

TITLE 16: PUBLIC HEALTH

Article 1: Public Health Generally Chapter 3: Residential and Commercial On-Site Sewage Systems

§ 16-1-3-1 RESIDENTIAL AND COMMERCIAL ON-SITE SEWAGE SYSTEMS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AERATION TYPE TANK. Any tank or device designed to receive and treat sewage by causing or inducing air to circulate or combine with the contents creating an aerobic bacterial condition to exist and must be connected to an appropriate lateral field.

BEDROOM. Either any room:

(a) In a residence that the local health department and the owner agree could be occupied for the purpose of sleeping and contains an area of 70 square feet or more, at least one operable window or exterior door for emergency egress or rescue, and, for new construction, a closet; or

(b) Declared by the owner, by recorded affidavit supplied to the local health department, that will be occupied for sleeping, and that the owner further agrees within the affidavit not to occupy any additional rooms for the purpose of sleeping or otherwise represent to others that any room, beyond the number specified in the affidavit, may be utilized for sleeping, without approval of the Jefferson County Health Department.

BOARD OF HEALTH. The Board of Health having jurisdiction in Jefferson County, State of Indiana.

BULLETIN NO. S. E. 11. Indiana State Department of Health Bulletin No. S. E. 11 entitled “The Sanitary Vault Privy” as updated or amended from time to time, and any bulletin or publication, which may hereafter be published by the Indiana State Department of Health as a supplement or successor to Bulletin No. S. E. 11. Copies of Bulletin No. S. E. 11, and of any supplemental or successor publication shall be on file in the office of the Jefferson County Health Department for public inspection during regular business hours.

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BULLETIN NO. S. E. 13. Indiana State Department of Health Bulletin No. S. E. 13 entitled “On-site Water Supply and Wastewater Disposal for Public and Commercial Establishments”, as updated or amended from time to time, and any bulletin or publication which may hereafter be published by the Indiana State Department of Health as a supplement or successor to Bulletin No. S. E. 13. Copies of Bulletin No. S. E. 13, and of any supplemental or successor publication shall be on file in the office of the Jefferson County Health Department for public inspection during regular business hours.

COMMERCIAL ON-SITE SEWAGE SYSTEMS (Indiana State Department of Health Rule 410 I.A.C. 6-10). All equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of wastewater from other than one- or two-family dwellings. Included within, but not limited to, the scope of this definition are building sewers, grease traps, septic tanks, dosing tanks, absorption fields, perimeter drains, vault privies, and temporary wastewater holding tanks serving such facilities as apartment buildings, campgrounds, churches, commercial establishments, condominiums, medical facilities, mobile home parks, motels, office buildings, restaurants, and schools.

HEALTH HAZARD. Any situation or state of events which poses a threat to the surrounding natural environment and adversely effects people’s health and safety.

HEALTH OFFICER. The Heath Officer having jurisdiction in Jefferson County, State of Indiana, or the Health Officer’s designated agent.

INDIANA STATE DEPARTMENT OF HEALTH RULE 410 I.A.C. 6-8.2, RESIDENTIAL ON-SITE SEWAGE SYSTEMS. “Indiana State Department of Health Rule 410 I.A.C. 6-8.2, Residential On-site Sewage Systems,” as updated or amended from time to time, by the Indiana State Department of Health as a supplement or successor to “Indiana State Department of Health Rule 410 I.A.C. 6-8.2, Residential On-site Sewage Systems”. Copies of “Indiana State Department of Health Rule 410 I.A.C. 6-8.2, Residential On-site Sewage Systems”, and of any supplemental or successor publication shall be on file at the Jefferson County Health Department for public inspection during regular business hours.

INSTALLER. Any person engaged in or intending to engage in the installation, construction or repair of on-site systems or equipment in Jefferson County.

OWNER. The owner of a residential or commercial site or his or her agent.

PERSON. An individual, partnership, association, joint venture, syndicate, trust, firm, corporation, city, town, or other government department, bureau or agency, or any other entity recognized by law.

PRIVY. A fly tight and rodent proof structure designed for the disposal of human waste and must be properly constructed according to Indiana State Health Department Bulletin S.E. 11.

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PUBLIC SEWER. Any sewer terminating at a sewage treatment plant constructed, installed, maintained, operated and owned by a municipality or taxing district established for that purpose.

RESIDENTIAL ON-SITE SEWAGE SYSTEM or ***ON-SITE SYSTEM.*** Temporary sewage holding tanks, sanitary vault privies, and all equipment and devices necessary for proper conduction, collection, storage, treatment, and on-site disposal of sewage from a one- or two-family dwelling. Included within, but not limited to the scope of this definition, are residential sewers, septic tanks, soil absorption system, temporary sewage holding tanks, and sanitary vault privies.

RESIDENTIAL SEWER. The piping beginning two feet outside the house that carries discharges from the residential drain to its connection with a sanitary sewerage system or a residential on-site sewage system per 410 I.A.C. 6-8.2-33.

RULE 410 I.A.C. 6-10. Governs construction, installation and modification of commercial on-site sewage systems.

SANITARY SEWER. A sewer or a system of sewers which convey sewage away from the lot on which it originates to a wastewater treatment facility owned and operated by an incorporated city or town, conservancy district, regional sewer district, or private utility.

SEPTIC TANK. A water tight concrete tank and concrete distribution box into which sewage is discharged for settling and solids digestion and must be listed as an approved septic tank and meet construction standards by the Indiana State Department of Health 410 I.A.C. 6-8.2 (58)(59).

SEWAGE. All water-carried waste derived from ordinary living processes.

SEWER. A pipe or conduit for carrying sewage.

SOIL SCIENTIST. An individual registered as a professional soil scientist with the Indiana Registry of Soil Scientists (IRSS) as provided for under I.C. 25-31.5.

SOIL SURVEY. The actual soil analysis performed by a registered soil scientist copies will be maintained in the office of the Jefferson County Health Department for public inspection during regular business hours for a period of three years.

SUBDIVISION. Divisions of any parcel of land shown as a unit or as contiguous units created for dwelling or building sites.

(B) *Residential and commercial on-site sewage systems.*

(1) Where a public sanitary or combined sewer is not available in Jefferson County, all persons owning or leasing property shall comply with Indiana State Department of Health Rule 410 I.A.C. 6-8.

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and 410 I.A.C. 6-10 including all provisions of Jefferson county Health Department Ordinance 2011-5 for on-site sewage systems.

(2) It shall be unlawful for any person to throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Jefferson County, State of Indiana, or cause, permit, thrown, run, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling or residential sewage disposal system that would cause or contribute to a health hazard or water pollution.

(3) At any public, commercial or business building situated within the County of Jefferson, State of Indiana, where on-site systems may be approvable and where no public sewer system is available, the on-site systems as may be installed, constructed and maintained shall comply with the minimum requirements of Rule 410 I.A.C. 6-10 and Bulletin No. S. E. 13 or such other standards as may be adopted from time to time by the Indiana State Department of Health which standards are incorporated herein by reference. Plans and specifications for such on-site systems shall be submitted to the Indiana State Department of Health and, where required, to the Indiana Department of Environmental Management.

(4) A privy situated within the County of Jefferson, State of Indiana, shall be of the sanitary vault type and shall be installed, constructed, maintained and disposed of at least in accordance with the minimum standards set forth in Bulletin S.E. 11 as may be adopted from time to time by the Indiana State Department of Health which standards are incorporated herein by reference. All privies shall be kept in a clean condition so that insects and rodents cannot enter the vault and shall be located properly to protect water supplies from contamination.

(5) All on-site systems shall be installed, constructed and maintained in a manner approved by the Jefferson County Health Department and in compliance with the minimum standards set forth in Rule 410 I.A.C. 6-8.2, Rule 410 I.A.C. 6-10, Bulletin S. E. 11, S. E. 13, or such other standards as may be adopted from time to time by the Indiana State Department of Health which standards are incorporated herein by reference.

(6) The installation of any other on-site systems not described in Rule 410 I.A.C. 6-8.2, Rule 410 I.A.C. 6-10, Bulletin S. E. 11, S. E. 13, and which operate by mechanical, chemical, or other means shall be approved in advance by the Indiana State Department of Health, the Indiana Department of Environmental Management (where required) and the Jefferson County Health Department.

(7) Should any sewage system failure exist or occur with any on-site system or privy and the system fails to meet the standards and requirements of this subsection (B), the failure shall be corrected to the satisfaction of the Jefferson County Health Department without delay and within the shortest reasonable time by the owner or the occupant of the premises or their agents. Violations shall be subject to the penalties prescribed in subsection (G) of this section.

