

Q-2025-27

# SHELBY COUNTY

## FOOD ORDINANCE

### ORDINANCE NO. 2025-Article 3, Chapter 4

(Revised December 2025)

#### In Shelby County, Indiana

This is an ordinance to replace Article 3, Chapter 4 of the Public Health and Environment Regulations of the Shelby County Code. The new chapter shall incorporate into the Shelby County Code the Indiana Administrative Code Sections pertaining to regulating the retail Food Establishments by the Shelby County Health Department.

An Ordinance pertaining to establishments requiring Permits and Permit fees for operation of a Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, Vendor, or Bed and Breakfast Establishment; prohibiting the sale of adulterated, unwholesome, or misbranded food; regulating the inspection of food and Bed and Breakfast Establishments; providing for enforcement of this Ordinance; providing for the fixing of penalties for violations of said Ordinance; and providing for incorporation by reference the following statutes and rules: Retail Food Establishment Sanitation Requirements Title 410 Indiana Administrative Code (IAC) 7-26 or as amended; and Bed and Breakfast Establishment Rules, 410 IAC 7-15.5, Indiana Code (IC) 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2, 410 IAC 7-21, and 410 IAC 7-23.

Be it ordained by the Board of Commissioners of Shelby County, State of Indiana, that:

### SECTION A: DEFINITIONS

**Bed and Breakfast Establishment** - means an Operator occupied residence that:

- A. provides sleeping accommodations to the public for a fee,
- B. has no more than fourteen (14) guest rooms,
- C. provides breakfast to its guests as part of the fee, and
- D. provides sleeping accommodations to a particular guest no more than thirty (30) consecutive days.

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

**Catering** - means preparing food in an approved Retail Food Establishment and may include transporting the food for service and consumption at some other site.

**Commissary** - means 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 from which meals are catered and 6-month Retail Food Establishments or pushcarts are serviced.

**Conflict of Interest** - (derived from 68 IAC 9-1-1 (b)(2)) means a situation in which the private financial interest of Official, Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Official's judgement in the performance of a public duty. (Note: The Officials should follow the code of ethics if a code of ethics was established for Officials.

**Consecutive Inspection** - an inspection which occurs directly after another inspection, [e.g., an inspection occurs April 2025 and the next inspection occurs July 2025]. The type of inspection or period of time between inspections is not significant.

**Core Item** - means a provision in 410 IAC 7-26 which usually relates to general sanitation, operational control, sanitation standard operating procedures, facilities or structures, equipment design, or general maintenance. These may include items marked as "Core" as violations on the Inspection Report form.

**Farmers' Market Vendor** - means a Retail Food Establishment, excluding a 6-month Retail Food Establishment, which operates with the approval of the market master at a common facility where two (2) or more farmers or growers gather on a regular reoccurring basis to sell a variety of fruits, vegetables, and other farm products to consumers.

**Food Establishment** - (as defined in IC 16-18-2-137) for purposes of IC 16-42-5, means 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. 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.
  - b. and the gathering is for the purpose of the organization.
  - c. A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

- C. 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.
- D. Except for food prepared by a for-profit entity, a venue for the sale of food prepared for the organization: that is organized for: religious purposes; or educational purposes in a nonpublic educational setting.  
that is exempt from taxation under Section 501 of the Internal Revenue Code; and that offers food for sale to the final consumer at an event held for the benefit of the organization.
- E. Except for food prepared by a for-profit entity, an Indiana nonprofit organization that: is organized for civic, fraternal, veterans, or charitable purposes.  
is exempt from taxation under Section 501 of the Internal Revenue Code; and offers food for sale to the final consumer at an event held for the benefit of the organization, if the events conducted by the organization take place for not more than fifteen (15) days. If the event takes longer than (15) days, a food permit should be obtained.
- F. An individual vendor that meets the requirements of IC 16-42-5.3 (Home Based Food Vendor).

Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bar mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization unless the food is provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

**Habitual Non-Compliance** - means two or more inspections for an establishment meeting - one of the following:

- A. One (1) or more enforcement actions taken within the previous (3) years.
- B. Three (3) Consecutive Inspections documenting the same Priority or Priority Foundation Violation(s)
- C. Four (4) Non-consecutive Inspections documenting the same Priority or Priority Foundation Violation(s)
- D. Five (5) Consecutive Inspections documenting the same Core violations(s)
- E. Six (6) Non-consecutive inspections documenting the same Core violations(s).

**Hazard Analysis Critical Control Point (HACCP) Plan** - (as defined in 410 IAC 7-26) means a written document that delineates the formal procedures for following the Hazard Analysis 5 Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

**Health Department** - means the local health department in Shelby County or authorized representative having jurisdiction over a Bed and Breakfast Establishment and/or Food Establishment.

**Health Officer** - means the person appointed as specified in IC 16-20-2-16, 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.

**Hearing Officer** - means an individual or panel of individuals acting in the capacity of a Hearing Officer in an appeals process. The Hearing Officer is not the Health Officer or any other employee of the Health Department. (Examples of Hearing Officer could be the Health Board, a subcommittee of Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the Health Board.)

**Imminent Health Hazard** - means a significant threat or danger to health that is considered to exist when there is enough evidence to show that a product, practice, circumstance, or an event creates a situation that requires immediately correcting or ending operations to prevent injury or illness based on the number of potential injuries or illnesses, and nature, severity, and duration of the anticipated injury or illness.

**Inspection Report** - means the document prepared by the Shelby County Health Department that is completed because of the inspection and provided to contacts listed on Permit application.

**Non-consecutive Inspection** - means an inspection that does not occur directly after another inspection [e.g., inspections are conducted in October 2024, April 2025, July 2025; where October 2024 and July 2025 are non-consecutive inspections]. The type of inspection or period between inspections is not significant.

**Operator** - means the Person who has 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 Health Department action of 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 Shelby County Health Department that authorizes a Person to operate a Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment.

**Person-in-charge** - means the individual present at a Retail Food Establishment who is responsible for the operation at the time of inspection.

**Priority Foundation Item** - means a provision in 410 IAC 7-26 whose application supports, facilitates, or enables at least one Priority item. The term includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. These may include items marked as "P?" as violations on the Inspection Report form.

**Priority Item**- means a provision in 410 IAC 7-26 whose application of which contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. The term includes items with a quantifiable measure to show control of hazards such as cooking, cooling, reheating, and handwashing. These may include items marked as "P" as violations on the Inspection Report form.

**Retail Food Establishment** - means an operation as defined in 410 IAC 7-26-105.

**Temporary Food Establishment** - means a Retail Food Establishment that operates for a period of no more than fourteen (14) consecutive calendar days, in conjunction with a single event or celebration with the approval of the organizers of the event or celebration.

**Time/Temperature Control for Safety Food or (TCS)** - as defined in IC 16-18-2-351.7.

## **SECTION B: PLAN REVIEW**

All Retail Food Establishments that are hereafter constructed or re-constructed shall conform to the applicable requirements of the Indiana Department of Health and the Indiana Department of Fire and Building Services. Properly prepared plans and specifications shall be submitted to and approved by the Shelby County Health Department, in writing, before starting any construction work. Any new or remodeled establishment must submit a completed plan review application on forms provided by the Shelby County Health Department at least thirty (30) working days prior to scheduling the pre-opening compliance inspection.

Establishments Exempt from Shelby County Food Permit Plan Review Regulated establishments are exempt from the plan review requirements of this Ordinance if:

- A. The entire operation of the establishment is receiving inspections by an appropriate State or Federal governmental agency, or
- B. The establishment is a 6-month Retail Food Establishment, or
- C. The establishment is a Temporary Food Establishment, or
- D. The establishment is a Farmers' Market Vendor, or
- E. The establishment is a Bed and Breakfast Establishment.

