorized representative of the permittee.

(B) Applications for the following list of establishments require additional information:

- (1) *Micro Market.* The number of Micro Markets intended to be operated, the locations maintained by the permittee where supplies are kept or where displays are repaired or renovated, and the type and form of the food or beverages to be dispensed from the Micro Market Displays.
- (2) *Temporary food service.* The location of any commissary or commissaries and where any supplies will be kept.

§111.10 PERMIT DENIAL

If an application for a permit is denied, the denial shall be in writing and include the specific reasons, with citations to any applicable statute, regulation, or other authority for

the denial. In addition, the applicant's right of appeal shall be noted with reference to the section of this chapter providing for appeals.

§111.11 PERMIT ISSUANCE

A permit shall be issued subsequent to application and upon a determination by the Health Officer that the permittee has complied with all of the applicable provisions of this chapter, the permittee has tendered the appropriate fee as hereinafter specified, and after approval by any other applicable regulatory agency or department, including but not limited to the Building Commissioner, City Engineer, and Fire Department and compliance with any other state or local ordinance, statute, or regulation.

§111.12 TERM

- (A) (1)** The permit for a retail food service establishment, retail food market establishment, mobile food service establishment, mobile food market establishment, bed and breakfast, commissary, or food processing establishment shall be for a term of one year beginning upon the 1st day of January each year.
- (2)** Said permits shall be renewed annually on or before the last day of December; however, if the day of expiration of the permit falls on a weekend or government-recognized holiday, the permittee will be given until the following business day to renew the permit without late fees being assessed. Permits applied for mid-year will qualify for a proration of fees.
- (B)** The permit for a temporary food service establishment shall be for a term not to exceed 14 consecutive days.
- (C)** Any permit for a farmers market shall be for a term of up to one year running from March 1 the year of issue to February 28 the year after issue.

§111.13 PERMIT NOT TRANSFERABLE

No permit issued to any permittee under this chapter shall be transferable between locations or between operators.

CONSTRUCTION, RENOVATION, AND ALTERATION OF FOOD ESTABLISHMENTS

§111.14 CONSTRUCTION

All food establishments which are hereinafter constructed or renovated shall conform in their construction to the applicable requirements of 410 IAC 7-24, as amended, as well as with this chapter and all applicable building, zoning and fire codes.

Penalty, see § 111.99

§111.15 PLANS

No construction, renovation, or alteration for any food establishment shall begin without the construction, renovation, or alteration plans being first submitted to and approved by the Health Officer. Applications, including any specificity required for particular materials required by any regulatory agency, must be filled out in full or the application may be denied. Penalty, see § 111.99

§111.16 EQUIPMENT

All equipment installed in a food establishment for use in the cleansing and bactericidal treatment of utensils, or in the preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products, shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

Penalty, see § 111.99

§111.17 PROHIBITED EQUIPMENT

The Health Officer may prohibit the further use of any equipment that fails to meet the requirements of this chapter or any other rule, regulation, or statute that applies to the purposes of this chapter. Penalty, see § 111.99

§111.18 COMPLIANCE

All individuals and entities regulated by this chapter must fully comply at all times with all local and state building, zoning, and fire codes as a condition of any permit. Failure of any permittee to fully comply with any applicable building, zoning, and fire code shall be the basis for the suspension, immediate closure or revocation or nonrenewal of any permit issued hereunder. Penalty, see § 111.99

§111.19 GREASE TRAP

Unless exempted by that agency or authority having jurisdiction, all food establishments shall be required to install a grease interceptor in the waste line leading from sinks,

drains and other fixtures or equipment where grease may be introduced into the drainage or sewage systems in quantities that can affect line stoppage or hinder sewage treatment. The grease interceptor must be installed in such a manner that meets all applicable requirements of any applicable Building Department and shall be located in such areas as are easily accessible for cleaning. Penalty, see § 111.99

APPLICATION AND PERMIT FEES

§111.20 FEES

Prior to the issuance or renewal of any permit, each permittee shall first tender to the Montgomery County Health Department an application fee and a permit fee for each such operation in accordance with the classification as established in the following schedule of fees.

§111.21 PLAN REVIEW 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.

PLAN REVIEW FEE	\$175.00
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(B) 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 \$100.00 payable prior to opening the food establishment.

(Am. Ord. 2023-34, passed 12-20-2023)

§111.22 FEES FOR RENEWAL

Upon renewal or transfer (not requiring plan review) of permits, the following fees will apply:

PERMIT FEES - RETAIL FOOD MARKET ESTABLISHMENT

(a) Up to 10,000 square feet:	\$125.00
(b) 10,001 to 35,000 square feet:	\$175.00
(c) 35,001 to 60,000 square feet:	\$225.00
(d) 60,001 square feet and over:	\$325.00

PERMIT FEES - RETAIL FOOD SERVICE ESTABLISHMENT

(a) 1 through 10 employees:	\$125.00
(b) 11 through 40 employees:	\$175.00
(c) 41 and more employees:	\$250.00

REGISTRATION FEE - FARMERS MARKET

(a) Home Based Vendor	\$10.00
(b) Not-For-Profits	NO FEE - REGISTRATION ONLY

PERMIT FEES – MICRO MARKET

(a) 1 to 20 food or beverage displays	\$100.00
(b) 21 to 50 machines	\$150.00
(c) 51 or more machines	\$175.00