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(8) If and when a sanitary sewer approved by the Indiana Department of Health or Indiana Department of Environmental Management is available and within 300 feet of the property line of the residential or commercial property and the estimated cost of sewer construction and connection does not exceed 150% of the estimated cost of an on-site system, a direct connection shall be made to the sewer, and all septic tanks shall be abandoned in a safe and sanitary manner as approved by the Jefferson County Health Department. Such direct connection shall be completed by the owner and/or the occupant of the premises or their agents within 90 days after receipt of written notice ordering such action. Failure of the owner or the occupant to comply with the provisions of this section shall constitute a violation of the ordinance codified herein and the violator shall be subject to the penalties prescribed subsection (G) of this section.

(9) Notwithstanding any other provisions of this section, where a residence or commercial business is constructed within Jefferson County that will utilize an on-site system, the building site shall consist of an area not less than the lot size designated by the Jefferson County Zoning Board if public sewers are not available to serve such a residence or commercial business. Sewage from each such site shall be disposed of in accordance with the provisions as described in subsection (B) of this section. The provisions of this subsection (I) shall not be applicable to any subdivisions or lots platted before the effective date of this section, only if an on-site sewage system can be installed according to Indiana State Department of Health Rule 410 I.A.C. 6-8.2, 410 I.A.C. 6-10 and Jefferson County Health Department Ordinance 2011-5.

(10) Notwithstanding any other provisions of this section, the Jefferson County Health Department may limit or prohibit the use of an on-site system for residences or businesses in areas that are seasonably wet, pond water, or which periodically flood during any part of the year, or in areas where the size or topography of the site, or where information contained in an evaluation by a soil scientist indicates a reasonable likelihood that an on-site system will not function properly and will dispose of sewage in an unsanitary manner in violation of the terms of this section.

(C) Permits to install, permit fees and inspections, registration of installers, proof of liability insurance.

(1) Before commencement of construction of any public, commercial or business building or private residence where an on-site system or privy is to be installed or where any alterations, repairs, or additions to an existing on-site system is planned, the owner shall first obtain a written permit signed by the Jefferson County Health Officer or his or her designee. The application for such permit shall be made on a form provided by the Jefferson County Health Department. The application shall be supplemented by any plans specifications and other information as is deemed necessary by the Jefferson County Health Department. A permit and inspection fee of \$100 shall be paid to the Jefferson County Health Department at the time the application is filed. This fee will cover the required trips to the site for onsite evaluation/inspection.

(2) The Jefferson County Health Department shall examine the application, together with all information, and if the Jefferson County Health Department Representative determines, that the application is consistent with the provisions of this section, the Jefferson County Health Department Representative shall issue a permit. Otherwise, he or she shall deny such application and shall notify the applicant in writing of the reason for such denial. The permit shall be posted prior to construction in a conspicuous place near the building where the on-site system is under construction. The permit shall be plainly visible from the public thoroughfare serving the building.

(3) If the on-site system for which the permit was issued has not been constructed, installed, altered, or repaired within one year from the date of issuance, the permit shall automatically expire and become void.

(4) A permit for the construction, installation, alteration or repair of an on-site system or privy shall not constitute final approval of such system until the same is completed to the satisfaction of the Jefferson County Health Department. The Jefferson County Health Department shall be notified by the owner/contractor before beginning the construction of the on-site system, before any components of the on-site system are covered, and when the work is ready for final inspection. The final inspection shall be made within the shortest reasonable time, but not to exceed two working days of receipt of notice to the Jefferson County Health Department excluding weekends, legal holidays, and days when the weather is unfit to make an inspection as reasonably determined by the Jefferson County Health Officer or his or her designee.

(5) The Jefferson County Health Department shall maintain a register of all persons engaged in or intending to engage in the installation, construction or repair of on-site systems or equipment within Jefferson County, State of Indiana.

(6) Any person engaged in or intending to engage in the installation, construction or repair of on-site systems or equipment shall make application to the Jefferson County Health Department to have his or her name placed on the list of Jefferson County certified installers. The application form shall contain the name and address of the firm or place of business such person is associated with, and such other information as the Jefferson County Health Department may reasonably require to aid them in the administration and enforcement of these regulations, or to help them determine whether there is any reason why they should not approve the application.

(7) Any new applicant for certification shall demonstrate knowledge of the applicable laws, rules, technical specifications, and ordinances before becoming certified by successfully installing three septic systems (preferably of different types) and passing inspection by the Jefferson County Health Department.

(8) Any person making application to have his or her name placed on the list of certified installers to engage in the installation, construction and repair of on-site systems or equipment shall

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submit with such application a fee of \$100 dollars per calendar year to the Jefferson County Health Department. Only one application need be submitted pursuant to this section.

(9) Upon acceptance of the applicant's registration, and conditioned upon the registrant's faithful compliance with this section and with rules and regulations which may from time to time be established by the Jefferson County Board of Health and the Indiana State Department of Health relating to the installation of on-site systems, sewage disposal devices or equipment, the applicant shall file a certificate of liability insurance with the Jefferson County Board of Health. The liability insurance policy shall be issued by a company authorized to do business in the State of Indiana. The liability policy shall insure all persons dealing with the installer for general liability insurance and comprehensive coverage, including workman's compensation insurance, and to protect and indemnify persons for whom faulty work may be performed by the Installer. The insurance shall be carried at a minimum amount of \$100,000 per occurrence.

(10) The Jefferson County Health Officer or his or her designee may remove the name of any person from the list of certified installers for those engaged in the installation, construction and repair of on-site systems or equipment who have demonstrated inability or unwillingness to comply with these regulations. Such person may have his or her name reinstated on the register by the Jefferson County Board of Health after satisfactory demonstration of ability or willingness to comply with these regulations.

(11) All fees collected under the terms of this section shall be deposited into the Jefferson County Treasury and credited to the Jefferson County Health Fund for services rendered in enforcing this section.

(12) Failure of any person to obtain a permit or to register or to otherwise comply with the requirements of this section shall constitute a violation of this section and the violator or violators shall be subject to the penalties prescribed in subsection (G) of this section.

(D) *Power for inspection.*

(1) The Jefferson County Health Officer or his or her designee, bearing proper credentials and identification, shall be permitted to enter upon all properties subject to the provisions of this section at reasonable times for purposes of inspections, observations, measurements, sampling and testing necessary to carry out the provisions of this section.

(2) The Jefferson County Health Officer or his or her designee may compel an immediate stop to work by issuing a stop work order of work that has been completed or is in process or planned, that is in violation of any provisions of this section. The stop work order shall be posted at the construction site and confirmed by written notice to the owner or occupant of the premises and any person engaged

in the performance of the work or any person causing the work to be done. Failure to comply with the stop work order of suspension shall constitute a violation of this section and the violator shall be subject to the penalties prescribed in subsection (G) of this section.

(E) *Notices.* Any person in violation of any of the provisions of this section shall be served a written notice by the Jefferson County Health Officer or his or her designee stating the nature of the violation and providing a time limit for satisfactory correction thereof.

(F) *Appeals and exceptions.*

(1) Appeals shall lie from any of the following decisions made or action taken by the Jefferson County Health Officer or his or her designee:

(a) Denial of an application for a permit to construct, install, alter or repair an on-site system or privy;

(b) Failure to approve an application to have name placed on the list of certified installers for those engaged in the installation, construction and repair of on-site systems or equipment;

(c) Removal of name from the list of certified installers for those engaged in the installation, construction and repair of on-site systems or equipment;

(d) Prohibition or limitation of the use of an on-site system for any reason set forth in subsection (B) of this section; or

(e) A determination pursuant to subsection (D) or (E) of this section that work completed, in progress or planned is in violation of any of the provisions of this section, or that any other violation of the provisions of this section exists.

(2) An appeal may be filed with the Jefferson County Board of Health within ten days and must be in writing (unless the appellant obtains an extension from the Jefferson County Board of Health). If it is believed that the Jefferson County Health Officer or his or her designee's decision has failed to correctly follow Indiana State Department of Health Rules or Jefferson County Code § 16-1-3-6 as set forth in subsection (F)(1) of this section and shall specify the adverse decision appealed from and the grounds therefor. The Jefferson County Health Officer or his or her designee shall forthwith transmit to the Jefferson County Board of Health all of the papers in his or her office constituting the record of the case. The Jefferson County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing of the appeal may be continued from time to time, but following the conclusion of the hearing, the Jefferson County Board of Health shall render a decision on the appeal within 20 days thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

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(3) The Jefferson County Board of Health shall hear and decide the appeal and may overrule or modify the decision or determination of the Jefferson County Health Officer or his or her designee if the Board determines that the Jefferson County Health Officer or his or her designee incorrectly decided the matter. As per Indiana State Department of Health Rules and Jefferson County Health Department: Environmental Health and Sewage Ordinance.

(4) The concurring vote of a majority of the members of the Jefferson County Board of Health shall be necessary to reverse or modify any determination or decision of the Jefferson County Health Officer or his or her designee, or to grant an exception hereunder.