**SECTION C: SCC 3-4-2 PERMITS**

It shall be unlawful for any Person to operate a Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment in Shelby County, who does not possess a valid Permit from the Health Officer; except when the entire operation of the establishment is receiving inspections by an appropriate State or Federal governmental agency. Valid Shelby County Food Permits shall be always posted in a conspicuous place at the establishment.

- A. Only Persons who comply with the applicable requirements of this Ordinance will be entitled to receive and retain a Permit.
- B. Permit Duration for:
  - a. Retail Food Establishments and Bed and Breakfast Establishments shall be one year beginning from the date of issuance and shall be applied for by the establishment annually (January 1 to December 31 Calendar Year).
  - b. 6-month Retail Food Establishments shall include expiration on December 31<sup>st</sup> of the calendar year in which the permit is issued.
  - c. Temporary Food Establishments shall be for the term one continuous event at one location. This Permit is not to exceed seven (7) consecutive days.
- C. Any Permits issued by the Health Officer shall contain the name of the establishment, the address of the establishment, duration of Permit, and other pertinent information required by the Health Officer.
- D. Required Permits shall be provided by the Shelby County Health Officer subject to completed application, payment of fees, and compliance with all applicable state statues, The Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, or Bed and Breakfast Establishment.
- E. A late renewal fee will apply if a Permit for Retail Food Establishment or Bed and Breakfast Establishment is not renewed by the date of expiration. Application and payment for 6-month Retail Food Establishment, Temporary Food

Establishment, or Bed and Breakfast Establishment must be submitted to the Health Department at least one week prior to start of the event or operation, or late application fees will apply. 6-month Retail Food Establishment, or Temporary Food Establishment, Permit applications will not be accepted if less than 48 hours' notice is given prior to the start of the event.

- F. Public events where catered food is served or prepared shall occur at a facility holding a valid Shelby County Establishment Permit. This permit establishment shall obtain a current copy of the caterer's local health department food permit. If the site or the caterer is not permitted, the caterer must obtain a Temporary Food Establishment Permit for the event.
  - a. A Temporary Permit will not be issued to a Temporary Food Establishment in operation in one location for more than thirty (7) days in one calendar year.
  
- G. A separate Permit shall be required for each Retail Food Establishment, 6-month Retail Establishment, Temporary Food Establishment, or Bed and Breakfast Establishment operated or to be operated by any Person. Any Permit issued under this Ordinance is not transferable from one Person to another, from one establishment to another, from one 6-month unit to another, or from one type of operation to another.
  
- H. **Exemption from Compliance** - An organization that is exempt from the Indiana gross income tax under I.c. 6-2.1-3-20 through IC 6-2.1-3-22 and that offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from complying with the requirements of the ordinance that may be imposed on the sale of food at that event if:
  - a. Members of the organization prepare the food that will be sold.
  - b. Events conducted by the organization under this section take place for no more than thirty (30) days in any calendar year; and
  - c. The name of each member who has prepared a food item is attached to the container in which the food item has been placed.
  
- I. **Minimum Requirements for Retail Food Establishments.**

All retail Food Establishments and vending machines shall comply with the minimum requirements specified by the Indiana State Board of Health in: Retail Food Establishment Sanitation Requirements Title 410 Indiana Administrative Code (IAC) 7-26 or as amended; and Bed and Breakfast Establishment Rules, 410 IAC 7-15.5, Indiana Code (IC) 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2, 410

IAC 7-21, and 410 IAC 7-23. Two copies of which are on file in the office of the Clerk of Shelby County, Shelbyville, Indiana for public inspection.

**SECTION D: PERMIT FEES**

**A. Permit Fees**

All establishments permitted must pay Permit fees as specified in the Shelby County Board of Health Ordinance for Collection of Fees. A receipt for the payment of such fee shall be provided by the Shelby County Health Department. The fees paid under this Ordinance are not transferable or refundable. A Permit may not be issued to any establishment where outstanding or unpaid fees or penalties are due.