PERMIT FEES - TEMPORARY FOOD SERVICE OR FOOD MARKET ESTABLISHMENT

(a) 3 days or less of operation	\$30.00
(1) Each additional day	\$5.00
(b) 3 Month	\$40.00
(c) 6 Month	\$70.00
(d) 9 Month	\$90.00

PERMIT FEES – BED AND BREAKFAST – no plan review fee required

(a) One year	\$100.00
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MISCELLANEOUS FEES

(1) Permit replacement fee	\$15.00
(2) Processing fee (in addition to permit fee) applicable to any new permit or transfer	\$30.00

(Am. Ord. 2023-34, passed ___-__-2023)

§111.23 PERMIT REVOKED

A food service establishment permit shall be revoked if false information is given on the application or the application is not properly or accurately completed.

§111.24 NO PERMIT OR LATE RENEWAL

Should any permittee fail to obtain the permit prior to the opening of the food establishment for business, or should any permittee fail to renew a permit as required by this chapter, then said annual fee shall be 125% of the annual fee set forth above for that particular food establishment. Nothing in this section shall prevent the Health Officer from exercising any other rights or duties regarding suspension, closure, or revocation of the permit with regard to any food establishment.

§111.25 EXEMPTIONS

(A) The permit fee provisions of this chapter shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey or cider; provided that, nothing herein shall be construed to limit the Health Officer's authority to inspect any such stands in order to ensure public health.

(B) Food establishments which comply with the terms and provisions of I.C.16-42-5-4 (as may be recodified and remaining applicable to exempt organizations), shall upon proof of exemption be exempt from the provisions of this chapter unless they waive said exemption. Exempt organizations such as sports leagues, church-sponsored soup kitchens, churches, and temporary senior citizen feeding sites are exempt from the permit provisions of this chapter.

(C) Food establishments which sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nutmeats, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this chapter.

(D) Vending machines which dispense non-potentially hazardous food or drink products in prepackaged or pre-bottled form, shall be exempt from the provisions of this chapter.

§111.26 WITHHOLDING PERMIT DUE TO DELINQUENT PERSONAL PROPERTY TAX

Prior to issuing any new or renewal permit, the applicant or permittee shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the applicant or permittee is not delinquent in the payment of any personal property taxes. If applicant or permittee does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the applicant or permittee are paid in full, including penalties.

(Ord. 2003-1, passed 1-28-03; Am. Commissioners Ord. 2008-1, passed 2-11-08; Am. Commissioners Ord. 2008-8, passed 6-23-08).

§111.27 MINIMUM STANDARDS INSUFFICIENT

The provisions of this chapter are intended to provide standards for licensing for and inspection of food establishments. Nothing contained in this chapter shall be construed to require the Health Officer to issue or prevent the revocation of a permit if, after investigation by the Health Officer, the Health Officer concludes that issuance or continuation of a permit results in unacceptable health risks resulting from the size or configuration of the food establishment, change of use or type of food being served compared with existing facilities for the food establishment, and the likelihood that efforts to ameliorate increased health risks resulting therefrom will be unsuccessful. Any decision by the Health Officer to refuse to issue a permit or to revoke a permit for reasons found in this section shall entitle an aggrieved food establishment to a public hearing as provided in this chapter and a right to appeal as provided herein or by law.

MINIMUM SANITARY REQUIREMENTS

§111.28 SANITARY REQUIREMENTS

All food establishments, retail food markets, farmers markets, bed and breakfasts, vending operators, and food and beverage vending machines shall comply with at least the minimum sanitary requirements specified by the Indiana State Department of Health as provided in 410 IAC 7-24 and 410 IAC 7-22, and as those regulations may be amended or superseded hereafter. Penalty, see § 111.99

EDUCATION

§111.29 FOOD SAFETY

(A) Every person who is employed, or is about to be employed in a food establishment, shall be familiar with the requirements of 410 IAC 7-24. A copy of 410 IAC 7-24 shall be kept on the premises at all times. All food establishment personnel employed by a food establishment may be required to attend a food safety education program for any of the following reasons:

- (1)** If the establishment is subjected to immediate closure by the Health Officer and the education program is deemed necessary by the Health Officer.
- (2)** If the Health Officer determines the necessity of a food safety education program as a result of a hearing dealing with violations of this chapter.
- (3)** If upon inspection it is determined that remedial efforts have not been made to correct prior violations of this chapter.

INSPECTIONS

§111.30 FREQUENCY OF INSPECTION

Each food establishment for which a permit is required under the provisions of this chapter shall, and any other individual or entity which delivers or transfers food, may be inspected as frequently as deemed appropriate by the Health Officer.

§111.31 AUTHORITY TO INSPECT AND COPY RECORDS

The provisions of I.C. 16-20-8-1 et. seq. or any amendment thereof shall apply to inspections and access to records of inspections.

VIOLATIONS

§111.32 PROCEDURES WHEN VIOLATIONS ARE NOTED

- (A)** At the time of an inspection any violation(s) discovered by the Health Officer shall be recorded on an inspection report that is equivalent to the Indiana State Department of Health inspection report.
- (B)** A copy of the inspection report stating any violation(s) and their corrective dates shall be given to the person-in-charge of the establishment, or the report shall be delivered by mail to the address of the establishment listed on the permit application, as required under I.C. 16-20-8-5.
- (C)** The Health Officer, or the Health Officer's authorized representative, shall have the final approval on all food establishment inspection reports and related documents; and shall reserve the right to make changes as deemed necessary in accordance with I.C. 16-20-8-5.