(G) *Penalties.*

(1) Any person, firm or corporation who shall violate any provision of this section shall be guilty of an infraction. On conviction the violator shall be punished by a fine of not more than \$2,500, and each day after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions as ordered by the Jefferson County Board of Health, or by the duly appointed Health Officer of Jefferson County, shall constitute a distinct and separate offense.

(2) The Jefferson County Board of Health shall also be entitled to seek any other legal or equitable remedy including a temporary restraining order, a preliminary or permanent injunction or other appropriate remedy available against any person, firm, or corporation who shall violate any provision of this section.

(3) The Jefferson County Board of Health shall be entitled to seek all legal fees, costs and expenses incurred during enforcement of this section.
(Ord. 2011-5, passed - - 2011)

Article 1: Public Health Generally
Chapter 4: Fee Schedule

§ 16-1-4-24 FEE SCHEDULE.

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

BOARD OF HEALTH. The County Board of Health provided for in I.C. 16-1-7-10.

HEALTH OFFICER. The County Health Officer provided for in I.C. 16-1-7-27.

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(B) The Board of Health shall establish and collect fees for all services it provides in accordance with this code section. The County Health Officer or his or her agent may, if bearing proper credentials and identification, enter upon all properties at any reasonable and proper time to inspect, observe, measure, sample and test to carry out the necessary enforcement of this code section.

(C) The Board of Health shall charge a fee for providing any person with the following services. The fee shall not exceed the cost to the Board of Health for providing the service. The Health Department may waive any fee under this section for supplying information to any school corporation:

(1) For supervision and inspection of sanitary installations as required by 410 I.A.C. 6-8-1 to 6-8-15; and

(2) Other technical services developed and offered by the County Health Department with the approval of the Board of Health.

(D) (1) *Collection of fees.* The Board of Health shall collect the fees established by this code section in accordance with subsection (E).

(2) *Accounting for fees.* All fees collected by the Board of Health shall be accounted for in detail for each program service area.

(3) *Disposition of fees.* All fees collected by the Board of Health shall be transferred to the County Health Fund. The monies collected in accordance with this code section shall be used only for the maintenance or future expansion of the County Health Department.

(4) *Health service fees; other county health jurisdictions.* Fees collected for health services provided to individuals in other county health jurisdictions and involving payment from county tax revenue shall be collected in accordance with agreements entered into pursuant to I.C. 16-1-4-22.

(5) *Mortgage inspection requests and payment.* The Department shall charge a fee for all mortgage inspections conducted at the request of any person. This fee shall be due and payable upon the delivery of the inspection report to that person.

(E) The following fee schedule is established:

(1) Percolation test: \$10; and

(2) Mortgage inspections: \$10.

(Ord. passed 8-1-1966)

Statutory reference:

Fee schedule, see I.C. 16-1-4-24

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Article 4: Prohibited Substances
Chapter 4: Possession or Sale

§ 16-4-4-1 POSSESSION OR SALE OF PROHIBITED SUBSTANCES.

(A) *Prohibited conduct.* It is hereby declared to be unlawful for any individual or business to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following products containing synthetic cannabinoids or mephedrone (“products”) within the boundaries of the county, which contain one or more of the following chemical compounds:

(1)

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a- tetrahydrobenzo[c]chromen-1-ol, also known as HU-210;

(2) 2[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol {also known as CP 47,497 and its C6, C7, C8 and C9 homologues};

(3) Naphthalen-1-yl-(1-pentylindol-3-yl) methanone {also known as 1 Pentyl-3-(1-naphthoyl) indole or JWH-018};

(4) Naphthalen-1-yl-(1-butylindol-3-yl) methanone {also known as 1-Butyl-3(1-naphthoyl) indole or JWH-073};

(5) Mephedrone, also known as 4-methylmethcathinone (4-MMC), or 4-methylephedrone;

(6) (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo(b,d)pyran, also known as JWH-133;

(7)

(R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de)-1,4-benzoxazin- 6-yl]-1-naphthalenylmethanone, also known as WIN 55,212-2; and

(8) Any other equivalent compound or derivative.

(B) *Burning prohibited.* Products containing synthetic cannabinoids (“products”) may not be burned, incinerated or ignited in any public place or on any property owned, leased or controlled by the county.

(C) *Confiscation and destruction.* If any of the substances listed in subsection (A) herein are found in the possession of any individual or business, they may be confiscated and destroyed by law enforcement officials as contraband and without compensation to the individual or business.

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(D) *Exclusions.* It is not an offense under subsection (A) herein if the individual or business was acting at the direction of an authorized law enforcement agent to enforce or ensure compliance with this ordinance prohibiting the aforementioned substance.

(E) *Prescriptions.* This section does not apply to any individual or business who commits any act described in this section pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe the act. This section likewise does not apply to the inhalation of anesthesia for a medical purpose or dental purpose.

(F) *Penalties.* Any individual or business found to be selling, publicly display for sale or attempting to sell, give or barter any substance listed in subsection (A) shall be considered to have violated this section and will be subject to a civil fine of \$2,500. Any individual or business found purchasing or possessing any substance listed in subsection (A) shall be considered to have violated this section and will be subject to a civil fine of \$1,000. Any person or entity found in violation of this section shall be responsible for payment of reasonable costs and attorneys fees associated with the enforcement of this section. Notice of violation of this section may be provided by any local or state law enforcement officer.

(G) *Injunction.* The County Attorney, with the approval of the Board of Commissioners, shall have the authority to seek an injunction to prevent the selling or offering to sell in violation of this section by any business which refuses or fails to comply with this section.

(H) *Duration.* This section shall remain in effect until such time as a section of the Indiana Code addressing these or similar substances becomes effective at which time this subsection shall automatically be superseded. All violations occurring prior to that date shall be subject to the penalties herein regardless whether legal proceedings related thereto have been filed or concluded prior to the date this section is superseded.

(I) *Definitions.* Any term defined in this section, by reference to a state statute, shall have the same meaning whenever used in this section unless clearly inapplicable by the context in which it is used. Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

(J) *Severability.* Should any subsection, paragraph, sentence, clause or any other portion of this section be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be effected, if and only if, the remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Board in adopting this section. To this end the provisions of this section are severable.

(Ord. 2010-, passed - -2010)

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Article 31: Emergency Medical Services
Chapter 5: County Emergency Medical Services

§ 16-31-5-1 COUNTY EMERGENCY MEDICAL SERVICES.

King's Daughters' Hospital is authorized to charge a fee of \$30 when the A-EMTs start an IV on a patient prior to arrival at a hospital. This fee is in addition to the regular response charge.

(Ord. passed 10-6-1986)

Statutory reference:

Emergency medical services, see I.C. 16-33-5-1

Article 42: Safe Food
Chapter 1: Retail Food Establishments and the Like

§ 16-42-1-1 RETAIL FOOD ESTABLISHMENTS, TEMPORARY FOOD ESTABLISHMENTS AND BED AND BREAKFAST ESTABLISHMENTS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BED AND BREAKFAST ESTABLISHMENT (as defined in 410 I.A.C. 7-15.5). An operator-occupied residence that:

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

CONFLICT OF INTEREST (derived from 68 I.A.C. 9-1-1(b)(2)). A situation in which the private financial interest of a representative of the Jefferson County Health Department, that person's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the representatives judgment in the performance of a public duty.

HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN (as defined in 410 I.A.C. 7-24). A written document that delineates the formal procedures for following the hazard

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analysis critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

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

HEARING OFFICER. An individual or panel of individuals acting in the capacity of a hearing officer in proceedings. The ***HEARING OFFICER*** is not the Health Officer or any other employee of the Jefferson County Health Department. (Examples of ***HEARING OFFICER*** could be the Jefferson County Health Board, a subcommittee of Jefferson County Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the Health Board.)

HOME BASED VENDOR. An individual who:

- (a) Has made a non-potentially hazardous food product in their primary residence;
- (b) Is selling the food product made, only at a roadside stand or at a farmers 'market;
- (c) Complies with I.C. 16-42-5-29.

IMMINENT HEALTH HAZARD. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries and illnesses and the nature, severity and duration of the anticipated injury or illness [e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials].

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

JEFFERSON COUNTY HEALTH DEPARTMENT. The local health department in Jefferson County or authorized representative having jurisdiction over a bed and breakfast establishment, retail food establishment and/or temporary food establishment.

JEFFERSON COUNTY OFFICIAL. Any official of Jefferson County, Indiana.

OPERATOR. The person who has a primary oversight responsibility for operation of the establishment through ownership, or lease or contractual agreement, and who is responsible for the storage, preparation, display, transportation or serving of food to the public.

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

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

PERSON. An association; a corporation; an individual; partnership; or other legal entity, government, or governmental subdivision or agency.