**B. Permit Fee Exception**

No Permit fee shall be required for a Food Establishment operated by a Public School as defined in IC 20-18-2, or for a Food Establishment owned and operated by Shelby County Government.

**C. Collection of Fees**

<b>The following are the Fees that will be due for the following services:</b>	<b>\$ Fee Amount</b>
Retail Food Permit	\$ 200
6-month permit from	\$100
Temporary Food Permit	\$ 50
Late Fee for Renewal of Retail Food Permit, Bed & Breakfast Permit, 6-month Food Permit	\$50
Plan Review Fee	\$ 100
Bed & Breakfast Permit	\$ 100

**D. Collection Fines-See Fee Schedule from IDOH Indiana Code IAC 16, Article 42, 410 IAC 7-23, 410 IAC 7-26.**

**E. Exemption from Permit Fees:**

An organization that is exempt under IC 16-18-3-137 will not be subject to permit fees.

**F. Late Fees:** A late fee for failure to pay the permit fee prior to the operation of the Bed and Breakfast Establishment and/or Food Establishment or the late fee for failure to renew a permit after the expiration of the permit to operate Bed and

Breakfast Establishment and/or Food Establishment shall be assessed as set by the Health Board.

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

## **SECTION E: INSPECTION**

**General:** The Health Department shall inspect a Bed and Breakfast Establishment and/or Food Establishment at least once every 6-months, unless a system of risk-based inspections is utilized as stated below.

The Shelby Health Department may modify the interval between inspections beyond 6-months if:

- A. The Bed and Breakfast Establishment and/or Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s); (OR)
- B. The Bed and Breakfast Establishment and/or Food Establishment is assigned a less frequent inspection frequency based on a written RISK-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every 6-months the establishment is contacted by telephone or other means by the **REGULATORY AUTHORITY** to ensure that the establishment manager and the nature of FOOD operation are not changed; or
- C. The establishment's operation involves only coffee service and other Unpackaged or Prepackaged FOOD that is Non- TCS food such as carbonated BEVERAGES and snack FOOD such as chips, nuts, popcorn, and pretzels. (Information taken from the 2022 FDA Model Food Code Annex 5 Conducting Risk-Based Inspections)

The Health Department should contact the Operator to determine that the nature of the food operation has not changed.

**Temporary Food Establishment:** The Health Department shall periodically inspect throughout its Permit period a temporary Food Establishment that prepares, sells, or serves unpackaged TCS food and may inspect a temporary Food Establishment that prepares, sells, or serves unpackaged, Non-TCS food that:

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

- B. Has food employees that have not demonstrated knowledge, as per 410 IAC 7-26, of food operations.

**Performance and Risk Based Inspections:** Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a Bed and Breakfast Establishment and/or Food Establishment's history of compliance with this ordinance and the Bed and Breakfast Establishment and/or Food Establishment's potential as a vector of foodborne illness by evaluating:

- A. Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-26 and/or 410 IAC 7-22 and/or HACCP plan requirements that are Priority (P), Priority Foundation (PF), or Core;
- B. Past performance, for numerous or repeat violations of 410 IAC 7-15.5, and/or 410 IAC 7-26 and/or HACCP plan requirements that are P, PF, or Core;
- C. Past performance, for complaints investigated and found to be valid;
- D. The hazards are 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 as defined by Indiana law.

**Access Allowed at Reasonable Times After Due Notice:** After the Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the Operator shall allow the Health Department to determine if the Bed and Breakfast Establishment and/or 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 Health Department is entitled to 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 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)

**Inspection Reports:** At the conclusion of the inspection, the 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 IC 16-20-8.