§111.33 EXAMINATION AND CONDEMNATION OF FOOD

The Health Officer may, along with any other enforcement agency (if applicable), upon written notice to the owner or person in charge, place a hold order on any food if that food is in violation of any state laws. A written order must specify the reason for the hold order. The Health Officer or their authorized agent shall tag, label, or otherwise identify any food subject to the order and follow applicable statutes or regulations concerning disposal or future use or disposition of the food.

§111.34 EMERGENCY CLOSURE

- (A)** The Health Officer shall issue emergency closure for a retail food establishment, bed and breakfast, micro-market, and farmers market for any of the following reasons:
 - (1)** Failure to possess a valid food permit required by this chapter.
 - (2)** The presence of any condition that poses an imminent health hazard or substantial harm to the public health and safety.
- (B)** Procedure. Any closure order will be in writing. The order shall identify the food establishment, describe the specified grounds upon which closure is based, direct the immediate closure of the establishment and vacating of the premises by consumers, list the corrective actions necessary to re-open the food establishment, and state that a hearing on the emergency closure may be requested by the owner or operator. The order shall be served in person on the owner, or person in charge of the establishment.

§111.35 TEMPORARY FOOD SERVICE ESTABLISHMENT PERMIT SUSPENSION/ CLOSURE

(A) The Health Officer may suspend a permit for a temporary food establishment for any of the following reasons without prior notice or hearing:

(1) The operation of the temporary food establishment is deemed an imminent health hazard by the Health Department due to certain conditions, including but not limited to Title IAC 410 724 or this chapter.

(2) Interference with the Health Officer to perform their duties, including denial of access to the premises.

(B) When a permit is suspended the temporary food service establishment shall cease operation immediately. The suspension shall become effective upon service of a written notice to the permit holder or person in charge of the establishment.

(C) The Health Department may end the suspension at any time with or without a hearing if it is determined that the reason of the suspension no longer exists.

§111.36 PERMIT REVOCATION

(A) The Health Officer, after providing an opportunity for a hearing shall permanently revoke a retail food establishment, bed and breakfast establishment, vending machine/ micro market operation, or farmers market establishment permit for serious or repeat violation(s) of any of the requirements of Title IAC 410 7-24 or this chapter; or, interference with the Health Officer or the Health Officer's agent(s) in the performance of their duties.

(B) Prior to such action, the Health Officer shall notify the permittee in writing stating the reasons for the permit revocation and advising that the permit shall be permanently revoked after no less than ten days following service of such notice; unless a written request for a hearing is filed with the Health Department by the permittee prior to the date upon which the permit revocation is to become effective. The permit may be suspended for cause pending its revocation or a hearing.

(C) If no request for a hearing is filed prior to the date the permit revocation is to become effective, revocation of the permit becomes final.

§111.37 HEARING

(A) All hearings required under this or any other section shall be open to the public and held with sufficient written notice to the permittee of time, place, and nature thereof to enable the permittee to appear and participate in the hearing. The notice of hearing shall be

served upon the permittee by leaving or mailing by certified mail the notice to the address listed on the permit application as the permittee's mailing address or such other address as the permittee shall designate in writing to the Health Officer.

(B) At any hearing required under this chapter, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

(C) Upon the conclusion of such hearing, the Health Officer shall enter a final order, subject to the right of appeal to a court having jurisdiction of the parties and of the subject matter of the appeal.

ENFORCEMENT

§111.38 ENFORCEMENT

It shall be the duty of the Health Officer to enforce the provisions of this chapter. Any permit issued in conflict with the provisions of this chapter shall be null and void. A violation of an order issued by the Health Officer shall be considered to be a violation of this chapter and of Indiana law, when applicable.

§111.39 VIOLATIONS

Whenever the Health Officer determines that any entity subject to the provisions of this chapter, is in willful violation of any of the provisions of this chapter, in addition to any other remedy or penalty imposed by this chapter, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Montgomery County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this chapter.

§111.40 INJUNCTION

The Health Officer may bring an action for an injunction in the Circuit or any Superior Court of Montgomery County, Indiana, to restrain any person from violating the provisions of this chapter, to cause such violation(s) to be prevented, abated or removed, or to otherwise enforce this chapter.

§111.41 EXPENSE

Any person violating any of the provisions of this chapter shall be liable to the Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

§111.42 CUMULATIVE

The remedies provided in this subchapter shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

§111.43 REQUEST FOR NOTICE

Any entity, which is not a Retail Food Establishment, intending to host an event in Montgomery County which involves providing food to the public for the purpose of fundraising, customer appreciation, grand openings, community dinners, may request a courtesy public service consultation by requesting such a consultation from the Health Department.

§111.99 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) The following civil penalties (fines) 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.

(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 §111.36 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.

