

ORDINANCE NUMBER 2015-3-2

RETAIL FOOD ESTABLISHMENT / BED AND BREAKFAST ESTABLISHMENT ORDINANCE

WHEREAS, it is the desire and duty of the County Board of Commissioners to protect human health; and

WHEREAS, in the opinion of the County Board of Commissioners, it is necessary to enact this Ordinance to safeguard human health;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF PUTNAM COUNTY, STATE OF INDIANA, as follows:

**ARTICLE I
TITLE**

This Ordinance shall be titled "Retail Food Establishment / Bed and Breakfast Establishment Ordinance", and may be cited as such. Reference shall be Ordinance Number 2015-3-2

**ARTICLE II
PURPOSE**

The purpose of this Ordinance is to safeguard public health and assure that food provided to the consumers is safe, unadulterated, and honestly presented. It establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for Retail Food Establishment, Bed and Breakfast Establishment, Mobile Food Establishment, and/or Temporary Food Establishment plan reviews, permits, inspections, and employee restrictions.

This Ordinance defines the specific terms used herein; requires construction and/or alteration plans; requires a permit and payment of permit fees for the operation of Bed and Breakfast Establishment, Retail Food Establishment, Mobile Retail Food Establishments, and/or Temporary Food Establishments; prohibits sale of adulterated, unwholesome, or misbranded food; regulates inspection of such establishments; provides for a Food Safety Education Class; provides for compliance and the enforcement of this Ordinance; provides penalties and sanctions for violations of the Ordinance; and incorporates by reference Indiana Codes IC 16-41-31, IC 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2 and Indiana State Department of Health Indiana Administrative Codes Rule 410 IAC 7-15.5, Rule 410 IAC 7-24, Rule 410 IAC 7-22 and Rule 410 IAC 7-23.

The Putnam County Health Department is hereby authorized to issue Bed and Breakfast Establishment, Retail Food Establishment, Temporary Food Establishment, and/or Mobile Food Establishment permits, collect permit fees and penalties, perform inspections, hold hearings, order or otherwise compel correction of violations of this Ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance.



ARTICLE III DEFINITIONS

Applicant: means a person that prepares an application for a permit and/or plan review.

Bed and Breakfast Establishment: (as defined in Rule 410 IAC 7-15.5) means an Operate occupied residence that:

- (1) Provides sleeping accommodations to the public for a fee;
- (2) Has no more than fourteen (14) guest rooms;
- (3) Provides breakfast to its guests as part of the fee; and
- (4) Provides sleeping accommodations for no more than thirty (30) consecutive days to a particular guest.

The term does not include hotels, motels, boarding houses, or food service establishments.

Commissary: A registered catering establishment, restaurant, or any retail food establishment in which food, food containers, or food supplies are kept, handled, prepared, packaged, or stored.

Catering ONLY Permit: A retail food establishment that prepares food in an approved kitchen and may include the transportation of such food for service and consumption at some other site (NO FOOD SERVED AT THE SITE WHERE FOOD IS PREPARED).

Conflict of Interest: means a situation in which the private financial interest of a Putnam County Health Department Employee, Employee's spouse, ex-spouse, siblings, in-laws, and/or child/children, may influence said Employee's judgment in the performance of a public duty.

Employee: means full and part-time Health Department personnel who are paid, in whole or in part, by Putnam County funds.

Event: means one occasion that will last no longer than fourteen (14) consecutive days.

Food Establishment: means any Bed and Breakfast Establishment, Retail Food Establishment, Mobile Food Establishment, Food Establishment, and/or Temporary Food Establishment.

HACCP Plan: means Hazard Analysis Critical Control Point, and is a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. (as defined in Rule 410 IAC 7-24)

Health Officer: means the person, appointed as specified in IC 16-20—16, or his/her duly authorized representative, as specified in IC 16-20-1-14, who may conduct inspections and make a final decision on an enforcement action within the jurisdiction of Putnam County.

Imminent Health Hazard: means any circumstance or situation, which in the opinion of the Health Officer, presents a serious health risk to the public (i.e. sewage backing up in a food preparation area or contamination of food products with toxic materials).

Inspection Report: means the document prepared by the Putnam County Health Department that is completed as the result of the inspection and provided to the Operator.

Mobile Unit Permit: (as defined in Rule 410 IAC 7-24-55) means a retail food establishment that is:

- (1) Wheeled;
- (2) On skids;
- (3) Mounted on a vehicle;
- (4) A marine vessel; or
- (5) Otherwise readily movable; (i.e. pushcart or trailer)

Mobile Units **MUST** be physically transported to a commissary or servicing area or both at least once daily for all supplies, cleaning, and servicing operations.