**Timely Correction of Priority or Priority Foundation Items:** Except as specified in the next paragraph, an Owner/Operator shall at the time of inspection correct a violation of a Priority (P) or Priority Foundation (PF) item of 410 IAC 7-15.5, 410 IAC 7-26 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 Health Department may agree to or specify a longer time frame not to exceed:

- A. 72 hours after the inspection for a Priority Item; or
- B. 15 calendar days after the inspection for a Priority Foundation Item or HACCP plan deviations, for the Owner/Operator to correct violations.

After receiving notification that the Operator has corrected a Priority or Priority Foundation Item violation or HACCP plan deviation, or at the end of the specified period of time, the Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Health Department's records.

**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 Health Department historical record for the Bed and Breakfast Establishment and/or Food Establishment. The Operator is not necessarily in agreement with the findings of the Health Department inspection by acknowledgement of receipt.

**Public Information:** Except as specified in Section 487 (Confidentiality of Trade Secrets) of 410 IAC 7-26, the 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)

## **SECTION F: COMPLIANCE AND ENFORCEMENT**

**Application Denial:** If an application for a plan review and/or Permit to operate a Bed and Breakfast Establishment and/or *Food Establishment* is denied, the 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.

**Permit Revocation:** The Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or 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 non-compliance is demonstrated by the Permit Holder then the Permit may be revoked for a longer period of time as determined by the Health Officer.

**Permit Suspension:** The Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or *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. Initial suspension shall not exceed 30 calendar days. The permit may then be suspended for a longer period-of- time as determined by the Health Officer.

**Ceasing Operation and Contacting the Health Department:** An Operator of a Bed and Breakfast Establishment and/or Food Establishment **shall** immediately discontinue operations and notify the 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.

**Resuming Operation:** If a Bed and Breakfast Establishment and/or Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator **must** obtain approval from the Health Department before resuming operations.

**Outstanding Fees:** Any outstanding fees and civil penalties owed to the Health Department shall be paid prior to the issuance of a permit.

**Enforcement Options: (See IC 16-42-5-28(g))**

The following are options available to Health Department for consideration:

- A. Establish a process for the issuing of civil penalties based on violation of the *Food Establishment* and/or Bed and Breakfast Establishment requirements. (See IC 16-42-5-28 (g)) (See also the Appeals Section of this Ordinance to ensure that due process is followed.)
- B. Conduct administrative proceedings for suspension and/or revocation of the Bed and Breakfast Establishment and/or *Food Establishment* Permit in front of the Health Officer. (See the Appeals Section of this Ordinance to ensure that due process is followed.)
- C. The Health Officer may issue an "Order To Abate" based on a condition that may be transmitted.

## **SECTION G: APPEAL SECTION**

- A. Any Person(s) aggrieved by Orders issued under the Enforcement Options A, B, C of Section F above 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 Board of Health See IC 16-20-1-10). The written request must be mailed or hand delivered to the Health Officer 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 about 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 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.
- D. The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- E. The minutes from the hearing may act as the final order of determination of the matter. This completes the Appeals procedure.

## **SECTION H: CONFLICT OF INTEREST**

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

## **SECTION I: UNCONSTITUTIONALLY 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.

## **SECTION J: REPEAL AND EFFECTIVE DATES**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect thirty (30) days after its adoption and publication as provided by law.

## **SECTION K: MINIMUM REQUIREMENTS**

### **A. General Requirements**

All Retail Food Establishments, 6-month Retail Food Establishments, Temporary Food Establishments, and Bed and Breakfast Establishments shall comply with the minimum requirements specified in the applicable Indiana Administrative Code, 410 IAC 7-26 or 410 IAC 7-15.5. Copies of each are kept on file in the Shelby County Health Department Office, Shelbyville, Indiana, for public inspection.