CHAPTER 112: TATTOO PARLORS

Section

- 112.01 Sanitary operation of tattoo parlors
- 112.02 Definitions
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§112.01 SANITARY OPERATION OF TATTOO PARLORS

All places, individuals and businesses that offer to affix any type of permanent tattoo to a person shall be regulated by this chapter and shall maintain the premises in which tattoos are performed and equipment used in the tattoo process in a sanitary manner.
(Ord. 2004-1, passed 10-26-04)

§112.02 DEFINITIONS

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

BLOOD. Human blood.

BLOODBORNE PATHOGENS. Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to the following:

- (1) HBV ;
- (2) HCV; and/or
- (3) HIV.

CLEANED. Removal of all visible dust, soil, or any other foreign material.

CONTAMINATED. The presence or reasonably anticipated presence of blood or OPIM on an item or surface.

DECONTAMINATED. The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles at the surface or items is rendered safe for handling, use, or disposal.

DEPARTMENT. The Montgomery County Department of Health. The Montgomery County Board of Health shall be considered part of the DEPARTMENT except for the purpose of conducting any type of administrative hearing for the appeal of any decision of the DEPARTMENT or Health Officer or appointed representative.

HBV. The hepatitis B virus.

HCV. The hepatitis C virus.

HEALTH OFFICER. The duly appointed **HEALTH OFFICER** or appointed representative as set forth in I.C. 16-20-2-16 enforcing this chapter. The **HEALTH OFFICER** or appointed representative may designate someone in the health department to perform those duties and responsibilities of the **HEALTH OFFICER** or appointed representative.

HTV. The human immunodeficiency virus.

INFECTIOUS WASTE. Waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. **INFECTIOUS WASTE** includes, but is not limited to the following:

- (1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps;

- (2) Infectious biological cultures, infectious associated biological and infectious agent stock;
- (3) Pathological waste;
- (4) Blood and blood products in liquid and semi-liquid form;
- (5) Carcasses, body parts, blood and body fluids in liquid and semi-liquid form in the bedding of laboratory animals; and/or
- (6) Other waste that has been intermingled with ***INFECTIOUS WASTE***.

OTHER POTENTIALLY INFECTIOUS MATERIALS or OPIM.

- (1) Human body fluids as follows:
 - (a) Semen;
 - (b) Vaginal secretions;
 - (c) Cerebrospinal fluid;
 - (d) Synovial fluid;
 - (e) Pleural fluid;
 - (f) Pericardial fluid;
 - (g) Peritoneal fluid;
 - (h) Amniotic fluid;
 - (i) Saliva in dental procedures;
 - (j) Any body fluid that is visibly contaminated with blood; and/or
 - (k) All body fluids where it is difficult or impossible to differentiate between body fluids.
- (2) Any unfixed tissue or organ, other than intact skin, from a human living or dead.
- (3) HIV- containing cell or tissue cultures, and HIV- or HBV- containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

PARENTERAL. Piercing the mucous membranes.

PERSONAL PROTECTIVE EQUIPMENT. Specialized clothing or equipment worn for protection against contact with blood or **OPIM**.

SECURE AREA. An area that is designated and maintained to prevent the entry of unauthorized persons.

SEMI-LIQUID BLOOD, BLOOD PRODUCT. Blood, blood products that have intermediate fluid properties and are capable of flowing in manner similar to liquid.

STERILIZE. The use of physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

STORE. The containment of infectious waste in such a manner as not to constitute collection, treatment, transport, or disposal.

TATTOO.

(1) Any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments.

(2) Any design, letter, scroll, figure, symbol done by scarring; upon or under the skin.

(3) Any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

TATTOO ARTIST. Any person who provides a tattoo to an individual or who performs any type of piercing the mucous membranes or the skin through which needles or other objects are inserted from temporary or permanent placement.

TATTOO OPERATOR. Any person who controls, operates, conducts, manages or owns any tattoo parlor.

UNIVERSAL PRECAUTIONS. An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infected with HIV, HBV, HCV, and other bloodborne pathogens.

(Ord. 2004-01, passed 10-26-04)

§112.03 TATTOO OPERATOR TRAINING RESPONSIBILITIES.

An individual or entity that is a tattoo operator shall comply with the following training responsibilities:

- (A) Ensure that the training described in the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.
- (B) Ensure that training on the handling of infectious waste is provided to all tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM.
- (C) Ensure that a record of training described in division (A) is maintained, as required under the Indiana Occupational Safety and Health Administrator's Blood Borne Pathogens Standard (as found in 29 CFR 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.
- (D) Ensure that all record of training described in division (B) is maintained. (Ord. 2004-01, passed 10-26-04)

§112.04 TATTOO OPERATOR RESPONSIBILITIES

- (A) The tattoo operator shall ensure that tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood are provided 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 CFR 1910.1030.
- (B) The tattoo operator shall require tattoo artists, anyone employed by the tattoo parlor, or anyone acting on behalf of the tattoo parlor 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 section 27 of this rule.
- (C) The tattoo operator shall display a description of compliance with the requirements contained in division (D).
- (D) The tattoo operator shall display 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.

(E) The tattoo operator shall insure that no illicit drugs or alcohol are consumed or permitted in the tattoo parlor.

(F) The tattoo operator shall ensure that no tattoo shall be affixed to any person that is intoxicated.