RETAIL FOOD ESTABLISHMENT. Any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. The term does not include the following:

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

(b) 1. A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

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

b. The gathering is for a purpose of the organization;

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

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

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

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

1. That is organized for:

a. Religious purposes; or

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- b. Educational purposes in a nonpublic educational setting;
 - 2. That is exempt from taxation under I.R.C. § 50; and
 - 3. That offers the food for sale to the final consumer at an event held for the benefit of the organization; unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods;
- (f) 1. Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:
- a. Is organized for civic, fraternal, veterans, or charitable purposes;
 - b. Is exempt from taxation under I.R.C. § 501; and
 - c. Offers food for sale to the final consumer at an event held for the benefit of the organization;
2. If the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.
- (g) An individual vendor of a farmer's market or roadside stand if the individual meets the requirements of I.C. 16-42-5-29.

TEMPORARY FOOD ESTABLISHMENT. A retail food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration with the approval of the organizers of the event or celebration.

(B) *Permits.*

(1) *General.*

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

(b) Only persons who comply with the applicable requirements of 410 I.A.C. 7-15.5 and /or 410 I.A.C. 7-24 will be entitled to obtain and keep a permit.

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

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(d) A Permit issued under this ordinance is not transferable.

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

(f) Anyone not in compliance with 410 I.A.C. 7-15.5 and or 410 I.A.C. 7-24 by year end shall not be issued a permit to operate the consecutive year beginning January 3.

(2) *Permit period.*

(a) A permit for a bed and breakfast establishment, retail food establishment shall be issued for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year and shall be applied for by the person and/or operator annually.

(b) A permit for a temporary food establishment shall be in conjunction with an event or celebration, but not to exceed 14 consecutive days.

(3) *Permit content.* Any permit issued by the Health Officer or his or her duly authorized representative shall contain:

(a) The name of the Person and/or owner to whom the permit is granted;

(b) The name of the establishment for which the permit is issued;

(c) The issuance and expiration date(s); and

(d) Other such pertinent data as may be required by the Jefferson County Health Officer or his or her duly authorized representative.

(4) *Application.* A person desiring to operate a bed and breakfast establishment, non-profit retail food establishment, retail food establishment, and/or temporary food establishment shall submit to the Jefferson County Health Department a written application for a permit on a form provided by the Jefferson County Health Department.

(5) *Content of the application.* The application shall include:

(a) The name, mailing address, and location of the bed and breakfast establishment, non-profit retail food establishment, retail food establishment, and/or temporary food establishment;

(b) A statement specifying whether the bed and breakfast establishment, retail food establishment, and/or temporary food establishment:

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1. If not permanent, is mobile and/or temporary; and
 2. The operation includes one or more of the following:
 - a. Prepares, offers for sale, or serves potentially hazardous food:
 - i. Only to order upon a consumer's request;
 - ii. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or
 - iii. Using time, rather than temperature, as the public health control as specified under 410 I.A.C. 7-24.
 - iv. Prepares acidified foods as defined in 410 I.A.C. 7-21-3.
 - b. Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
 - c. Prepares food as specified under subsection (B)(5)(b)2.b. of this section for the delivery to and consumption at a location off the premises of the Bed and breakfast establishment, retail food establishment, and/or temporary food establishment where it is prepared;
 - d. Prepares food as specified under subsection (b)(5)(b)2.b. of this section for service to a highly susceptible population, as defined in 410 I.A.C. 7-24;
 - e. Prepares only food that is not potentially hazardous; or
 - f. Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous.
- (c) The name, title, address, telephone number, and signature of the owner/operator directly responsible for the bed and breakfast establishment, retail food establishment, and/or temporary food establishment.
- (d) The name of the person who functions as the immediate supervisor of the person specified under subsection (B)(5)(c) of this section, such as the zone, district, or regional supervisor;
- (e) A statement signed by the applicant that:
1. Attests to the accuracy of the information provided in the application; and

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2. Affirms that the applicant will:

a. Comply with this section; and

b. Allow the Jefferson County Health Department access to the bed and breakfast establishment, retail food establishment and/or temporary food establishment and records as specified in 410 I.A.C. 7-15.5, 410 I.A.C. 7-24;

(f) Other information required by the Jefferson County Health Department.

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

(a) Be an owner and/or operator of the bed and breakfast establishment, retail food establishment, and/or temporary food establishment;

(b) Comply with the requirements of this section;

(c) Agree to allow access to the bed and breakfast establishment, retail food establishment and/or temporary food establishment and provide required information; and

(d) Pay the applicable Permit fees at the time the application is submitted.

(7) *Plan requirements.*

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

1. The construction of a bed and breakfast establishment and/or non-profit retail/retail food establishment;

2. The conversion of an existing structure for use as a bed and breakfast establishment and/or non-profit retail/retail food establishment; or

3. The remodeling of a bed and breakfast establishment and/or non-profit retail/retail food establishment or a change of type of bed and breakfast establishment and/or non-profit retail/retail food establishment food operation if the Jefferson County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(b) The plans and specifications for a bed and breakfast establishment and/or non-profit retail/retail food establishment shall include, the type of operation, type of food preparation (as specified in Appendix A of the published version of 410 I.A.C. 7-24), and the menu.

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

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

(8) *Plan review questionnaire.* The owner or other authorized agent of an existing or proposed bed and breakfast establishment, non-profit retail food establishment, retail food establishment shall submit to the Jefferson County Health Department the Plan Review Questionnaire.

(9) *Change of ownership.* The Jefferson County Health Department May renew a permit for an existing bed and breakfast establishment and/or retail food establishment or may issue a permit to a new owner of an existing bed and breakfast establishment and/or retail food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this section.

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

(a) Comply with the provisions of this section and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;

(b) Immediately discontinue affected operations and notify the Jefferson County Health Department if an Imminent Health Hazard may exist;

(c) Allow representatives of the Jefferson County Health Department access to the Bed and breakfast establishment and/or non-profit retail/retail food establishment at all reasonable times;

(d) Comply with directives of the Jefferson County Health Department including time frames for corrective Actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Jefferson County Health Department in regard to the operator's bed and breakfast establishment and/or non-profit retail/retail food establishment or in response to community emergencies;

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

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

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(g) Post the permit in a location in the bed and breakfast establishment and/or non-profit retail/retail food establishment that is conspicuous to consumers;

(11) *Home based vendor*: The Jefferson County Health Department will inspect home based vendors based on House Enrolled Act (HEA) 1309.

(C) *Permit fees*.

(1) It shall be unlawful for any person to operate a bed and breakfast establishment, retail food establishment, and/or temporary food establishment in Jefferson County, who has not paid the permit fee required to be paid for the operation of such establishment.

(2) The fee shall be paid for a term beginning January 1, and/or before commencement of operation and expiring December 31, of the same year and shall be applied for by the person and/or operator annually.

(3) Permit fees for the issuance of a permit under this section to a bed and breakfast establishment, retail food establishment, and/or a temporary food establishment shall be set by the Jefferson County Health Department, as provided by the statutes of the State of Indiana. (I.C. 16-20-1-27).

(a) *Fees schedule*.

One - five employees	\$80
Six - ten employees	\$160
Eleven and over	\$240

(b) New bed and breakfast establishment and/or non-profit retail/retail food establishment starting after July 1 or any change of ownership of a bed and breakfast and/or non-profit retail/retail food establishment shall pay the following:

One - five employees	\$40
Six - ten employees	\$80
Eleven and over	\$120
Follow up inspection fee	\$25

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(c) Temporary food establishments:

1. For each event of operation \$30.
2. Three or more events of operation in Jefferson County annual \$75.

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

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

(3) *Exemption from permit fees.* An organization that is exempt from the Indiana gross income tax under I.C. 6-2.1-3-20 through 6-2.1-3-22 and offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from the payment of fees. This exemption only applies to organization(s) that meet the criteria addressed in I.C. 16-42-5-4, I.C. 16-18-2-137, SEA 190. The Health Officer or his or her duly authorized representative shall be provided, upon request, proof of an organization's tax exemption.

(4) *Non-profit organizations.* All organizations/non-profit organizations that are opened for more than 15 days of operation per year will be charged a permitting fee based on number of persons employed by establishment.

(5) *Late fees.* A late fee for failure to pay the permit fee prior to the operation of the Bed and breakfast establishment, non-profit retail food establishment, retail food establishment and/or temporary food establishment or the late fee for failure to renew a permit after the expiration of the permit to operate bed and breakfast establishment, retail food establishment and/or temporary food establishment shall be assessed \$100 as set by the Jefferson County Health Board.

(6) The payment of fees under this section is not transferable or refundable.

(D) *Inspection.*

(1) *General.* The Jefferson County Health Department shall inspect bed and breakfast establishments annually. Retail food establishments shall be inspected at least once every three months or four times per calendar year.