### **B. Water Source**

Each facility must have an adequate supply of potable water at all times of operation. In addition, the following requirements must be met:

- a. Those facilities regulated by the Indiana Department of Environmental Management (IDEM) and/or Indiana Administrative Code 327 IAC 8 must be in substantial compliance with applicable regulations.
- b. Facilities with a private water supply not subject to IDEM regulations must submit satisfactory water samples results at least one-time a year to the Shelby County Health Department.
- c. The Shelby County Health Department must be notified of any interruption in water service. If there is a possibility of water supply contamination, an establishment must cease operation until water is restored and until two separate water samples are tested twenty-four hours apart show satisfactory results. An establishment must receive approval from the Shelby County Health Department before resuming operations after an interruption of water service.

### **C. Wastewater Treatment**

Each facility must have adequate wastewater treatment and disposal at all times of operation as determined by the Health Officer. In addition, sewage shall be disposed of through an approved facility that is:

A Public sewage treatment plant that is:

1. Sized;
2. Constructed;
3. Maintained; and
4. Operated; according to law.

**D. Responsibilities of the Operator**

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

- a. 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 Department of Health;
- b. Immediately discontinue affected operations and notify the Shelby County Health Department if an Imminent Health Hazard may exist because of an emergency such as fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstances that may endanger public health;
- c. If a Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, Farmers' Market Vendor, or Bed and Breakfast Establishment has discontinued operations for the reasons stated above or otherwise according to law; the Operator must obtain approval from the Shelby County Health Department before resuming operations;
- d. Allow representatives of the Shelby County Health Department access to all parts of the Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, or Bed and Breakfast Establishment at all reasonable times; to collect evidence and/or exhibits; and to routinely inspect, investigate complaints, and copy any or all records relative to the enforcement of this Ordinance;
- e. Comply with the directives of the Shelby County Health Department including time frames for corrective actions specified in Inspection Reports, notices, orders, warnings, and other directives issued by the Shelby County Health Department in regard to the Operator's Retail Food Establishment, 6-month Retail Food Establishment, Temporary Food Establishment, or Bed and Breakfast Establishment, property or facility, or in response to community emergencies;

- f. Accept notices issued and served by the Shelby County Health Department; and;
- g. Be subject to the administrative, civil, injunctive, and criminal remedies authorized by law for failure to comply with this Ordinance or a directive of the Shelby County Health Department.

## **SECTION L: SALE, EXAMINATION, AND CONDEMNATION OF UNWHOLESOME ADULTERATED OR MISBRANDED FOOD**

- A. It shall be unlawful for any Person to sell through a Retail Food Establishment, 6-month, Retail Food Establishment, Temporary Food Establishment, or Bed and Breakfast Establishment of any food which is unwholesome, adulterated or misbranded, as provided in the Indiana Food, Drug and Cosmetic Act; IC 16-42-1 through IC 16-42-2.
- B. Samples of food may be taken and examined by the Health Officer as often as may be necessary to determine freedom from contamination, adulteration, or misbranding. The Health Officer may, on written notice to the owner or Operator, impound and forbid the sale of any food which is unwholesome, adulterated or misbranded, or which he has probable cause to believe is unfit for human consumption, unwholesome, adulterated, or misbranded; provided that in the case of misbranding which can be corrected by proper labeling, such food may be released to the Operator for correct labeling under the supervision of the Health Officer. The Health Officer may also cause to be removed or destroyed, any dairy product, meat, meat product, seafood, poultry, poultry product, confectionery, bakery product, vegetable, fruit, or other perishable articles which the Health Officer determines are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

## **SECTION M: INSPECTIONS**

- A. **Schedule of Inspection**  
The Health Officer may establish an inspection schedule, the frequency of which is at the discretion of the Health Officer. The schedule will be based on public health risk associated with the establishment's menu; type of operation including the methods and extent of food storage, preparation, and service; the number of people served; and past performance.

**B. Procedure when Violations Are Noted**

If during an inspection of any establishment, the Health Officer discovers a violation of this Ordinance, he shall issue a written order in the form of an Inspection Report listing such violation to the Operator, or in the Operator's absence, to the Person-in-charge, and setting a date by which the violation shall be abated. A copy of the Inspection Report shall be filed with the records of the Shelby County Health Department.

