

CHAPTER 8

FOOD SAFETY

Article 1. General Requirements

Sec. 8-101. Food handlers, retail and temporary food establishments shall comply with IC § 16-42 and 410 IAC 7.

[Gen.Ord. 13-2023 Passed 1/8/24 Effective Date 3/15/24]

Sec. 8-102. The Health Officer shall enforce IC § 16-42 and 410 IAC 7.

Sec. 8-103. The Health Officer may issue citations for violations of IC § 16-42-5 and 410 IAC 7 pursuant to IC § 16-42-5-28(g)(2) and apply the schedule of civil penalties in 410 IAC 7-23.

Sec. 8-104. Pursuant to IC § 16-42-5-28(h), the Corporation may bring an enforcement action against a food establishment for violations of IC § 16-42-5 and 410 IAC

[Gen.Ord. 4-2006 Passed 6/20/06 Effective Date 7/1/06]

Article 2. Licenses and Registration

Sec. 8-201. Food Establishment Licenses

(a) A person may not operate a food establishment without a license.

(b) To obtain a food establishment license, a person shall:

(1) submit an Application For License to the Corporation,

(2) pay fines and fees owed to the Corporation, and

(3) comply with IC § 16-42 and 410 IAC 7.

(c) If a person fails to submit a renewal Application For License and pay fines and fees owed to the Corporation by March 1:

(1) The food establishment license is void and the food establishment shall discontinue operation immediately;

(2) The Corporation requires a delinquent payment fee of twenty-five percent (25%) of the annual license fee in addition to the annual food establishment license fee.

(d) The Corporation requires a separate food establishment license with a separate license fee for:

(1) Each kitchen when one location of a food establishment has more than one kitchen,

(2) Each separate food establishment, and

(3) An area with a food establishment not subject to inspection by another governmental agency.

(e) When a food establishment is subject to inspection by another governmental agency, a license is not required.

(f) A person shall post the food establishment license and most routine inspection in a conspicuous place at the licensed premises.

(g) A person may not transfer a food establishment license to another person or another location.

(h) The Corporation will not refund a person for any unexpired period of a food establishment license.

(i) The Health Officer may post a sign notifying the public that the retail food establishment has been closed due to license suspension, revocation, or operation without a license. It is a violation of this chapter for a person other than the Health Officer to remove the sign.

(j) In the event of a license suspension, the retail food establishment is subject to a \$200 reopening fee.

[Gen.Ord. 13-2023 Passed 1/8/24 Effective Date 3/15/24]

Sec. 8-202. Event Organizer Registration

A person organizing an event where food establishments operate shall submit an Event Organizing Registration Application to the Corporation at least thirty (30) days prior to the event.

[Gen.Ord. 2-2007 Passed 7/24/07 Effective Date 7/1/07]

Article 3. License Fees

Sec. 8-301. Restaurants, Taverns, Schools, Caterers, Shared Kitchens -- Annual Operating License Fee

The annual operating license fee for license applications filed between January 1 and June 30 is:

| Number Of Employees (measured as full time equivalents): | Fee: |
|---|-------------|
| 1 through 9 | \$432 |
| 10 through 40 | \$632 |
| Over 40 | \$725 |

[Gen.Ord. 1-2012 Passed 4/17/12 Effective Date 5/1/12]

Sec. 8-302. Grocery Stores, Bakeries, Breweries, Commissaries, and Micro-markets -- Annual Operating License Fee

The annual operating license fee for license applications filed between January 1 and June 30 is:

| Square Footage (area used for storage, processing and sale of food items): | Fee: |
|---|-------------|
| Under 3,000 | \$392 |
| 3,000 to 30,000 | \$519 |
| 30,001 to 40,000 | \$638 |
| 40,001 to 60,000 | \$778 |
| 60,001 and over | \$931 |

The fee for a new establishment filing its license application between July 1 and December 31 of any year or operating less than six consecutive months during any one calendar year is one-half of the license fee specified in Sec. 8-301 and Sec. 8-302.

[Gen.Ord. 1-2012 Passed 4/17/12 Effective Date 5/1/12]

Sec. 8-303. Retail Food Establishment -- New Establishment License Fee

(a) A new retail food establishment is one which has not previously obtained an operating license or one which has been licensed but has discontinued operations for ninety (90) days or more.

(b) In addition to the annual operating license fee required under Sec. 8-301 and Sec. 8-302, a new retail food establishment shall pay a fee based on the square footage of the building floor area as follows:

| Square Footage: | Fee: |
|------------------------|-------------|
| Under 3,000 | \$246 |
| 3,000 to 30,000 | \$359 |
| 30,001 to 40,000 | \$585 |
| 40,001 to 60,000 | \$625 |
| 60,001 and over | \$712 |

(c) An additional fee of twice of the annual establishment license fee shall be imposed when a retail food establishment opens for business without first obtaining the required license.

(d) A new retail food establishment may apply for an expedited plan review. Expedited plan review is subject to approval and availability. Expedited plan review may occur within five (5) business days. Expedited plan review does not guarantee plan approval. The expedited plan review fee is three (3) times the normal plan review fee, listed in subsection (b).