(Ord. 2004-01, passed 10-26-04)

§112.05 TATTOO OPERATOR POLICIES

The tattoo operator shall develop a written policy in compliance with this rule and the requirements of the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030) that:

(A) Requires the use of universal precautions when performing tattooing and any activity or duty that includes any reasonable anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(B) Includes the safe handling of infectious waste; and

(C) Provide sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle infectious waste safely.

(Ord. 2004-01, passed 10-26-04)

§112.06 TATTOO ARTIST MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS

(A) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under the requirements of the Indiana Occupational Safety and Health Administration's Blood Borne Pathogen Standard (as found in 29 CFR 1910.1030). The programs under this section shall be as follows:

(1) A bloodborne pathogen training session provided by the tattoo operator meeting the requirements under the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 29 CFR 1910.1030).

(2) Any bloodborne pathogen continuing education program accredited by a health care licensing entity.

(B) All tattoo artists, anyone employed by the tattoo parlor, and anyone acting on behalf of the tattoo parlor who has a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the tattoo parlor's policies on the handling of infectious waste.

(Ord. 2004-01, passed 10-26-04)

§112.07 PATRONS RECORDS

Records of each patron shall be maintained for two years. The record shall include the following:

(A) Patron's name;

(B) Address;

(C) Age; age must be verified by two items of identification, one of which must be a valid government-issued identification;

(D) Date tattooed;

(E) Design of the tattoo;

(F) Location of the tattoo on the patron's body;

(G) The name of the tattoo artist who performed the work; and

(H) Parental consent must be in writing when performed on any minor as permitted by law.

(Ord. 2004-01, passed 10-26-04)

§112.08 ILLNESS

Tattoo artists who are experiencing symptoms of acute disease that include, but are not limited to:

(A) Diarrhea;

(B) Vomiting;

(C) Fever;

(D) Rash;

(E) Productive cough;

(F) Jaundice; or

(G) Draining (or open) skin infections, boils, impetigo, or scabies; shall refrain from providing tattoos.

(Ord. 2004-01, passed 10-26-04)

§112.09 HAND WASHING

(A) Handwashing facilities shall be readily accessible in the same room where tattooing is provided.

(B) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.

(C) Only single-use towels shall be used.

(Ord. 2004-01, passed 10-26-04)

§112.10 PERSONAL PROTECTIVE EQUIPMENT

Appropriate personal protective equipment shall be worn as follows:

(A) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.

(B) Masks in combination with eye protection devices, such as goggles or glasses with solid side shield, or chin-length face shield, shall be worn whenever splashes spray splatter, or doubles of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(C) Disposable gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. Disposable gloves shall not be reused.

(D) Gloves shall be worn when decontaminating environmental surfaces and equipment.

(Ord. 2004-01, passed 10-26-04)

§112.11 TATTOOING EQUIPMENT

(A) Only single-use razors shall be used to shave the area to be tattooed.

- (B) All stencils shall be properly disposed of after a single-use.
- (C) If the design is drawn directly onto the skin, it shall be applied with a single-use article only.

(Ord. 2004-01, passed 10-26-04)

§112.12 NEEDLES

- (A) Needles shall be individually packaged and sterilized prior to use.
- (B) Needles shall be single-use only.
- (C) Needles shall be discarded in sharps containers immediately after use.
- (D) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

(Ord. 2004-01, passed 10-26-04)

§112.13 REUSABLE EQUIPMENT

- (A) Heating procedures capable of sterilization must be used when heat stable, non disposable equipment is sterilized.
- (B) Records must be maintained to document the following:
 - (1) Duration of sterilization technique.
 - (2) Determination of effective sterility, such as use of a biological indicator, is performed monthly.
 - (3) Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.
- (C) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.
- (D) Reusable contaminated equipment shall be:
 - (1) Placed in puncture-resistant containers,
 - (2) Labeled with the biohazard symbol;
 - (3) Leakproof on both sides and bottom, and

- (4) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.
- (E) Contaminated reusable equipment shall be effectively cleaned prior to sterilization.
- (F) Reusable tubes shall be effectively cleaned and sterilized before reuse. (Ord. 2004-01, passed 10-26-04)

§112.14 DYES OR PIGMENTS

- (A) All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.
- (B) In preparing dye or pigments to be used by tattoo artists, only nontoxic sterile materials shall be used. Single-use or individual portions of dyes or pigments in clean, sterilized containers shall be used for each patron.
- (C) After tattooing, the remaining unused dye or pigment in single-use or individual containers shall be discarded along with the container.
(Ord. 2004-01, passed 10-26-04)

§112.15 WORK ENVIRONMENT

- (A) No tattooing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.
- (B) Live animals shall be excluded from areas where tattooing is being conducted. This exclusion does not apply to the following:
 - (1) Patrol dogs accompanying security or police officers.
 - (2) Guide dogs accompanying the following:
 - (a) Blind persons;
 - (b) Partially blind persons;
 - (c) Physically disabled persons;
 - (d) Guide dog trainers; or
 - (e) Persons with impaired hearing.

(C) Eating, drinking, smoking or applying cosmetics shall not be allowed in the work areas where there is a likelihood of exposure to blood or OPIM.

(D) Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

(E) All equipment and environmental surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization that have been contaminated by blood shall be cleaned and decontaminated by blood shall be cleaned and decontaminated.