**C. Public Access to Inspection Records**

After the Inspection Report is completed, the establishment, under IC 16-20-8-5, has the opportunity to review the reports and submit to the Shelby County Health Department a written response. The public will have access to Inspection Reports either ten (10) days after the completion of the inspection; or after a written response to the Inspection Report has been submitted to the department under IC 16-20-8-5, whichever is earlier, except as provided in IC 16-20-8-8.

**D. 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 date by which the violation shall be abated.

## **SECTION N: COMPLIANCE AND ENFORCEMENT**

**A. Application Denial**

If an application for a Permit to operate a Retail Food Establishment, 6-month Retail Food Establishment, or Bed and Breakfast Establishment is denied, the Shelby County Health Department shall provide the applicant with a notice that includes:

- a. The specific reasons and rule citations for the Permit denial;
- b. The actions, if any, that the applicant must take to qualify for the Permit; and Notice of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

**B. Follow-up Inspection - Health Officer Response to Violators**

If upon a follow-up inspection, the Health Officer finds that a food operation, Person, or employee is violating any provisions of this Ordinance which were in violation on the previous inspection concerning which a written order was issued, and the date by which the violation shall be abated has passed, the Health Officer may do any or all of the following:

- a. Offer the alleged violator an opportunity to enter into an agreed order providing for:

1. the actions required to correct the violation; and
2. if appropriate, the payment of a civil penalty.

The Health Officer is not required to extend the offer for more than thirty (30) days.

- b. Promptly issue a written order to the permittee of the food operation to appear at a certain time and place in the County, in order to show cause why the Permit issued should not be revoked.
- c. Furnish evidence of the violation to Shelby County legal representatives for enforcement.

**C. Suspension of Permit**

Any Permit issued under this Ordinance may be temporarily suspended by the Health Officer, without notice or hearing, for a period not to exceed thirty (30) days if the Health Officer determines through inspection, or examination of employee, food, records, or other means as specified in this Ordinance, that an Imminent Health Hazard exists.

**D. Revocation of Permit**

The Health Officer may revoke the Permit and promptly give written notice of the action to the permittee due to any of the following:

- a. Upon meeting with the Operator, if the Operator should fail to show just cause why their Permit should not be revoked;
- b. Interference with the Health Officer in the performance of their duties;
- c. Habitual Non-compliance with the requirements set forth by the Indiana Department of Health or by this Ordinance.

The Health Officer shall maintain a record of proceedings filed in the office of the Shelby County Health Department.

**E. Permit Reinstatement**

Any Person whose Permit has been suspended or revoked may, at any time, make application with demonstration of compliance to the Health Officer for reinstatement of his/her Permit.

## **SECTION O: INSPECTION OF TEMPORARY and FARMERS' MARKET VENDOR FOOD ESTABLISHMENTS**

**A. Schedule of Inspection**

The Health Officer may establish a routine inspection schedule, the frequency of which is at the discretion of the Health Officer.

**B. Procedure to Follow When Any Violation is Noted**

If during the inspection of any Temporary Food Establishment or Farmers' Market Vendor the Health Officer discovers a violation of the requirements of this Ordinance, he may order immediate correction of the violation or set a reasonable time for correction.

**C. Revocation of Permit for Continued Operation**

Upon failure of any Person maintaining or operating a Temporary Food Establishment or Farmers' Market Vendor to comply with any order of the Health Officer, it shall be the duty of the Health Officer to revoke the Permit of the establishment and to forbid the further sale or serving of food therein.

**D. Temporary Food Establishment or Farmers' Market Vendor Application Denial**

If an application for a Permit to operate a Temporary Food Establishment or as a Farmers' Market Vendor is denied, the Shelby 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.

