

ORDINANCE NO. 2025-0519
AN ORDINANCE AMENDING THE FOOD ESTABLISHMENT REGULATIONS
IN WARREN COUNTY, INDIANA

WHEREAS, the Warren County Commissioners previously adopted provisions regulating the inspection and licensing of retail food establishments and bed and breakfast establishments in Warren County, Indiana; and

WHEREAS, the State of Indiana has adopted new provisions regarding the inspection and licensing of such establishments; and

WHEREAS, the Commissioners believe that revision of the County Code to mirror state policy will increase transparency and clarity of the rules and increase efficiency in its interpretation and implementation.

NOW, THEREFORE, BE IT ORDAINED by the Warren County Commissioners that Section 51.01 of the Warren County Code is hereby repealed and replaced as follows:

§ 51.01 FOOD ESTABLISHMENTS

(A) Definitions

1. **Adulterated:** Adulterated has the meaning stated in Indiana code 16-42-1 through 4. (410 IAC 7-26-6)

2. **Employee:** means the person-in-charge, having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a retail food establishment. (410 IAC 7-26-40)

3. **Health Department:** means the Warren County Health Department.

4. **Health Officer:** means the medical doctor serving as the executive officer of the Warren County Health Department or any authorized representative.

5. Law: means applicable, state, and federal statutes, regulations, and local ordinances. (410 IAC 7-26-66).
6. Narrative Report: The section on the Food Service Inspection Report Form where the authorized representative records in written form the violations and/or other pertinent information that are observed during the inspection of a retail food establishment.
7. Owner or Authorized Agent: shall be any person operating a retail food establishment.
8. Permit: means the document issued by the Health Department which authorizes a person to operate a retail food establishment or bed and breakfast establishment.
9. Person: means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.
10. Temporary Food Establishment: The term temporary food establishment means a retail food establishment that operates for a period of not more than 14 consecutive days in conjunction with a single event or celebration. (410 IAC 7-26-124)
11. Wholesome: shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.
12. Written Order: A written letter of abatement generated by the regulatory authority and signed by the Regulatory Authority, that is served to the operator of a retail food establishment or bed and breakfast that has been found in violation of the provisions of this Section, and lists those violations and mandates a specific time by which the abatement.

(B) Permits

1. It shall be unlawful for any person to operate a retail food establishment or bed and breakfast establishment in Warren County who does not possess a valid permit from the

Health Department. Such permit shall be posted in a conspicuous place in plain view of the public.

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

3. A permit for a retail food establishment or bed and breakfast establishment shall be for a term of 1 year beginning January 1, and expiring December 31, of the same year and shall be renewed annually. The permit for a temporary retail food establishment shall be for the term of one continuous operation with duration of 14 days or less. Any permit issued by the Health Department shall contain the name and address of the person to whom the permit is issued, the address of the premises for which same is issued, and such other pertinent data as may be required by the Health Department.

4. A separate permit shall be required for each retail food establishment or bed and breakfast establishment operated or to be operated by any person. A permit issued under this Section is not transferable from one owner to another or from one location to another.

5. The owner of any retail food establishment or bed and breakfast opening for business without first obtaining a valid permit shall immediately cease all operations until a permit has been obtained. The owner of any retail food establishment opening for business without first obtaining a valid permit may be subject to penalties in Section (I) of this Section.

6. A permit may be issued to any person upon completion of steps a-d below.

a. An application and plans as specified in 410 IAC 7-26 is reviewed and approved by the Health Department for new and remodeled retail food establishments and bed and breakfast establishments.

b. A pre-opening inspection is completed by the Health Department for new or substantially remodeled retail food establishments or bed and breakfast establishments.

c. The retail food establishment is in substantial compliance with all applicable requirements of 410 IAC 7-26.

d. Appropriate fees are paid.