(G) All work surfaces shall be:

(1) Non-absorbent;

(2) Easily cleanable;

(3) Smooth, and

(4) Free of

(a) Breaks;

(b) Open seams;

(c) Cracks;

(d) Chips;

(e) Pits; or

(f) Similar imperfections.

(H) Disinfectant solutions shall be:

(1) A hospital-grade, Tuberculocidal Environmental Protections (EPA) registered disinfectant; or

(2) Sodium hypochlorite, 0.5% concentration, by volume (common household bleach is 10% concentration in water); the solution shall be dated and shall not be used if it is more than 24 hours old.

(Ord. 2004-01, passed 10-26-04)

§112.16 INFECTIOUS WASTE CONTAINMENT.

(A) Contaminated disposable needles or instruments shall be:

(1) Stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent expulsion, labeled with the biohazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(B) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated shall be placed in containers that meet the following requirements:

(1) Impervious to moisture;

(2) Sufficient strength and thickness to prevent expulsion;

(3) Secured to prevent leakage expulsion;

(4) Labeled with the biohazard symbol; and

(5) Effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(D) If infectious waste is stored prior to final disposal, all persons subject to this rule shall store infectious waste in a secure area that:

(1) Is locked or otherwise secured to eliminate access by or exposure to the general public;

(2) Affords protection from adverse environmental conditions and vermin; and

(3) Has a prominently displayed biohazard symbol.

(E) Infectious waste shall be stored in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction.

(F) Reusable containers for infectious waste must be disinfected each time that they are emptied unless the surfaces of the reusable containers have been protected from

contamination by disposable liners, bags or other devices that are removed with the infectious waste. (Ord. 2004-01, passed 10-26-04)

§112.17 TREATMENT AND TRANSPORT OF INFECTIOUS WASTE

(A) All tattoo operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1)** Incineration in an incinerator designed to accommodate infectious waste;
- (2)** Steam sterilization;
- (3)** Chemical disinfection under circumstances where safe handling of the waste is assured;
- (4)** Thermal inactivation;
- (5)** Irradiation; or
- (6)** Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

- (1)** Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and
- (2)** Effectively treat infectious waste in accordance with this rule before it is compacted. (D) The tattoo operator shall ensure that infectious waste effectively treated or not is transported off-site in compliance with 410 I.A.C. 1-3.

(Ord. 2004-01, passed 10-26-04)

§112.18 PERMITS

(A) Business. Each tattoo parlor operation shall obtain a permit from the Montgomery County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be \$100 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth

herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the tattoo parlor in the places where the tattoos are performed and clearly visible to the public.

(B) *Tattoo Artist.* Every person that desires to perform any tattoo shall obtain a “Tattoo artist permit” from the Montgomery County Health Department. This permit must be obtained before any tattoos are affixed to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in § 112.06. The cost of said permit shall be \$50 and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Montgomery County Health Department shall provide the appropriate forms for this permit. Said permits shall be posted at the tattoo parlor in the place where the tattoos are performed and clearly visible to the public.

(C) *Withholding Permit if Property Taxes Delinquent.* Prior to issuing any new or renewal permit the tattoo parlor or tattoo artist shall be required to obtain from the Montgomery County Treasurer a certificate of clearance verifying that the tattoo parlor or tattoo artist is not delinquent in the payment of any personal property taxes. If the tattoo parlor or tattoo artist does not obtain such certificate of compliance, the Montgomery County Health Department shall withhold issuance of a new or renewal permit until any delinquent personal property taxes owed by the tattoo parlor or tattoo artist are paid in full, including penalties. (Ord. 2004-01, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08); Am. Commissioners Ord. 2008-8, passed 6-23-08; Am Ord. 2023-33, passed 12-20-2023)

§112.19 INSPECTION

The Montgomery County Health Department shall conduct inspections of each and every tattoo parlor located in Montgomery County, Indiana. The Health Department shall conduct a minimum of three inspections per year. Additional inspections may be conducted by the Health Department as they determine and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Health Department shall be corrected immediately. The Department shall conduct follow up inspections to determine compliance with this chapter. (Ord. 2004-01, passed 10-26-04)

§112.20 REVOCATION OF PERMIT

The Health Officer or appointed representative may suspend or revoke the permit of any tattoo artist or operator for any period of time for any violation of this chapter, state or federal regulations concerning bloodborne pathogens, tattoos or workplace regulations (OSHA). The suspension and/or revocation shall be effective upon issuance by the Health Officer or appointed representative. The operator or artist may have the permit reinstated upon compliance with this chapter, state or federal regulations concerning bloodborne pathogens, tattoos or workplace regulations (OSHA) and to the satisfaction of the Health Officer or appointed representative. Appeals of orders of revocation shall be conducted pursuant to I.C.

4-21.5-3-1 et seq. The Board of Health shall conduct administrative hearings concerning the suspension or revocation of any permit issued herein as set forth in I.C. 4-21.5-3 et seq.
(Ord. 2004-01, passed 10-26-04)

§112.99 PENALTY

- (A)** If a tattoo artist or operator shall fail to obtain a permit prior to the conduct of their business or at any time after one has been issued, but has expired, that tattoo artist and/or operator may be subject to a fine of not more than \$200. Each day the tattoo artist and/or operator shall be in violation of this chapter shall constitute a separate offense.
- (B)** The Health Officer or appointed representative may bring an action in the Circuit or Superior Court to enforce this chapter. The Health Officer or appointed representative shall be entitled to recover all costs and expenses associated with any action for enforcement of this chapter including reasonable attorney fees.