(2) *Temporary food establishment.*

(a) The Jefferson County Health Department shall inspect temporary food establishments daily throughout its permitted period that it prepares, sells, or serves potentially hazardous food and that prepares, sells, or serves unpackaged, non-potentially hazardous food that:

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1. Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or

2. Has untrained food employees.

(b) Temporary food establishments shall not operate prior to first inspection and issuance of permit.

(3) *Performance and risk based inspections.* Within the parameters specified in the above inspection subsection(s) of this section, the Jefferson County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a bed and breakfast establishment and/or retail food establishment's history of compliance with this section and the bed and breakfast establishment and/or retail food establishment's potential as a vector of foodborne illness by evaluating:

(a) Past performance, for violations of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-22 and/or HACCP plan requirements that are critical or non-critical;

(b) Past performance, for numerous or repeat violations of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 and/or HACCP plan requirements that are noncritical;

(c) Past performance, for complaints investigated and found to be valid;

(d) The hazards associated with the particular foods that are prepared, stored, or served;

(e) The type of operation including the methods and extent of food storage, preparation, and service;

(f) The number of people served; and

(g) Whether the population served is a highly susceptible population.

(4) *Complaint inspections.* Complaints are received from various sources including consumers, local health departments, other government agencies, the regulated industry, trade associations, and the like. Complaints are taken seriously, and all are investigated including those received anonymously. Pertinent information is obtained to enable evaluation of the complaint, determination of appropriate follow-up and if possible, sufficient facts to permit follow-up without subsequent contact with the complainant.

(5) *Farm inspections.* The Jefferson County Health Department shall inspect farms used to produce garden fresh products that are sold to retail food establishments. These inspections will take

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place when a complaint has been filed or there is an imminent threat to public health. Products that are produced on the farm for use in food establishments shall be documented using such forms as the farm to retail tracking system. The farmer must also give a copy of the documentation to the food establishment at time of sale.

(6) *Access allowed at reasonable times after due notice.* After the Jefferson County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the operator shall allow the Jefferson County Health Department to determine if the bed and breakfast establishment, retail food establishment, and/or temporary food establishment is in compliance with this section by allowing access to the establishment, allowing inspection, and providing information and records specified in this section. The Jefferson County Health Department is entitled the information and records according to I.C. 16-42-1-13 and I.C. 16-42-5-23, during the Bed and breakfast establishment, retail food establishment and/or temporary food establishment's hours of operation and other reasonable times. Access is a condition of the acceptance and retention of a food establishment permit to operate. If access is denied, an order issued by the appropriate authority allowing access may be obtained according to law. (I.C. 16-20-1-26).

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

(8) *Timely correction of critical violations.* Except as specified in subsection (D)(7) of this section, an operator shall at the time of inspection correct a critical violation of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24 and/or 410 I.A.C. 7-22 and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Jefferson County Health Department may agree to or specify a longer time frame after the inspection, for the operator to correct critical code violations or HACCP plan deviations. After receiving notification that the operator has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the Jefferson County Health Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Jefferson County Health Department's records.

(9) *Refusal to sign acknowledgment.* Refusal to sign an acknowledgment of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames specified. A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Jefferson County Health Department historical record for the bed and breakfast establishment, retail food establishment and/or temporary food establishment. The Operator is not necessarily in agreement with the findings of the Jefferson County Health Department inspection by acknowledgment of receipt.

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(10) *Public information.* Except as specified in § 194 (Trade Secrets) of 410 I.A.C. 7-24, the Jefferson County Health Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it in writing to the Administrator and/or his or her representative as provided in law. (See I.C. 16-20-8).

(E) *Compliance and enforcement.*

(1) *Certification of food handler requirements (410 I.A.C. 7-22).*

(a) A corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

(b) After December 31, 2004, at least one food handler at a food establishment must be a certified food handler. A food handler's certification must be recognized by the Conference for Food Protection or an equivalent nationally recognized certification examination as determined by the department.

(c) A food establishment shall have at least one certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation. It shall be the responsibility of the certified food handler to provide the certificate, letter or document for verification of passing the examination.

(d) A food establishment that begins operation or changes ownership shall comply with section 15(b) of this rule not later than six months after beginning operation or changing ownership.

(e) If a food establishment does not have a certified food handler because the certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 15(b) of this rule not later than three months after the termination date of the previous certified food handler.

(f) If more than one food establishment operated by the same individual is located on the same property or on contiguous properties, only one certified food handler is required for the food establishments.

(g) Except as provided in subsection (E)(1)(h) of this section, the certified food handler requirement does not apply to a food establishment when the food establishment's food handling activities are limited solely to one or more of the following:

1. Heating or serving precooked foods;
2. Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

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3 Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice;

4. Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans; and

5. Providing prepackaged food in its original package.

(h) A food establishment that has more than 10,000 square feet in total retail sales space at the food establishment location must comply with this section. This does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale.

(i) The certified food handler requirement does not apply to the following institutions:

1. Hospitals licensed under I.C. 16-21;

2. Health facilities licensed under I.C. 16-28;

3. Housing with services establishments that are required to file disclosure statements under I.C. 12-10-15;

4. Continuing care retirement communities required to file disclosure statements under I.C. 23-2-4;

5. Community mental health centers (as defined in I.C. 12-7-2-38);

6. Private mental health institutions licensed under I.C. 12-25;

7. An area agency on aging designated under I.C. 12-10-1 that provides food under a nutrition service program. However, the premise where the food is prepared is not exempt from the requirements under this section;

8. A food pantry that:

a. Is operated or affiliated with a non-profit organization that is exempt from federal income taxation under I.R.C. § 501(c)(3); and

b. Distributes food, which may include food from the United States Department of Agriculture, to needy persons.

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(j) A food bank or other facility that distributes donated food to other organizations is not exempt from the requirements of this rule.

(k) An organization that is exempt from the state gross retail tax under I.C. 6-2.5-5-21(b)(1)(B), (C), or (D) is exempt from complying with the requirements of this rule.

(l) This section does not prohibit an exempted organization from waiving the exemption and using a certified food handler.

(2) *Application denial.* If an application for a plan review and/or permit to operate a bed and breakfast establishment and/or retail food establishment is denied, the Jefferson County Health Department shall provide the applicant with a notice that includes:

(a) The specific reasons and rule citations for the application and/or permit denial;

(b) The actions, if any, that the applicant must take to qualify for the application and/or permit; and

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

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

(4) *Permit suspension.* The Jefferson County Health Department may suspend a permit to operate a bed and breakfast establishment, retail food establishment and/or temporary food establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this section, that an imminent health hazard exists. A suspension shall not exceed 30 calendar days. The permit may be suspended for a longer period of times as determined by the Health Officer.

(5) *Ceasing operation and contacting the Jefferson County Health Department.* An operator of a bed and breakfast establishment, retail food establishment and/or temporary food establishment shall immediately discontinue operations and notify the Jefferson County Health Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, septic failure (410 I.A.C. 6-10), misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health. An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

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

(7) *Outstanding fees.* Any outstanding fees may be a condition upon which a pennit may not be issued.

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

(a) Under consideration of the Administrator and/or Assistant Administrator and the food specialist, establish a process for the issuing of penalties based on violation of the bed and breakfast, retail food establishment and or temporary food establishment requirements.

(b) Conduct administrative proceeding for suspension and/or revocation of the bed and breakfast establishment, retail food establishment and/or temporary food establishment permit in front of a Hearing Officer.

(c) The Jefferson County Health Officer or his or her duly authorized representative may issue an order to abate based on a condition that may transmit, generate, or promote disease. Failure on the part of the operator to comply with the order could result in the enforcement of the order in the court of jurisdiction by the initiation of an action by the Jefferson County Health Department attorney.

(d) If the action concerning public health is an ordinance violation, request the Jefferson County Health Department attorney to institute a proceeding in the courts for the enforcement of the ordinance violation.

(e) If the action concerning public health is a criminal offense, request the Jefferson County Health Department attorney to institute a proceeding in the courts for enforcement.

(9) *Civil penalty.* The Jefferson County Health Department may commence an action under I.C. 4-21.5-3-8 to levy civil penalties against a person who:

(a) Fails to comply with I.C. 16-42-5, 410 I.A.C. 7-21, or 410 I.A.C. 7-24; or

(b) Interferes with or obstructs the Indiana State Department of Health or its designated agent in the performance of duties pursuant to I.C. 16-42-5, 410 I.A.C. 7-21, or 410 I.A.C. 7-24.

1. A civil penalty in an amount in the appropriate range specified in subsection (E)(9)(b)4. or 5. of this section, or any combination thereof, may be sought for each day of each violation.

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2. a. In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the health department will consider, but is not limited to, the following:

- i. The potential for harm or imminent threat to public health;
- ii. The extent of deviation from statutory or regulatory requirements;
- iii. Degree of willfulness or negligence; and
- iv. History of noncompliance.

b. The absence of direct harm will not result in assessment of a lower penalty for a violation.