## **SECTION P: PENALTIES**

**A. Certification of Food Protection Manager Requirements Penalties**

The schedule of monetary penalties found in Indiana Code IC 16-42-5.2 shall be used if penalties are to be assessed for violations of IC 16-42-5.2.

**B. Civil Penalties**

- a. The Shelby County Health Department may commence an action, under IC 16-42-5-28, to levy civil penalties against a Person who:

1. fails to comply with IC 16-42-5, 410 IAC 7-21, or 410 IAC 7-26; or
2. interferes with or obstructs the Shelby County Health Department or its designated agent in the performance of duties under IC 16-42-5, 410 IAC 7-21, or 410 IAC 7-26.

- b. A civil penalty in an amount in the appropriate range specified in Indiana Administrative Code 410 IAC 7-23 may be sought for each day of each violation.

- c. In determining the seriousness of the violation and the specific amount of the civil penalty to be sought for each violation, the Shelby County Health Department will consider, but is not limited to, the following:

1. The potential for harm or imminent threat to public health.
2. The extent of deviation from statutory or regulatory requirements.
3. Degree of willfulness or negligence.
4. History of noncompliance.

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

- d. If penalties are to be assessed to a Food Establishment, as defined in IC 16-42-5, then they shall be assessed in accordance with 410 IAC 7-23.
- e. If penalties are to be assessed to a retail Food Establishment, as defined in 410 IAC 726, then they shall be assessed in accordance with 410 IAC 7-23.
- f. If penalties are to be assessed to a wholesale Food Establishment, as defined in 410 IAC 7-21, then they shall be assessed in accordance with 410 IAC 7-23.
- g. After re-inspection and determining the appropriate penalty based on the schedule in 410 IAC 7-23, the Shelby County Health Department, or its authorized representative, may adjust the penalty to reflect a good faith effort to comply as follows:
  1. Each individual penalty will be multiplied by the number of days the particular violation has been documented by the Shelby County Health Department, or its authorized representative.
  2. Penalties for violations documented in two (2) consecutive inspections by the Shelby County Health Department, or its authorized representative, shall be assessed on the basis that the violations have remained uncorrected over the period of time between the two (2) inspections.
  3. If the Person found in violation has requested re-inspection and has produced substantive evidence that the violation or violations have been corrected, the penalties shall be assessed for the period between initial discovery of violation and the receipt of request for re-inspection.
  4. Penalties for all violations documented in an inspection or series of inspections at an establishment will be totaled and sought under one (1) cause of action.
- h. After filing an action under IC 4-21.5, and in an attempt to resolve violations of said Indiana Code and this rule without resorting to a hearing, the Shelby County Health Department may negotiate and enter into agreed orders.

An agreed order may suspend all or part of the civil penalty calculated under the requirements and deadlines established in this Ordinance.

In addition to the foregoing, civil penalties, which may include injunctive relief, may be imposed under Indiana law on any Person who violates any provision of this Ordinance.

In the event a lawsuit is necessary to collect the cost of fees, penalties, or services for this Ordinance, the individual or business entity found to be liable shall also pay for reasonable attorney fees and cost of litigation to the county.

Passed and adopted by the Board of Commissioners of Shelby County, State of Indiana, on this 15<sup>th</sup> day of DECEMBER, 2025.

**BOARD OF COMMISSIONERS:**



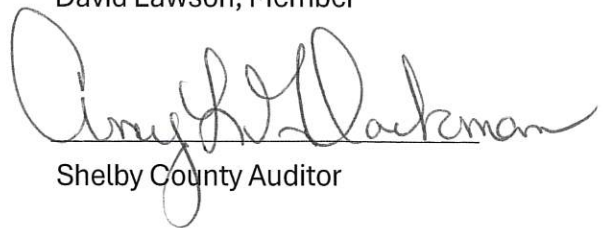
Jason Abel, President



David Lawson, Member



Nathan Runnebohm, Vice President



Shelby County Auditor