(Ord. 2004-1, passed 10-26-04; Am. Commissioners Ord. 2008-6, passed 3-24-08)

CHAPTER 113: SYNTHETIC CANNABINOIDS

Section

- 113.01 Definitions
- 113.02 Sale of Synthetic Cannabinoids Prohibited
- 113.03 Enforcement
- 113.04 Defenses

§113.01 DEFINITION

SYNTHETIC CANNABINOID. As used in this chapter, the term “synthetic cannabinoid” means any of the following:

- (A) All parts of the plant presently classified botanically as *Salvia Divinorum*, whether growing or not, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant its seeds or its extract;
- (B) HU-210 a substance also known as (6aR, 10aR)- 9-(Hydroxymethyl) 6,6-dimethyl-3-(2methyloctan-2-yl)- 6a, 7, 10, 10a-tetrahydrobenzo[c]chromen- 1-ol;
- (C) JWH-018, a substance also known as Naphthalen-1 -yl-(1-pentylindol-3-yl) methanone;
- (D) JWH-073, a substance also known as 1-yl(1butylindol-3-yl) methanone;
- (E) TFMPP, a substance also known as 1-[3-(trifluoromethyl)phenyl]piperazine;
- (F) Cannabicyclohexanol, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methylnonan-2-yl)phenol;
- (G) CP-47-497, a substance also known as 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2methyloctan-2-yl)phenol;
- (H) JWH-250, a substance also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone;
- (I) Structural analogs of any of these substances.
- (J) Any herbal-based substance sold under the name of K2, Spice, Acapulco Spices, Serenity Now, Spice Gold, Shokotsu, Afghan Incense, Baked, Black Magic, Buzz, Cherry Charm, Fire Bird, Fire “N” Ice, Pulse, Solitude or Voodoo, or any other herbal-based substance containing the foregoing described substances.
(Commissioners Ord. 2010-4, passed 10-25-10)

§113.02 SALE OF SYNTHETIC CANNABINOID PROHIBITED

A person may not sell, barter, give, publicly display for sale, or attempt to sell, give or barter, or to possess any synthetic cannabinoid. (Commissioners Ord. 2010-4, passed 10-25-10)

§113.03 ENFORCEMENT

- (A)** The Montgomery County Sheriff's Department is responsible for the interpretation and civil enforcement of this chapter.
- (B)** Enforcement personnel from the Montgomery County Sheriff's Department may seize and destroy synthetic cannabinoids that are in violation of this chapter.
- (C)** A person in violation of this chapter shall be fined two hundred and fifty dollars (\$250.00). Each day a violation occurs or continues constitutes a separate offense.

(Commissioners Ord. 2010-4, passed 10-25-10)

§113.04 DEFENSES

- (A)** It is a defense under this Chapter that a person otherwise in violation is acting at the direction of an authorized agent of the County of Montgomery to enforce or ensure compliance with this Chapter.
- (B)** It is a defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, under the direction or prescription of a person who holds an unlimited license to practice medicine under I.C. 25-22.5 or a license to practice dentistry under I.C. 25-14.
- (C)** It is defense under this Chapter that a person otherwise in violation is acting, with respect to the violation, in connection with a bona fide research or scientific endeavor funded by public entities or non-profit organizations.

(Commissioners Ord. 2010-4, passed 10-25-10)

CHAPTER 114 DIRECT SELLERS

Section

- 114.01 Definitions
- 114.02 Exemptions
- 114.03 Registration Requirements
- 114.04 Additional information required
- 114.05 License and license fee
- 114.06 Investigation

- 114.07 Appeal
- 114.08 Conduct regulations
- 114.09 Revocation of registration

§114.01 **DEFINITIONS**

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

(A) CHARITABLE ORGANIZATION. Any not-for-profit corporation or benevolent or philanthropic organization whose purpose is to promote education, religion or other philanthropic interests.

(B) DIRECT SELLER. Any individual who, individually, or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of the individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(C) GOODS. Personal property of any kind, and shall include goods provided incidental to services offered or sold.

(D) PERMANENT MERCHANT. A direct seller who, for at least one year prior to the consideration of the application of this article to the merchants, has continuously operated an established place of business in this County or has continuously resided in this County and now does business from his residence.

(Comm. Ord 2016-24, passed 9-12-16)

§114.02 **EXEMPTIONS**

The following shall be exempt from all provisions of this article:

- (A)** Any person delivering newspapers, fuel, dairy products or bakery goods to and at the request of regular customers on established routes;
- (B)** Any person selling goods at wholesale to dealers in the goods;
- (C)** Any person selling agricultural products which the person has grown or produced in the county and is being sold by a resident of the county;

- (D)** Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by the merchant within the county and who delivers the goods in their regular course of business;
- (E)** Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by the person;
- (F)** Any person who has had, or one who represents a company which has, a prior business transaction, such as a prior sale of credit arrangement, with the prospective customer;
- (G)** Any person selling or offering for sale a service unconnected with the sale of goods;
- (H)** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law; or
- (I)** Any employee, officer or agent of a charitable organization which has secured a permit as provided for elsewhere in this code.

