



FOOD PROTECTION ORDINANCE Chapter 42

VIGO COUNTY, STATE OF INDIANA

3-42-1 PURPOSE

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

This ordinance defines Bed and Breakfast Establishment, Conflict of Interest, Vigo County Health Department, Vigo County Official, Hazard Analysis Critical Control Point, Health Officer, Hearing Officer, Imminent Health Hazard, Inspection Report, Operator, Order, Permit, Person, Retail Food Establishment, and/or Temporary food Establishment; 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, and/or Temporary Food Establishment; prohibits sale of adulterated, unwholesome, or misbranded food; regulates inspection of such establishments; provides for compliance and the enforcement of this ordinance; provides penalties for violations of said ordinance; and incorporates by reference Indiana Code (IC) 16-42-1, IC 16-42-2, IC 16-42-5, Indiana State Department of Health Rule(s) 410 Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-24, 410 IAC 7-21-47, 410 IAC 7-22 and 410 IAC 7-23

The Vigo County Health Department is hereby authorized to issue Bed and Breakfast Establishment, Retail Food Establishment and/or, Temporary 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.

Be it ordained by the Board of Commisioners of Vigo County, State of Indiana, that:

3-42-2 Definitions

Bed and Breakfast Establishment (as defined in 410 IAC 5-15.5) means an Operator 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.

Conflict of Interest (derived from 68 IAC 9-1-1(b)(2)) means a situation in which the private financial interest of a Vigo County Official, Vigo County Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Vigo County Official's judgment in the performance of a public duty.

Farmers Markets are common facilities or areas where several producers gather on a regular basis to sell various fresh meat, fruit, vegetables, and other food products directly to consumers. Goods are locally produced and vendors sell their own products.

Farmers Market Establishment are establishments that operates at a Farmers Market from May 1 through October 31.

Indoor Farmers Market Establishment are establishments that operates at an indoor farmers market no more than twice a month

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

Health Officer means the Health Officer having jurisdiction in Vigo County or his/her duly authorized representative.

Hearing Officer means 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 Vigo County Health Department. (Examples of Hearing Officer could be the Vigo County Health Board, a subcommittee of Vigo County Health Board, a subcommittee of health professionals from the community or other non-biased third party appointed by the Health Board.)

Imminent Health Hazard means any circumstance or situation, which in the opinion of the Health Officer presents a serious health risk to the public.

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

Mobile Unit means a self-contained mobile retail food establishment.

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 (derived from IC 4-21.5-1-9) means a Vigo 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.

Permit means the document issued by the Vigo County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment, Retail Food Establishment, and/or Temporary Food Establishment.

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

Retail Food Establishment (as derived from 410 IAC 7-24) means

- (A) An operation that:
stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as:
- (1) a restaurant;
 - (2) satellite or catered feeding location;
 - (3) a catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people;
 - (4) a market;
 - (5) a grocery store;
 - (6) a convenience store;
 - (7) a vending location;
 - (8) a conveyance used to transport people;
 - (9) an institution; or
 - (10) a food bank; and

(11) an operation that 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.

B The term includes the following:

- (1) An element of the operation, such as a 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.
- (2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, where consumption is on or off the premises, and regardless of whether there is a charge for the food.

Temporary Food Establishment (as defined in IAC 7-24) 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.

Vigo County Health Department means the local health department in Vigo County or authorized representative having jurisdiction over a Bed and Breakfast Establishment, Retail Food Establishment and/or Temporary Food Establishment.

Vigo County Official means any Official of Vigo County, Indiana.

3-42-3 Permits

(A) General:

It is unlawful for a Person to operate any Bed and Breakfast Establishment, Retail Food Establishment and/or Temporary Food Establishment in Vigo 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, Farmers Market Establishment and/or Temporary Food Establishment.

Only persons who comply with the applicable requirements of 410 IAC 7-15.5 and/or 410 IAC 7-24 will be entitled to obtain and keep a Permit.

A separate Permit shall be required for each Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment operated or to be operated by any Person.

A Permit issued under this ordinance is **not transferable**.

A Bed and Breakfast Establishment and/or Retail Food Establishment Permitted by Vigo County Health Department shall be considered registered as required in IC 16-42-1-6.