3. Unless adjusted as provided in subsections(E)(9)(b)7. and 8. of this section, and if penalties are to be assessed to a food establishment, as defined in I.C. 16-42-5, then they shall be assessed in accordance with the following:

a. I.C. 16-42-5-6; I.C. 16-42-5-11; I.C. 16-42-5-19; I.C. 16-42-5-21: \$0 to \$1,000.

b. I.C. 16-42-5-7; I.C. 16-42-5-12; I.C. 16-42-5-13; I.C. 16-42-5-14; I.C. 16-42-5-15; I.C. 16-42-5-17; I.C. 16-42-5-8; I.C. 16-42-5-20: \$0 to \$500.

c. I.C. 16-42-5-8; I.C. 16-42-5-9; I.C. 16-42-5-10; I.C. 16-42-5-16; I.C. 16-42-5-22: \$0 to \$100.

4. Unless adjusted as provided in subsections (E)(9)(b)7. and 8. of this section, and if penalties are to be assessed to a retail food establishment, as defined in 410 I.A.C. 7-24, then they shall be assessed in accordance with the following:

a. 410 I.A.C. 7-24 PENALTY RANGE: 107; 121, 129; 139; 142; 165; 171; 182; 269; 376; 423; \$0-\$500.

b. 410 I.A.C. 7-24 PENALTY RANGE: 108; 109; 110; 111; 114; 117; 120; 137; 141(d); 143; 144; 146; 147; 149; 150; 151; 153; 154; 155; 157; 160; 162; 164; 166; 167; 168; 169; 172; 173; 181(a); 183; 186; 187; 188; 189; 193; 195; 196; 205; 241; 274; 294; 303; 320; 321; 322; 323; 324(a)(1); 325; 329; 334; 336; 337; 339; 343; 344; 350; 357; 375; 77; 415; 437; 438; 439; 440; 441; 442; 443; 444; 445; 446; 447; 448; 450: \$0-\$250.

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c. 410 I.A.C. 7-24 PENALTY RANGE: 113; 115; 118; 123; 128; 131; 132; 135; 136; 141(a); 141(b); 141(c); 152; 156; 190; 191; 201; 204; 229; 240; 259; 264; 295(a); 296; 297; 326; 368; 424; 435; 436: \$0-\$100.

d. 410 I.A.C. 7-24 PENALTY RANGE: 119; 122; 130; 133; 134; 138; 140; 145; 148; 158; 159; 161; 163; 170; 174; 175; 176; 177; 178; 179; 180; 181(b); 181(c); 185; 197; 198; 199; 202; 203; 206; 207; 208; 209; 210; 211; 212; 213; 214; 215; 216 ; 217; 218; 219; 220; 221; 222; 223; 224; 225; 226; 227; 228; 230; 231; 232; 233; 234; 235;236; 237; 238; 239; 242; 243; 244; 245; 246; 247; 248; 249; 250; 251; 252; 253; 254; 255; 256; 257; 258; 260; 261; 262; 263; 265; 266; 267; 268; 270; 271; 272; 273; 275; 276; 277; 278; 279; 280; 281; 282; 283; 284; 285; 286; 287; 288; 289; 290; 291; 292; 293; 295(b); 295(c); 298; 301; 302; 304; 305; 306; 307; 308; 309; 310; 311; 312; 313; 314; 315; 316; 317; 318; 324(a)(2); 327; 328; 330; 331; 332; 333; 335; 338; 340; 341; 342; 345; 346; 347; 348; 349; 351; 352; 353; 354; 355; 356; 358; 359; 360; 361; 362; 363; 364; 365; 366; 367; 369; 371; 372; 373; 378; 379; 380; 381; 382; 383; 384; 385; 386; 387; 388; 389; 390; 391; 392; 393; 394; 395; 396; 397; 398; 399; 400; 401; 402; 403; 404; 405; 406; 407; 408; 409; 410; 411; 412; 413; 414; 416; 417; 418; 419; 420; 421; 425; 426; 427; 428; 429; 430; 431; 432; 433; 434; 449; 451: \$0-\$50.

5. Unless adjusted as provided in subsections (E)(9)(b)7. and 8. of this section, and if penalties are to be assessed to a wholesale food establishment, as defined in 410 I.A.C. 7-23, then they shall be assessed in accordance with the following:

a. 410 I.A.C. 7-21 PENALTY RANGE: 35; 36(1); 36(2); 36(3); 36(4); 36(5); 39(b)(8); 40; 41; 42(b); 45(c); 45(n); 45(p); 45(q); 45(r); 46; 7(9)(B); 48; 49(d); 49(e); 50(d): \$0-\$1,000.

b. 410 I.A.C. 7-21 PENALTY RANGE: 36(8); 37; 38; 39(a); 39(b)(1); 39(b)(2); 39(b)(3); 39(b)(4); 39(b)(5); 39(b)(6); 39(b)(7); 42(a); 42(d); 42(e); 44(i); 45(a); 45(b); 45(d); 45(e); 45(f); 45(g); 45(h); 45(1); 450); 45(k); 45(1); 45(m); 45(o); 45(s); 7(2); 47(3); 47(4); 47(5); 47(6); 47(7); 47(9)(A); 47(9)(C); 50(c); 50(f); 51(a); 51(c); 51(d): \$0-\$500.

c. 410 I.A.C. 7-21 PENALTY RANGE: 36(6); 36(7); 42(c); 43(b); 43(c); 43(d); 44(c); 44(e); 44(h); 47(1); 47(8); 49(a); 49(b); 49(c); 50(b); 51(b): \$0-\$250.

d. 410 I.A.C. 7-21 PENALTY RANGE: 36(9); 43(a); 43(e); 44(a); 44(b); 44(d); 44(f); 44(g); 45(f); 47(10); 47(11); 47(12); 47(33); 47(14); 47(15): \$0-\$100.

6. Each individual penalty assessed under subsections (E)(9)(b)3., 4., or 5. of this section or any combination thereof, will be multiplied by the number of days the particular violation has been documented by the Jefferson County Health Department, or its authorized representative.

7. Penalties for violations documented in two consecutive routine, follow-up or complaint, inspections by the Jefferson County Health Department, or its authorized representative, shall

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be assessed on the basis that the violations have remained uncorrected over the period of time between the two routine, follow-up or complaint inspections.

8. The Jefferson County Health Department, or its authorized representative, may reduce the penalty determined in accordance with subsection (E)(9)(b) 3., 4., or 5 of this section or any combination thereof if the person found in violation has requested re-inspection and has produced substantial substantive evidence that violation(s) have been corrected. In that case the penalty amount shall be assessed only for the period between initial discovery of the violation and the date of receipt of the request for re-inspection.

9. Penalties for all violations documented in an inspection or series of inspections at an establishment will be totaled and sought in one cause of action.

10. After filing an action pursuant to I.C. 4-21.5, and in attempt to resolve violations of I.C. 16-42-5, 410 I.A.C. 7-24, or 410 I.A.C. 7-21 without resort to a hearing, the Jefferson County Health Department, or its authorized representative, may negotiate and enter into agreed orders. An agreed order may suspend all or part of the civil penalty calculated in accordance with this rule.

11. One hair restraint violation, 410 I.A.C. 7-24 § 138, will result in a written letter stating if another violation is documented on an inspection report within 12 months of the original violation a \$50 penalty will be enforced per violation.

(F) *Appeals.*

(1) Any person(s) aggrieved by orders issued under subsection (E)(8) (a) through (c) of this section shall be entitled to a review of the final order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (Secretary of the Jefferson County Board of Health see I.C. 16-20-1-10). The written request must be mailed or hand delivered to Health Officer, (715 Green Road, Madison, IN 47250) and must be received within 15 days after such final order is issued.

(2) Upon the Health Officer receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)

(3) The notice of the hearing shall be served upon the person requesting the review by hand delivering or mailing by certified mail the notice to the address listed on the permit application as the person's mailing address or such other address, as the person shall designate in the letter of request to the Health Officer.

(4) The Hearing Officer establishes the rules of procedure and advises the parties prior to the start of the proceedings.

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(5) The Hearing Officer shall make written findings of facts and shall enter its final administrative order or determination of this matter in writing.

(6) The administrative order completes the administrative appeals procedure.

(G) *Conflict of interest.* No representative of the Jefferson County Health Department shall conduct himself or herself in a manner that is or could have the appearance of impropriety or a conflict of interest. (Ord. 2011-6, passed 4-29-2011)

Article 52: Protection and Improvement of Public Health
Chapter 4: Tattoo Parlors and Body Piercing Facilities

§ 16-52-4-1 TATTOOS AND BODY PIERCING.