(C) Permit Fee

1. See attachment 1: Fee schedule for current rates. Note that a late fee will be assessed on any annual food permit not renewed within 30 days following expiration date. Closure of retail food establishment will be initiated for any retail food establishment or bed and breakfast that has not been renewed within thirty-one (31) days following the expiration date.

2. Permit and Fee Exception: No permit fee shall be paid by an organization that is exempt from the Indiana gross income tax.

3. Exemption from Compliance: An organization that is exempt from the Indiana gross income tax and that offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from complying with the requirements of the Section that may be imposed upon the sale of food at that event if:

a. Members of the organization prepare the food that will be sold;

b. Events conducted by the organization under this section take place for no more than 30 days in any calendar year;

c. The name of each member who has prepared a food item is attached to the container in which the food item has been placed;

d. This section does not prohibit an exempted organization from waiving the exemption and applying for a license under this chapter.

4. The Health Department may forbid the sale of any food product by any charitable organization in which the food product is found to be unwholesome, adulterated, or otherwise unfit for human consumption.

(D) Minimum Requirements for Food Operation. All retail food establishments shall comply with the minimum requirements specified by the Indiana State Department of Health in Rules 410 IAC 7-26 and all addenda, 2 copies of which are on file in the Warren County Health Department for public inspection.

(E) Prohibition. It shall be unlawful for any person to sell through a food operation any food which is unwholesome, adulterated, or misbranded as provided in 410 IAC 7-26. Samples of food may be taken and examined by the authorized representative as often as may be necessary to determine freedom from contamination, adulteration, or misbranding. The authorized representative may, on written notice to the owner or operator, impound and forbid the sale of any food which is, or which he has probable cause to believe is, unfit for human consumption, unwholesome, adulterated or misbranded. Provided that in the case of misbranding, which can be corrected by proper labeling, such food may be released to the operator for correct labeling under the supervision of the authorized representative. The authorized representative may also cause to be removed or destroyed any dairy product, vegetable, fruit or other perishable articles which in his opinion are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

(F) Inspection of Food Operations.

1. Frequency of Inspection: Each retail food establishment and bed and breakfast for which a permit is required under the provisions of this Section shall be inspected at a frequency based on menu type and past compliance.

2. Procedure when Violations are noted: If, during the inspection of any retail food establishment the Health Department discovers the violation of any of the requirements in Subsection D, of this Section, he/she shall list on the narrative report section of the inspection form such violations, and serve a copy of the report to the operator or the person in charge and fix a time within which the operator or person in charge of the retail food establishment or bed and breakfast shall abate and remedy such violations. A copy of the narrative report shall be kept on record at the Health Department.

3. Final Inspection: If, upon a subsequent inspection of a retail food establishment or bed and breakfast the Health Department finds that a retail food establishment, or bed and breakfast is violating any provisions of this Section which were found in violation during the previous inspection, and concerning which a written order was issued, the Health Department may issue a fine for each violation of this Section.

4. Letter Grade: Upon the conclusion of the inspection of the food establishment, a letter grade shall be scored and assigned to the establishment.

a. The grade shall correspond with the standard numerical scoring system based on priority, priority foundation, and core violations as defined in Title 410 IAC 7-26.

b. Scoring shall be as follows; Priority violation = 3 points, priority foundation violation = 2 points, and core violation = 1 point. Each establishment

inspection begins with a perfect score of 100 (no violations), and these points are subtracted as violations are identified.

c. Letter grades shall be as follows: a score between 90-100 shall be an A; a score between 80-89 shall be a B; and a score between 70-79 shall be a C. A score below 70 will result in the immediate CLOSURE of the establishment until a subsequent inspection can be conducted and a letter grade of 70 or higher be assigned.

d. The Health Department may, at its discretion, publicly post the name of the food establishment inspected and the letter grade assigned two weeks after the inspection was conducted.

e. All retail food establishments shall clearly post the food inspection letter grade in a public place following inspection from the health department. Failure to do so shall result in a penalty being assessed under Section I of this Chapter and may result in suspension of a permit if corrective action is not promptly taken.