(B) Permit Period:

A Permit for a Bed and Breakfast Establishment and/or 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.

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

A Permit for a Farmers Market Establishment shall be for the term beginning May1 through October 31 of a calendar year.

A Permit for an Indoor Farmers Market Establishment shall be for the term beginning in January1 through December 31 and shall be limited to no more than two Saturdays per month.

(C) 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 date(s); and
- (4) other such pertinent data as may be required by the Vigo County Health Officer.

(D) Application:

A Person desiring to operate a Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment shall submit to the Vigo County Health Department a written application for a Permit on the form provided by the Vigo County Health Department.

(E) 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 the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment;

- (2) Information specifying whether the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) A statement specifying whether the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment:

(A) If not permanent, is mobile and/or temporary, and

(B) The operation includes one (1) or more of the following:

(1) Prepares, offers for sale or serves potentially hazardous food:

(a) Only to order upon a consumer's request:

(b) In advance in quantities based on projected consumer demand and discard food that is not sold or served at an approved frequency; or

(c) Using time, rather than temperature, as the public health control as specified under 410 IAC 7-24.

(d) Prepares acidified food as defined in 410 IAC 7-21-3.

(2) 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;

(3) Prepares food as specified under item (3)(B)(2) of this section for delivery to and consumption at a location off the premises of the Bed and Breakfast Establishment and/or Retail Food Establishment where it is prepared;

(4) Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in IAC 7-24;

(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 Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market and/or Temporary 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 section such as the zone, district, or regional supervisor;
- (6) The names, title, and addresses of:
 - (A) The Persons comprising the legal ownership as specified under subdivision (2) of this section including the owners and Operators, 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 Vigo County Health Department access to the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-24
- (8) Other information required by the Vigo County Health Department.

(F) Qualifications:

To qualify for a Permit, an applicant must:

- (1) Be an owner and/or Operator of the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment and/or Temporary Food Establishment;
- (2) Comply with the requirements of this ordinance;
- (3) Agree to allow access to the Bed and Breakfast Establishment, Retail Food Establishment, Farmer's Market Establishment, and/or Temporary Food Establishment and provide required information; and
- (4) Pay the applicable Permit fees at the time the application is submitted.

(G) Plans Requirements for Permanent Food Establishments:

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

- (1) the construction of a Bed and Breakfast Establishment and/or Retail Food Establishment;
 - (2) the conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Retail Food Establishment; or
 - (3) the remodeling of a Bed and Breakfast Establishment and/or Retail Food Establishment or a change of type of Bed and Breakfast Establishment and/or Retail Food Establishment or food operation if the Vigo 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 Retail Food Establishment shall include, the type of operation, type of food preparation (as specified in Appendix B of the published version of 410 IAC 7-24), and the menu.
- (c) The plans and specifications shall be deemed satisfactory and approved by the Vigo County Health Department before a Permit can be issued
- (d) A pre-operational inspection shows that the Bed and Breakfast Establishment and/or 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 IAC 7-24 and/or 410 IAC 7-15.5.

(H) Plan Requirements for Temporary Food Establishments:

The owner or other authorized agent of a temporary food establishment shall submit a temporary food application, a copy of an approved certified food handler certificate as stated in 410 IAC 7-22, and appropriate fees, to the Vigo County Health Department, for each specific festival in which the establishment intends to participate at least fifteen calendar (15) days **prior** to the beginning of the event.

If the temporary food application and appropriate fees are not received by the Vigo County Health Department within the fifteen calendar (15) days prior to the beginning of the event a late penalty will be levied.

If the temporary food application, a copy of an approved certified food handler certificate as stated in 410 IAC 7-22, and appropriate fees are not received by the Vigo County Health Department within seven calendar (7)

days prior to the beginning of the event the temporary food establishment will be **denied** a license for operation.

(I) Plan Requirements for Farmer's Market Establishments:

The owner or other authorized agent of a Farmers Market Establishment shall submit a Farmers Market application and appropriate fees, prior to operation, to the Vigo County Health Department, for each specific Farmers Market in which the establishment intends to participate.

(J) Plan Requirements for Indoor Farmer's Market Establishments:

The owner or other authorized agent of an Indoor Farmers Market Establishment shall submit an Indoor Farmers Market application and appropriate fees, prior to operation, to the Vigo County Health Department.