(A) *Sanitary operation of a tattoo parlor.* All places, individuals and businesses that offer to affix any type of permanent tattoo or body piercing to a person shall be regulated by this ordinance and shall maintain the premises in which tattoos or body piercings are performed and equipment used in the tattoo or body piercing process in a sanitary manner.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLOOD. Human blood.

BLOOD BORNE 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:

(a) HBV.

(b) HCV.

(c) HIV.

BODY PIERCER. Any person who performs body piercing on an individual.

BODY PIERCING. The perforation of any human body part other than ear lobe for the purpose of inserting jewelry or other decoration or for some other non-medical purpose.

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

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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 blood borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

DEPARTMENT. The Jefferson County Health Department.

FACILITY. A tattoo parlor or a body piercing facility, or both, which is any room or space that is mobile or stationary where tattooing or body piercing, or both is provided or where the business of tattooing or body piercing, or both is conducted.

HBV. Hepatitis B virus.

HCV. Hepatitis C virus.

HEALTH OFFICER. The duly appointed Health Officer as set forth in I.A.C. 16-20-2-16. The Jefferson County Health Officer or his or her designee who has been designated as the official in charge of enforcing this section. The ***HEALTH OFFICER*** may designate a representative in the Health Department to perform those duties and responsibilities of the Health Officer.

HIGH LEVEL DISINFECTION. A process that destroys all micro-organisms, with the exception of high numbers of bacterial spores.

HIV. 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:

- (a) Contaminated sharps or contaminated objects that could potentially become contaminated sharps;
- (b) Infectious biological cultures, infectious associated biologicals, and infectious agent stock;
- (c) Pathological waste;
- (d) Blood and blood products in liquid and semi-liquid form;

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(e) Carcasses, body parts, blood, and body fluids in liquid and semi-liquid form, and bedding of laboratory animals; and

(f) Other waste that has been intermingled with infectious waste.

INTERMEDIATE LEVEL DISINFECTION. A process that inactivates:

(a) Mycobacterium tuberculosis;

(b) Vegetative bacteria;

(c) most viruses; and

(d) most fungi.

MOBILE FACILITY. A tattoo parlor or a body piercing facility, or both, which is any moveable room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both is conducted.

OPERATOR. Any person who controls, operates, manages, or owns the facility.

OPIM. Other Potentially Infectious Materials such as human body fluid including:

(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

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(k) All body fluids where it is difficult or impossible to differentiate between body fluids.

PARENTERAL. Piercing the mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, or abrasions.

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 PRODUCTS. Blood, blood products that have intermediated fluid properties and are capable of flowing in a manner similar to liquid.

STERILIZE. The use of a 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.

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

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

(c) 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 of the mucus membranes or the skin through which needles or other objects are inserted for temporary or permanent placement.

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

(C) *Operator training responsibilities.* An individual or entity that is an operator shall comply with the following training responsibilities.

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

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

(3) Ensure that a record of training described in subsections (C)(1) and (2) of this section is maintained, as required under the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 20 C.F.R. § 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.

(D) *Operator responsibilities.*

(1) The operator shall ensure that tattoo artists, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood 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 C.F.R. § 1910.1030).

(2) The operator shall require tattoo artist, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility that 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 subsection (F) of this section.

(3) The 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) *Operator policies.* The 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 C.F.R. § 1910.1030) that:

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

(2) Requires disinfection or sterilization of contaminated reusable items;

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

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

(F) *Tattoo artist and body piercer minimum training and certification requirements.*

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

(a) A blood borne pathogen training session provided by the operator meeting the requirement under the Indiana Occupational Safety and Health Administration's Blood Borne Pathogens Standard (as found in 29 C.F.R. § 1910.1030); and

(b) Any blood borne pathogen continuing education program accredited by a health care licensing entity.

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

(G) *Patron records.* Records of each patron shall be maintained for two years. The record shall include the following:

(1) Patron's name;

(2) Address;

(3) Age. Age must be verified by two items of identification, one of which must be a valid government issued identification;

(4) Date of the tattoo or body piercing;

(5) Design of the tattoo or body piercing;

(6) Location of the tattoo or body piercing on the patron's body;

(7) The name of the tattoo artist or body piercer who performed the work;

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(8) Jewelry or other decoration used; and

(9) Parental consent must be in writing when performed on any minor as required by law I.A.C. 35-42-2-7(e) requires the parent to be in person and provide consent in writing.

(H) *Illness.* Tattoo artists or body piercers who are experiencing symptoms of acute disease that include, but are not limited to:

(1) Diarrhea;

(2) Vomiting;

(3) Fever;

(4) Rash;

(5) Productive cough;

(6) Jaundice; and

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

(I) *Handwashing.*

(1) Hand washing facilities shall be readily accessible in the same room where tattooing or body piercing is provided.

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

(3) Only single use towels shall be used.

(J) *Personal protective equipment.* Appropriate personal protective equipment shall be worn as follows.

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

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

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

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

(K) *Tattooing equipment.*

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

(2) All stencils shall be properly disposed of after a single use.

(3) If the design is drawn directly onto the skin, it shall be applied with a single use article only.

(L) *Needles.*

(1) Needles shall be individually packaged and sterilized prior to use.

(2) Needles shall be single use only.

(3) Needles shall be discarded in sharps containers immediately after use.

(4) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.

(M) *Reusable equipment.*

(1) Heating procedures capable of sterilization must be used when heat stable, non- disposable equipment is sterilized.

(2) Equipment that is to be sterilized shall be put in single use packaging.

(3) Records must be maintained to document the following:

(a) Duration of sterilization technique;

(b) Determination of effective sterility, such as use of a biological indicator, is performed monthly; and

(c) Equipment is maintained as recommended by the owner's manual and proof is available that the owner's manual recommendations are reviewed monthly.

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(4) 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.

(5) Reusable contaminated equipment shall be:

(a) Placed in puncture resistant containers which are:

1. Labeled with the biohazard symbol; and
2. Leak proof on both sides and bottom;

(b) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.

(6) Contaminated reusable equipment shall be effectively cleaned prior to sterilization or disinfection.

(7) Any reusable contaminated equipment that comes into direct contact, or is likely to come into direct contact, with an instrument that penetrates the skin other than a piercing gun shall be effectively cleaned and sterilized prior to use.

(8) All sterilized equipment shall not be removed from wrappers or sterilizer packaging until immediately prior to use.

(9) Any reusable equipment that comes into contact with mucus membranes shall be effectively cleaned and sterilized prior to use.

(10) Piercing guns shall be cleaned and undergo, at a minimum, high level disinfection after each use and whenever visibly contaminated.

(11) All reusable equipment that has contact with intact skin shall undergo, at a minimum, intermediated level disinfection.

(12) All other equipment used during the tattooing or body piercing procedure shall be single use, including corks.

(13) All body piercers and tattoo artists shall comply with all other equipment manufacturer's recommendations.

(N) *Dyes or pigments.*

(1) All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.

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(2) In preparing dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be used. Single use or individual portions of dyes or pigments in clean, single-use containers shall be used for each patron.

(3) After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

(4) Any object placed under the skin shall be sterile.

(O) *Work environment.*

(1) No tattooing or body piercing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.

(2) Live animals shall be excluded from areas where tattooing or body piercing is being conducted. This exclusion does not apply to the following:

(a) Patrol dogs accompanying security or police officers;

(b) Guide dogs accompanying the following:

1. Blind persons;
2. Partially blind persons;
3. Physically disabled persons;
4. Guide dog trainers; and
5. Persons with impaired hearing.

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

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

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

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

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(7) All work surfaces shall be:

- (a) Non-absorbent;
- (b) Easily cleanable;
- (c) Smooth; and
- (d) free of:
 - 1. Breaks;
 - 2. Open seams;
 - 3. Cracks;
 - 4. Chips;
 - 5. Pits; and
 - 6. Similar imperfections.

(8) Disinfectant solutions shall be:

(a) A hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or

(b) 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.

(P) *Infectious waste containment.*

(1) Contaminated disposable needles or instruments shall be 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.

(2) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that:

- (a) Shall be impervious to moisture;

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- (b) Shall be of sufficient strength and thickness to prevent expulsion;
- (c) Shall be secured to prevent leakage expulsion;
- (d) Shall be labeled with the biohazard symbol; and

(e) Shall be effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

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

- (a) Is locked or otherwise secured to eliminate access by or exposure to the general public;
- (b) Affords protection from adverse environmental conditions and vermin; and
- (c) Has a prominently displayed biohazard symbol.

(4) 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.

(5) Disinfect reusable containers for infectious waste 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.

(Q) Treatment and transport of infectious waste.

(1) All 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.

(2) 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:

- (a) Incineration in an incinerator designed to accommodate infectious waste;
- (b) Steam sterilization;
- (c) Chemical disinfection under circumstances where safe handling of the waste is assured;
- (d) Thermal inactivation;

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(e) Irradiation; or

(f) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(3) All persons subject to this rule shall:

(a) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and

(b) Effectively treat infectious waste in accordance with this rule before it is compacted.