Mobile Unit Seasonal Permit: (as defined in Rule 410 IAC 7-24-55) means a retail food establishment that is:

- (1) Wheeled;
- (2) On skids;
- (3) Mounted on a vehicle;
- (4) A marine vessel; or
- (5) Otherwise readily movable; (i.e. pushcart or trailer)

Mobile Units **MUST** be physically transported to a commissary or servicing area or both at least once daily for all supplies, cleaning, and servicing operations **AND** is only in operation during a season (i.e. Winter – December to February; Spring – March to May; Summer – June to August; Fall – September – November).

Non Profit Permit: IRS 501 (C)(3) Organizations, Civic, Fraternal, Veterans, Charitable – must provide IRS 501(C)(3) Tax Exempt Certificate – Must **NOT** operate a food operation for more than 15 calendar days per year.

Operator: means 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.

Order: means a Putnam County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. The term includes a permit. (Derived from IC 4-21.5-1-9)

Permanent Food Establishment Without Catering Permit: means a facility that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

Permanent Food Establishment with Catering Permit: means a facility that stores, prepares, packages, services, vends, or otherwise provides food for human consumption AND prepares food in the retail food establishment that includes the transportation of such food for service and consumption at some other site.

Permit: means the document issued by the Putnam County Health Department that authorizes a person to operate a Bed and Breakfast Establishment, Retail Food Establishment, and/or Mobile Retail Food Establishment.

Person: means an association, a corporation, an individual, partnership, or other legal entity, government, or governmental subdivision or agency.

Potentially Hazardous Food: means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting the growth of infectious/toxigenic microorganisms or harmful bacteria (as defined in Rule 410 IAC 7-24-66)

Putnam County Health Department: means the local Health Department in Putnam County or authorized representative having jurisdiction over Bed and Breakfast Establishments, Retail Food Establishments and/or Mobile Retail Food Establishments.

Retail Food Establishment: (as defined in Rule 410 IAC 7-24-79) means an operation that:

- (1) Stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as:
 - a. A Restaurant;
 - b. Satellite or catered feeding location;
 - c. A catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people;
 - d. A market;
 - e. A grocery store;
 - f. A convenience store;
 - g. A vending location;
 - h. A conveyance used to transport people;
 - i. An institution;
 - j. A food bank;
 - k. A commissary;
 - l. A cottage industry;
 - m. A hospice facility as defined in IC 16-25;
 - n. A health care facility as defined in IC 16-21-2;
 - o. A health facility as defined in IC 16-18-2;
 - p. A child care facility as defined in IC 12-13-5, such as the following:

- i. Licensed child care center licensed under Rule 470 IAC 3-4.7;
 - ii. Licensed child care institutions licensed under Rule 470 IAC 3-11, Rule 4710 IAC 3-12, and Rule 470 IAC 3-13;
 - q. An assisted living facility as defined in IC 12-10-15.
- (2) Relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (3) The term includes the following:
- a. An element of the operation, such as transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority.
 - b. An operation that is conducted in a:
 - i. Mobile;
 - ii. Stationary;
 - iii. Temporary; or
 - iv. Permanent;
 Facility or location, where consumption is on or off the premises, and regardless of whether there is a charge for the food.
- (4) The term does not include the following:
- a. An establishment that offers only pre-packaged foods that are not potentially hazardous;
 - b. A produce stand that offers only whole, uncut fresh fruits and vegetables;
 - c. A food processing plant operated under IC 16-42-5;
 - d. A private home where food is prepared by a member of an organization that is operating under IC 16-42-5-4;
 - e. An area where food that is prepared as specified I subdivision (d above) is sold or offered for human consumption;
 - f. A Bed and Breakfast Establishment as defined and regulated under IC 16-41-31 and Rule 410 IAC 7-15.5;
 - g. A private home that receives catered or home-delivered food; or
 - h. A private home.

Seasonal Food Establishment Permit: means a permanent retail establishment that is only in operation during a season (i.e. Winter – December to February; Spring – March to May; Summer – June to August; Fall – September to November).

Temporary Food Establishment Permit: means a retail food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration (i.e. 4-H Fair; Berry Street Festival; 4th of July Festival).

ARTICLE IV PLAN REVIEW

The owner or other authorized agent of an existing or proposed Food Establishment shall submit to the Putnam County Health Department properly prepared plans and specifications for review and approval before:

1. The construction of a Bed and Breakfast Establishment or Retail Food Establishment;
2. The conversion of an existing structure for use as a Bed and Breakfast Establishment or Retail Food Establishment; or
3. The remodeling of a Bed and Breakfast Establishment or Retail Food Establishment or a change of type of Bed and Breakfast Establishment or Retail Food Establishment or food operation if the Putnam County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

The plans and specifications for a Food Establishment shall include the type of operation, type of food preparation (as specified in Appendix A of the published version of Rule 410 IAC 7-24), and the menu.