(Comm. Ord 2016-24, passed 9-12-16)

§114.03 REGISTRATION REQUIREMENTS

(A) Applicants must complete and return to the Montgomery County Sheriff's Office, during the hours of 8 a.m. to 4 p.m. Monday through Friday, at least three days before the applicant shall be authorized to do business, a registration form furnished by the Sheriff which shall require the following information:

- (1) Name, permanent address, telephone number and temporary address, if any;
- (2) Age, height, weight, color of hair and eyes;
- (3) Name, address and telephone number of the person, firm association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
- (4) Temporary address and telephone number from which business will be conducted, if any;
- (5) Nature of business to be conducted and a brief description of the goods and any services offered;
- (6) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
- (7) The last three previous cities, counties, or towns where the applicant conducted similar business;

(8) Place where applicant can be contacted for at least seven days after leaving the county; and

(9) Statement as to whether applicant has been convicted of any crime or ordinance violation related to the applicant's transient merchant business within the last five years, the nature of the offense and the place of conviction.

(B) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.04 ADDITIONAL INFORMATION REQUIRED

Each applicant shall present to the Montgomery County Sheriff's Office for examination:

- (A)** A driver's license or some other proof of identity as may be reasonably required;
- (B)** A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities; and
- (C)** A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law. The certificate shall state that the applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(Comm. Ord. 2016-24, passed - -16)

§114.05 INVESTIGATION AND REFUSAL

(A) Upon receipt of each application, the Montgomery County Sheriff will refuse to register the applicant if it is determined pursuant to the investigation above, that:

- (1)** The application contains any material omission or materially inaccurate statement;
- (2)** Complaints of a material nature have been received and proven against the applicant by authorities in any of the three previous cities, counties and towns in which the applicant conducted similar business;
- (3)** The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years the nature of which is directly related to the applicant's fitness to engage in direct selling; or

(4) The applicant failed to comply with any applicable provisions of § 114.03.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.06

APPEAL OF DENIAL OR REVOCATION

(A) Any person whose registration is denied or revoked may appeal the denial to the Board of County Commissioners by filing with the Auditor within ten (10) days of the denial or revocation a written appeal. This appeal must state the reasons the application or registrant believes that the denial or revocation is contrary to this ordinance or otherwise contrary to law.

(B) Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

(C) At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross-examine witnesses called by the Sheriff in support of the denial or revocation.

(D) Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.

(E) Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.07

CONDUCT REGULATIONS

The following regulations shall govern the conduct of the registrant.

(A) It shall be unlawful for any direct seller to:

(1) Call at any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment;

(2) To call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning;

(3) To call at the rear door of any dwelling place; or

(4) To remain on any premises after being asked to leave by the owner, occupant or other person having authority over the premises.

(B) It shall be unlawful for a direct seller to misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for

sale, the purpose of the visit, his or her identity or the identity of the organization he or she represents.

(C) It shall be unlawful for any direct seller to impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulation shall be observed.

(D) It shall be unlawful for any direct seller to make any loud noises or use any sound-amplifying device to attract customers in the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

(E) It shall be unlawful for any direct seller to allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(F) Any person, firm or corporation who violates any provision of this article for which another penalty is not specifically provided shall, upon conviction, be subject to a fine in the amount of \$500. Separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.08 REVOCATION OF REGISTRATION

The registration of a direct seller may be revoked by the Montgomery County Sheriff for any violation of this article.

(Comm. Ord. 2016-24, passed 9-12-16)

§114.09 NOTICE OF FINE; APPEAL; PAYMENT OF FINE; COLLECTION

(A) In the event the Sheriff determines that a violation of this section has occurred, the Sheriff will deliver to the violator a fine citation. This citation will either be delivered personally to the violator or mailed to the violator.

(B) All fines are payable to the Sheriff within 30 days of the date of the fine citation.

(C) The violator has 10 days from the date of the issuance of the fine citation to appeal the citation to the Board of County Commissioners. The violator must file a written appeal with the Auditor. This appeal must state the reasons the violator believes that the fine is in error.

(D) Upon receiving the appeal, the Auditor will notify the Board of County Commissioners of the appeal. The Board will conduct a hearing on the appeal within ten (10) days of the Auditor's receipt of the appeal and will provide to the appellant written notice of the appeal hearing. This notice must be mailed to the appellant at the address provided by the appellant at least seven days prior to the appeal hearing.

- (E)** At the hearing on the appeal, the appellant may be represented by an attorney, may present evidence supporting the appeal, and may cross-examine witnesses called by the Sheriff in support of the denial or revocation.
- (D)** Within 10 days of the hearing, the Board will make written findings and conclusions and mail the same to the appellant and the Sheriff.
- (E)** Either the Sheriff or the appellant may appeal the decision of the Board by filing an appeal with a court of competent jurisdiction within 30 days of the Board's decision.
- (F)** If the violator fails to pay the fine within 30 days of the issuance of the citation, or 30 days from the date of the Board's decision if an appeal is filed, the Sheriff will refer the matter to the County Attorney for collection. If the matter is referred to the County Attorney for collection, the violator is liable to Montgomery County for all court costs, filing fees, and reasonable attorney's fees incurred by the County in the collection of the fine and those expenses incurred by the County in conjunction with any appeal.

(Ord. 2016-24, passed 9-12-16)