(4) The operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 I.A.C. 1-3.

(R) *Permits.*

(1) *Business.* Each facility operation shall obtain a permit from the Jefferson 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 and body piercer located at each location. The cost for this permit shall be \$150 and shall not be transferable. The permit expires on December 31st of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Jefferson County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the facility in the place where the tattoos or body piercing are performed and shall be clearly visible to the public.

(2) *Mobile/temporary facility.* Each mobile facility operation shall obtain a permit from the Jefferson 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 and body piercer located at each location. The cost of this permit shall be \$30 per event and shall not be transferable. The permit expires at the end of each event. Any holder of a permit shall be subject to inspection as set forth herein. The Jefferson County Health Department shall provide the appropriate forms for this permit. The permit shall be posted at the mobile facility in the place where the tattoos or body piercings are performed and shall be clearly visible to the public. In addition, the date, time and location of the event where the mobile facility will be used shall be submitted at least five business days prior to the start time of the event to the Jefferson County Health Department.

(3) *Tattoo artist or body piercer.* Every person that desires to perform any tattoo or body piercing shall obtain a tattoo artist permit, body piercer permit or a tattoo artist-body piercer permit from the Jefferson County Health Department. This permit must be obtained before any tattoos are affixed or body piercing done to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in subsection (F) of this section . The cost of the permit shall

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be \$75 and shall not be transferable. The permit expires on December 31st of each year. Any holder of a permit shall be subject to inspection as set forth herein. The Jefferson County Health Department shall provide the appropriate forms for this permit. The permits shall be posted at the facility in the place where the tattoos or body piercings are performed and shall be clearly visible to the public.

(4) *Owner/operator.* In the event that a facility is a sole proprietorship and the owner shall also perform tattooing or body piercing for their business, the owner shall only be required to obtain a business permit as described in this section.

(5) *Guest tattoo artist or body piercer.* Every person that desires to perform any tattoo or body piercing within Jefferson County on a temporary basis shall obtain a guest tattoo artist permit, guest body piercer permit or a guest tattoo artist-body piercer permit from Jefferson County Health Department. This permit must be obtained before any tattoos are affixed or body piercing done to any person and after the requisite training. The applicant must satisfy the minimum requirements as set forth herein in subsection (F) of this section. The cost of the permit shall be \$50 and shall not be transferable. The permit shall expire 30 days after the date of issuance. Any holder of a permit shall be subject to inspection as set forth herein. The Jefferson County Health Department shall provide the appropriate forms for this permit. The permits shall be posted at the facility in the place where that tattoos or body piercings are performed and shall be clearly visible to the public.

(6) *Pro rata for fees.* In the event that a business, mobile facility, tattoo artist and/or body piercer shall apply for a permit any time prior to July 1st of any year, they shall be responsible for the total annual fee as described in the section. In the event that a business, mobile/temporary facility, tattoo artist and/or body piercer shall apply for a permit any time after July 1st of any year, they shall be required to pay one-half of the annual fee. All permits shall expire on December 31st of the year in which they were issued.

(7) The permit application forms are attached to the ordinance codified herein as an appendix.

(S) *Inspections.* The Jefferson County Health Department shall conduct inspections of each and every facility and mobile/temporary facility located in Jefferson County, Indiana. The Jefferson County Health Department shall conduct a minimum of two inspections per year for facilities and one inspection per event for mobile/temporary facilities. Additional inspections may be conducted by the Jefferson County Health Department as it determines and/or in response to complaints submitted. The results of the inspections shall be provided to each operator. Violations noted by the Jefferson County Health Department shall be corrected immediately. The Department shall conduct follow-up inspections to determine compliance with this section.

(T) *Procedures when violations are noted.*

(1) During the inspection of any facility, the Health Officer or his or her authorized representatives discovers the violation of any provision of Jefferson County Ordinance he or she shall

issue a written report listing such violations and the remedial action(s) to be taken. A copy of the report shall be delivered to the permittee by hand delivering the report to him or her on-site, or mailing the notice by certified mail to the address listed by the permittee as his or her mailing address on the permit application.

(2) A copy of the written order shall be filed in the records of the Jefferson County Health Department after appropriate review by supervisory personnel and then shall be made available to the public.

(U) *Permit suspension/revocation.* The Health Officer or his/her authorized representatives may order the suspension or revocation of any permit issued for a facility, which order shall include the prohibition of any further operation for the following reasons:

(1) Interference with the Health Officer, or his/her authorized representatives, in the performance of his or her duties. Interference shall be defined as the process of obstruction, hampering or blocking the Health Officer or his/her authorized representatives in the performance of his or her duties; and

(2) As a result of the willful and/or continuous violation of any provision of the section.

(V) *Other permit revocations, suspension and immediate closure orders.* Except as set forth in subsection (V)(1) of this section, no suspension or revocation shall be ordered by the Health Officer, or his or her authorized representatives, except after a hearing held pursuant to subsection (W)(1) of this section.

(1) Notwithstanding the other provisions of this subsection (V)(1), whenever the Health Officer, or his or her authorized representatives find unsanitary or other condition, involving the operation of any facility which, in his or her reasonable belief, constitutes an imminent health hazard, he or she shall without notice or hearing, issue and serve written order upon the permittee requiring the immediate closure of its operations, shall cite the existence of said unsanitary conditions and shall specify the corrective actions to be taken. The following will apply to an order for immediate closure:

(a) Such order shall be effective immediately;

(b) Upon written request to the Health Officer, or his/her authorized representatives the permittee shall be afforded a hearing on the next business day as set forth in subsection (W) of this section; and

(c) The Health Officer or his/her authorized representative shall make a reinspection upon the request of the permittee. When the Health Officer or authorized representative determines that the necessary corrective action(s) have been taken, operation of the facility may be resumed.

(W) *Hearing.*

(1) All hearings required under this section, except those set forth in subsection (V) of this section, shall be held only upon at least ten days written notice to the permittee of time, place and nature thereof. 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, or his or her authorized representatives.

(2) At any hearing required under this section, the Hearing Officer shall be the Health Officer or his or her authorized representatives. Every person who is a party to such proceedings shall have the right to submit evidence, 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.

(3) Upon the conclusion of such hearing, the Hearing Officer shall enter a final order, subject to the right of appeal in accordance with subsection (X) of this section.

(X) *Appeal.*

(1) Any permittee aggrieved by a final order of the Health Officer, or his or her authorized representatives shall be entitled to a review of the final order before the Jefferson County Board of Health 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 Officer's, or his or her authorized representatives, receipt of such request, the Board shall hear the matter de novo in an open hearing after at least ten days written notice of the time, place and nature thereof. (The Health Officer, or his or her authorized representatives and permittee 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 permittee filing the request.

(3) 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 Secretary of the Board.

(4) At such hearing, the same rules of procedure shall apply as set forth in subsection (W)(2) of this section, provided, that upon written request by the permittee or the Health Officer, or his or her authorized representatives, 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, shall at the request of either party, be reproduced by the Board in the form of a transcript, a copy of which shall be available to any party.

(5) The expense of such proceedings shall be charged to the permittee who applied for the review, except that copies of transcripts shall be at the expense of the party requesting the same. At the time the transcript is requested, the Board may require the permittee to pay deposit in the amount determined by the Board to be necessary to secure such expense(s).

(6) The Board shall make written findings of facts and shall enter its final order or determination of the matter in writing.

(Y) *Enforcement.* It shall be the duty of the Health Officer, or his or her authorized representatives, to enforce the provisions of this section. Any permit issued in conflict with the provisions of this section shall be null and void. A violation of an order issued by the Health Officer, or his or her authorized representatives, or Board shall be considered to be a violation of this section.

(Z) *Violations.* Whenever the Health Officer, or his or her authorized representatives, determines that any facility, or any other person, is in willful violation of any of the provisions of this section, the Health Officer, or his or her authorized representatives, shall furnish evidence of the willful violation to the Prosecuting Attorney of Jefferson County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this section.

(AA) *Penalty.* Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than five hundred dollars (\$500.00) for each violation. Each day of the existence of any violation of the Ordinance shall be considered to be a separate infraction.

(BB) *Injunction.* The Health Officer, or his or her authorized representatives, may bring an action for an injunction in the Circuit or Superior Court of Jefferson County, Indiana, to restrain any person from violating the provisions of this section, to cause such violation(s) to be prevented, abated or removed.

(CC) *Expense.* Any person violating any of the provisions of this section shall be liable to the Jefferson County Health Department for the expense, loss or damage occasioned by the reason of such violation, including reasonable attorney's fees and costs.

(DD) *Cumulative.* The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

(Ord. 2011-7, passed 4-29-2011)

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