5. Suspension of Permit: Any permit issued under this Section may be temporarily suspended by the Health Department without notice or hearing for a period of not to exceed 30 days, for any of the following reasons provided that any suspension order shall be issued by the Health Department in writing and served upon the permittee by leaving a copy at his/her usual place of business by delivery, by registered or Certified Mail:

a. Imminent health hazard or other conditions in which the Regulatory Authority's opinion endanger the public's health.

b. Interference with the authorized representative in the performance of his/her duties.

c. As a result of the willful and/or continuous violation of any provisions of this Section.

6. Reinstatement of Permit: Any person whose permit has been suspended may, at any time, make an application to the Health Department for the reinstatement of his/her permit. The applicant shall submit written documentation with an explanation of why the permit should be reinstated and provide specific measures to be followed which will prevent the circumstances of suspension from recurring.

7. Revocation of Permit: The Warren County Health Board, upon a hearing, if the permittee should fail to show cause may revoke the permit and promptly give written notice of the action to the permittee. The Health Department shall maintain a permanent record of the proceedings filed in the office of the Health Department.

8. Upon failure of any person maintaining or operating a retail food establishment and bed and breakfast, to comply with any order of the Health Officer, it shall be the duty of the Health Department summarily to revoke the permit of the person and retail food establishment or bed and breakfast and to forbid the further sale or serving of food therein.

(G) Authority to Inspect and to Copy Records. The person in charge of a retail food establishment shall, upon request of the Health Department, allow the Health Officer access to all parts of the retail food establishment and bed and breakfast and shall permit the Health Officer to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this Section.

(H) Approval of Plans. All retail food establishments, which are hereafter constructed or altered, shall conform to the applicable requirements of the Indiana State Department of Health and by the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted for approval to the Health Department at least 30 days prior to initiating construction. A stop work order may be issued if plans have not been submitted for approval to the Health Department at least 30 days prior to the initiation to construction.

(I) Penalties. The Health Officer may issue a fine for each violation of this Section not in excess of \$2,500.00. In addition, to any civil penalty that may be imposed under Indiana Law, any person who violates any provisions of this Section may be assessed a civil penalty in compliance with Indiana Administrative Code 410 IAC 7-23-1 entitled A Schedule of Civil Penalties a copy attached hereto and made apart hereof marked Exhibit AA. All fines shall be paid to the Warren County Auditor's Office, with all funds received being placed in a non-reverting fund. If permit applicants failed to submit application 7 days prior to the applicable event shall result in a twenty-five dollar \$25 late fee being assessed.

(J) Appeal

1. Any person aggrieved by any final order of the Health Department shall be entitled to a review of the final order before the Board by filing a written request therefore with the Secretary of the Board within 15 days after such final order is issued.

2. Upon the Health Department's receipt of such request, the Board shall hear the matter de novo in an open hearing after at least 10 days written notice of the time, place and nature thereof. (The Health Department and appellant may agree to a shorter period of time,

if requested by either party.) The notice shall be issued by the Secretary of the Board to the Health Department and the person filing the request.

3. The notice of hearing shall be served upon the appellant by leaving or mailing by Certified Mail the notice to the address listed on the permit application as the appellant’s mailing address or such other address as the appellant shall designate in writing to the Secretary of the Board.

4. At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Department; provided, that upon written request by the appellant or the Health Department, the Board shall cause the proceedings before it to be recorded by a reporter employed for such purpose, and the same, together with all papers and documents filed therein.

(K) Severability. Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid for any reason, the remainder of said Section should not be affected thereby.

This ordinance shall be in full force and effect from the date of its passage and publication according to law.


So ordained this ____ day of _____, 2025.

SO ORDANED, this 19th day of May, 2025.


BOARD OF COMMISSIONERS OF
WARREN COUNTY, INDIANA




John Comer, President



Craig Greenwood



Clay Andrews

ATTEST:


Robin Weston-Hubner, Warren County Auditor