The plans and specifications shall be deemed satisfactory and approved by the Putnam County Health Department before a Permit can be issued.

A pre-operational inspection shows that the Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with the Ordinance, Rule 410 IAC 7-24 and Rule 410 IAC 7-15.5, whichever is applicable.

ARTICLE V PERMITS

General: It is unlawful for a person to operate any Food Establishment in Putnam County without first obtaining a valid permit from the Health Officer. The valid Permit must be posted in a conspicuous location in the Food Establishment.

A separate Permit shall be required for each Food Establishment operated or to be operated by any person.

Only persons who comply with the applicable requirements of Rule 410 IAC 7-15.5, Rule 410 IAC 7-24, and this Ordinance will be entitled to obtain and keep a permit.

A Food Establishment permitted by the Putnam County Health Department shall be considered registered as required in IC 16-42-1-6.

Prior to participating in an Event, each Food Vendor must present a copy of its' Putnam County Health Department Food Service Establishment Permit to the person organizing the Event. Such event organizer is required to send a list of the participating food vendors to the Putnam County

Health Department, at least two (2) weeks prior to the start of the Event. Failure to have the requisite Permit at the time of the Putnam County Health Department's inspection will result in the immediate termination of food preparation, cooking, and/or selling of food, until such time as the requisite Permit is obtained.

A PERMIT ISSUED UNDER THIS ORDINANCE IS NOT TRANSFERABLE.

Permit Period: A Permit for a 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 Permit is being issued. The Permit shall be applied for by the Person and/or Operator on an annual basis.

A Permit for a Temporary Food Establishment shall be for the term of one continuous operation.

A Permit for a Seasonal Food Establishment shall be for the term of the season (i.e. Winter, Spring, Summer, Fall).

Permit Content: Any Permit issued by the Health Officer shall contain:

- (1) The name and address of the Person and/or owner to whom the Permit is granted;
- (2) The location of the establishment for which the Permit is issued;
- (3) The issuance and expiration dates; and
- (4) Other such pertinent data as may be required by the Putnam County Health Officer.

Application: A Person desiring to operate a Food Establishment shall submit to the Putnam County Health Department a written application for a Permit on a form provided by the Putnam County Health Department.

Content of the Application: The application shall include:

- (1) The name, mailing address, telephone number, and original signature of the Person and/or Operator applying for the Permit and the name, mailing address, and location of Food Establishment;
- (2) Information specifying whether the Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) A statement specifying whether the Food Establishment:
 - A. If not permanent, is mobile and/or temporary,
 - B. The operation includes one (1) or more of the following:
 - 1) Prepares, offers for sale, or serves potentially hazardous food:
 - a) Only to the order upon a consumer's request;
 - b) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency;

- c) Using time, rather than temperature, as the public health control as specified under Rule 410 IAC 7-24-193; or
 - d) Prepares acidified foods as defined in Rule 410 IAC 7-24-3 or Rule 410 IAC 7-21-3
 - 2) Prepares potentially hazardous food in advance using a food preparation method that involves two (2) or more steps which may include combining potentially hazardous ingredients, cooking, cooling, reheating, hot or cold holding, freezing, or thawing
 - 3) Prepares food as specified under item (3)(B)(2) of this Article for delivery to and consumption at a location off the premises of the Food Establishment where it is prepared;
 - 4) Prepares food as specified under item (3)(B)(2) of this Article for service to a highly susceptible population, as defined in Rule 410 IAC 7-24-46;
 - 5) Prepares only food that is not potentially hazardous; or
 - 6) Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous.
- (4) The name, title, address, and telephone number of the Operator directly responsible for the Food Establishment.
- (5) The name, title, address, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (4) of this Article such as the zone, district, or regional supervisor.
- (6) The names, titles, and addresses of:
 - A. The Persons comprising the legal ownership as specified under subdivision (2) of this Article including the owner(s) and operator(s); and
 - B. The local resident agent if one is required based on the type of legal ownership.
- (7) A statement signed by the Applicant that:
 - A. Attests to the accuracy of the information provided in the application; and
 - B. Affirms that the applicant will:
 - 1) Comply with this Ordinance; and
 - 2) Allow the Putnam County Health Department access to the, Food Establishment and records as specified in Rule 410 IAC 7-15.5 and Rule 410 IAC 7-24.
- (8) Other information required by the Putnam County Health Department.

Qualification: To qualify for a Permit, an applicant must:

- (1) Be an owner and/or operator of the Food Establishment;
- (2) Comply with the requirements of this Ordinance;