(K) Plan Requirements for Mobile Food Establishments:

Prior to operation a plan review, an application, and appropriate fees must be submitted to the Vigo County Health Department.

(L) Change of Ownership:

The Vigo 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 complete application and plan review is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this ordinance.

(M) Responsibilities of the Operator:

Upon acceptance of the Permit issued by the Vigo County Health Department, the Operator in order to retain the Permit shall:

- (1) Comply with the provisions of this ordinance and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;
- (2) Immediately discontinue affected operations and notify the Vigo County Health Department if an Imminent Health Hazard may exist;
- (3) Allow representatives of the Vigo County Health Department access to the Bed and Breakfast Establishment and/or Retail Food Establishment at all reasonable times;
- (4) Comply with directives of the Vigo County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Vigo County Health Department in regard to the Operator's Bed and Breakfast Establishment and/or Retail Food Establishment or in response to community emergencies;

- (5) Accept notices issued and served by the Vigo County Health Department; and
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this ordinance or a directive of the Vigo County Health Department.
- (7) Post the Permit in a location in the Bed and Breakfast Establishment and/or Retail Food Establishment that is conspicuous to consumers.

3-42-4 Permit Fees

(A) Requirements

It shall be unlawful for any Person to operate a Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment, Indoor Farmers Market Establishment and/or Temporary Food Establishment in Vigo County, who has not paid the Permit fee required to be paid for the operation of such establishment.

The fee for the Bed and Breakfast Establishments and Retail Food Establishments 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.

Permit fees for the issuance of a Permit under this Ordinance to a Bed and Breakfast Establishment, a Retail Food Establishment, Farmers Market Establishment and/or a Temporary Food Establishment shall be set by the Vigo County Health Department, as provided by the Statutes of the State of Indiana. (See IC 16-20-1-27)

A receipt for the payment of such fees shall be provided by the Vigo County Health Department.

The payment of such fees shall be required for each Bed and Breakfast Establishment, Retail Food Establishment, Farmer's Market Establishment, and/or Temporary Food Establishment operated or to be operated by any Person.

PERMIT FEE SCHEDULE		
Retail Food Establishment		
Plan Review a pre-opening, and opening inspection	All establishments	\$125.00

Additional Pre-opening Inspections		\$ 25.00
Retail Food Establishments	1 through 15 employees	\$ 110.00
	16 or more employees	\$ 150.00
Bed and Breakfast	14 or less rooms	\$ 100.00
Mobile Food Service		\$ 100.00
Temporary Food Establishment		
Vigo County Residents	Per Day	\$ 40.00
	Up to a Maximum of	\$ 80.00
Non Vigo County Residents	Per Day	\$ 40.00
	Up to a Maximum of	\$ 100.00
Vending Operators	Per Machine	\$ 20.00
	Up to a Maximum of	\$100.00
Catering	Per Retail Food Establishment Permit	\$ 20.00
Farmers Market Establishment		
Farmers Market Permit	May 1 through October 31	\$ 30.00
Indoor Farmers Market Permit	January 1 through December 31	\$ 50.00

(B) Pro Rating of Fees:

In the event that a business shall apply for a Bed and Breakfast or Retail Food Establishment permit any time after June 30, they shall be required to pay one half (1/2) of the annual fee.

(C) Exemption from Permit Fees:

An organization that is exempt from the Indiana Gross Income Tax under Indiana Code 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 Indiana Code 16-42-5-4. The Health Officer shall be provided, upon request, proof of an organization's tax exemption.

(D) Late Fees:

- (1) A late fee shall be assessed as set by the Vigo County Health Department for failure to **acquire** a license prior to the operation of

a Bed and Breakfast Establishment and/or Retail Food Establishment.

- (2) A late fee shall be assessed as set by the Vigo County Health Department for failure to **renew** a permit within 14 days after the expiration of the permit to operate Bed and Breakfast Establishment and/or Retail Food Establishment.
- (3) A late fee shall be assessed as set by the Vigo County Health Department for failure to **apply** for a temporary food license at least 15 days prior to the event.

LATE FEE SCHEDULE		
	Operating without a license	\$250.00
	Failure to renew within the 14 day grace period	\$200.00
	Failure to apply for a temporary food license at least 15 days prior to the event in which they plan to attend.	\$100.00

The payment of fees under this ordinance is not transferable or refundable.

3-42-5 Inspection

(A) General:

The Vigo County Health Department shall inspect a Bed and Breakfast and/or Retail Food Establishment at least once every 6 months.

The Vigo County Health Department may increase the interval between inspections beyond 6 months if:

- (1) The Bed and Breakfast Establishment and/or Retail Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s);
- (2) The Bed and Breakfast Establishment and/or Retail Food Establishment is assigned less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction. (See Table 1)
- (3) The Vigo Health Department may contact the Operator to determine that the nature of the food operation has not changed.

(B) Temporary Food Establishment:

The Vigo County Health Department shall periodically inspect throughout the Permit period of a Temporary Food Establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect Temporary Food Establishments that prepares, sells, or serves unpackaged, nonpotentially hazardous food that:

- (1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- (2) Has untrained food employees.

(C) Farmers Market Establishments

The Vigo County Health Department shall periodically inspect throughout the Permit period of a Farmers Market Establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect Farmers Market Establishments that prepares, sells, or serves unpackaged, non-potentially hazardous food.

(D) Indoor Farmers Market Establishments

The Vigo County Health Department shall periodically inspect throughout the Permit period of a Farmers Market Establishment that prepares, sells, or serves unpackaged potentially hazardous food and may inspect Farmers Market Establishments that prepares, sells, or serves unpackaged, non-potentially hazardous food.

(E) Performance and Risk Based Inspections: Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Vigo 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 ordinance and the Bed and Breakfast Establishment and/or Retail Food Establishment's potential as a vector of foodborne illness by evaluating:

- (1) Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and/or HACCP plan requirements that are critical or non- critical;
- (2) Past performance, for numerous or repeat violations of 410IAC7-15.5 and/or 410 IAC 7-24 and/or HACCP plan requirements that are non-critical;
- (3) Past performance, for complaints investigated and found to be valid;

- (4) The hazards associated with the particular foods that are prepared, stored, or served;
- (5) The type of operation including the methods and extent of food storage, preparation, and service; (See Table 1)
- (6) The number of people served; and
- (7) Whether the population served is a highly susceptible population.

Table 1: Menu Type

1 - Pre-packaged potentially hazardous foods only. Limited preparation of nonpotentially hazardous foods only.	At least once a year.
2 - Limited menu (1 or 2 main items). Pre-packaged raw ingredients are cooked or prepared to order. Retail food operations exclude deli or seafood department. Raw ingredients require minimal assembly. Most products are cooked/prepared and served immediately. Hot and cold holding of potentially hazardous foods is restricted to single meal service. Preparation processes requiring cooking, cooling, and reheating are limited to 1 or 2 potentially hazardous foods.	At least once every 6 months.
3 - Extensively handling of raw ingredients. Preparation process includes the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous food. Advance preparation for next day-service is limited to 2 or 3 items. Retail food operations include deli and seafood departments.	At least once every 4 months.
4 - Extensive handling of raw ingredients. Preparation processes include the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous foods. Food processes include advanced preparation for next-day service. Category would also include those facilities whose service population is highly susceptible.	At least once every 3 months.
5 - Extensive handling of raw ingredients. Food processing at the retail level, e.g., smoking and curing; reduced oxygen packaging for extended shelf-life.	At least once every 3 months.

(F) Access Allowed at Reasonable Times After Due Notice:

After the Vigo 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 Vigo County Health Department to determine if the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment, and/or Temporary Food Establishment is in compliance with this ordinance by allowing access to the establishment, allowing inspection, and providing information and records specified in this ordinance. The Vigo County Health Department is entitled the information and records according to IC 16-42-1-13 and IC

16-42-5-23, during the Bed and Breakfast Establishment and/or retail 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. (See IC 16-20-1-26)

(G) Inspection Reports:

At the conclusion of the inspection, the Vigo County Health Department shall provide a copy of the completed Inspection Report and the notice to correct violations to the Operator or the the Person-in-charge, as required under IC 16-20-8-5

(H) Timely Correction of the Critical Violations:

Except as specified in the next paragraph, an Operator shall at the time of the inspection correct a critical violation of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 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 Vigo 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 Vigo County Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Vigo County Health Department's records.

(I) Refusal to Sign Acknowledgement:

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 Vigo County Health Department historical record for the Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment, and/or Temporary Food Establishment.

The Operator is not necessarily in agreement with the findings of the Vigo County Health Department inspection by acknowledgement of receipt.

(J) Public Information:

Except as specified in section 176 (Trade Secrets) of 410 IAC 7-24, the Vigo 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 as provided in law. (See IC 16-20-8-6)

3-42-5 Compliance and Enforcement

(A) Application Denial:

If an application for a plan review and/or Permit to operate a Bed and Breakfast, Retail Food Establishment, Farmers Market Establishment, and/or Temporary Food Establishment is denied, the Vigo County Health Department shall provide the applicant with a notice that includes:

- (1) The specific reasons and rule citations for the application and/or Permit denial;
- (2) The actions, if any, that the applicant must take to qualify for the application and/or Permit; and
- (3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

(B) Permit Suspension:

The Vigo County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment, Farmers Market Establishment, and/or Temporary Food Establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this ordinance, that an Imminent Health Hazard exists.

(C) Ceasing Operation /Contacting the Authorities:

An Operator of a Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment, and/or Temporary Food Establishment shall immediately discontinue operations and notify the Vigo 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, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary 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.

(D) Resuming Operation:

If a Bed and Breakfast Establishment, Retail Food Establishment, Farmers Market Establishment, and/or Temporary Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Vigo County Health Department before resuming operations.

(E) Outstanding Fees:

Any outstanding fees may be a condition upon which a permit may not be issued or upon which a permit may be revoked.

(F) Enforcement Procedures: (See IC 16-42-5-28(g))

(1) Repeat Major Violations:

- The first time an establishment receives two consecutive repeat major violations, the owner/manager will be notified by letter. The purpose of the letter is to make the establishment aware of their repeat major violation(s) and the Civil Penalties Rule (410 IAC 7-23) and specific fines that may be applied if the problem(s) persist. The establishment will also be put on routine monthly inspections until the violation(s) are corrected.
- When an establishment receives the third consecutive repeat major violation the owner/operator will be called in for a conference with the Environmental Health Specialist and the Supervisor of the Environmental division to discuss the violation(s). At this time the establishment will be fined according to the Civil Penalties Rule (410 IAC 7-23).

(2) Order to Abate

- The Vigo County Health Officer 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 county attorney or county prosecuting attorney. (See 16-20-1-25; See also the Appeals Section of this Ordinance to ensure that due process is followed.)

(3) Ordinance Violation

- If the action concerning public health is an ordinance violation, the Vigo County Health Officer will request the county attorney

to institute a proceeding in the courts for the enforcement of the ordinance violation. (See IC 34-28-5-1)

3-42-6 Appeals Section

- (A)** Any Person(s) aggrieved by Orders issued under the Enforcement Options 1-3 of Section E above shall be entitled to a review of the final Order before a Hearing Officer by filing a written request therefore with the Health Officer (Secretary of the Vigo County Board of Health See IC 16-20-1-10). The written request must be mailed or hand delivered to the Health Officer, 147 Oak Street, Terre Haute, IN 47807 and must be received within fifteen (15) days after such final Order is issued.
- (B)** Upon the Health Officer's receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) 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.)
- (C)** The notice of 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.
- (D)** The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- (E)** The Hearing Officer shall make written findings of facts and shall enter its final Order or determination of this matter in writing.
- (F)** The Order completes the Administrative Appeals procedure.

3-42-7 Conflict of Interest

No Vigo County Official shall conduct himself or herself in a manner that is or could have the appearance of a Conflict of Interest.

3-42-8 Unconstitutional Clause:

Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

3.-42-9 Repeal and Effective Date

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effective after its adoption as provided by law.

Passed and adopted by the Commissioners of Vigo County, State of Indiana, on this 20th day of November, 2018.

Signed:

Richard A. Anderson

11/20/18

Beal

11/20/18

Joe R. Mave

11/20/18

Vigo County Board of Commissioners

Terre Haute, Indiana