Sec. 8-304. Retail Food Establishment -- Ownership Transfer Fee

When the ownership of a licensed retail food establishment is transferred from one person to another person, an additional fee will be imposed in the amount of \$200.

Sec. 8-305. Temporary Food Establishment -- Operating License Fee

(a) The license fee shall be \$40 for the first day of operation and an additional \$15 for each subsequent day of operation, not to exceed fourteen (14) days of consecutive operation.

(b) A separate license shall be required for each temporary food establishment. A retail food establishment which operates more than fourteen (14) consecutive days shall be subject to the fee schedule of Section 1 and Section 2.

(c) Annual license

An annual operating license is available to any temporary food establishment that meets all of the following requirements:

(1) Sells or gives away food to the public at multiple events during the calendar year.

(2) Distributes no more than one type of potentially hazardous food at each event. Potentially hazardous food must be prepared and individually prepackaged at a licensed retail food establishment or a licensed food-processing operation.

(3) Prepares no food at the site of the event.

(4) Notifies the Health Officer of the event location, time, and the types of foods being provided. Notification shall be no later than 3 p.m. on the last business day before the day of the event.

(5) Otherwise complies with the provisions of this ordinance.

(d) The fee for the Annual Operating License shall be \$325.

(e) Trade Shows and Conventions

A trade show or convention that takes place at a single location and has multiple vendors providing samples of either potentially hazardous food or unpackaged food to attendees must meet the following requirements:

(1) The organizer of the trade show or convention must obtain a temporary food establishment license.

(2) All participating food vendors must comply with 410 IAC 7-24.

(f) The license fees for a Trade Show or Conventions are:

| Number of Vendors | Fee |
|-------------------|-------|
| 1 through 25 | \$165 |
| 26 through 50 | \$275 |
| 51 through 100 | \$385 |
| Over 100 | \$495 |

Sec. 8-306. Mobile Retail Food Establishment -- Annual Operating License Fee

(a) Types of mobile retail food establishments:

Type I

Commercially processed packaged food in its original package (Receive-Store-Hold).

Examples of food offered: Packaged ice cream, single serving size packaged snacks.

Type II

Unpackaged food.

Food preparation with no cook step (Store-Prepare-Serve).
 Preparation for same day service (Store-Prepare-Cook-Serve).
 Reheating of a commercially processed food item (Store-Reheat-Hold-Serve).
 Examples of food offered: Hotdogs, grilled sandwiches, salads, shaved ice, kettle corn, nut roasting.

Type III
 Complex food preparation (Store-Prepare-Cook-Cool-Reheat-Hot-Hold-Serve)
 Examples of food offered: Full menu, tacos, pizza, barbecue.

(b) The annual operating license fee for license applications filed between January 1 and June 30 is based on the type of mobile retail food establishment.

| Mobile Retail Food Establishment Type | Fee |
|---------------------------------------|-------|
| Type I | \$150 |
| Type II | \$225 |
| Type III | \$300 |

(c) Mobile Retail Food Establishment – New Establishment Fee based on the type of mobile retail food establishment.

| Mobile Food Unit Type | Fee |
|-----------------------|-------|
| Type I | \$50 |
| Type II | \$150 |
| Type III | \$200 |

The fee for a new establishment filing its license application between July 1 and December 31 of any year is one-half of the license fee.

(d) Mobile retail food establishment units shall operate from a commissary, or a base establishment licensed by the Health Officer. Each unit shall report at least daily to such base for all food and other supplies, and for cleaning and servicing operations. A separate annual operating license and fee is required for each base of operations.

(e) Type II and Type III mobile retail food establishments that do not hold the retail food license of their designated commissary requires the purchase of a Mobile Commissary license. This annual operating fee for license applications filed between January 1 and June 30 is \$150. The fee for a new establishment filing its license application between July 1 and December 31 of any year is one-half of the license fee. The Mobile Commissary license is only valid for the servicing and support of the food truck. Additional operations, such as catering, would

require the purchase of the applicable retail food establishment license.

Sec. 8-307. Food Vending Operations -- Annual Operating License Fee

(a) The annual operating license fee for license applications filed between January 1 and June 30 is:

| Number Of Machines: | Fee: |
|----------------------------|-------------|
| 1 through 50 | \$632 |
| 51 through 300 | \$1,038 |
| Over 300 | \$1,690 |

(b) The fee for a new establishment filing its license application between July 1 and December 31 of any year or operating less than six (6) consecutive months during any one calendar year is one-half of the license fee specified in Section 9(a).

(c) A vending machine operations owner shall maintain a commissary or base establishment licensed by the Health Officer. At this commissary or operations base, the owner shall maintain a record of all of his vending machines and the location of all commissaries and other establishments from which machines are serviced. A separate annual operating license and fee is required for each base of operations.

(d) An owner shall notify the Health Officer within five (5) days of:

(1) Use of new types of vending machines or

(2) Conversion of existing machines to dispense different food products, if the machines or foods are different than those for which the existing license was issued.

Sec. 8-308. Reduced Fees for Specified Establishments

(a) This Chapter, including its licensing provisions, applies to retail food establishments which serve or provide food or beverage to the indigent and needy at no charge or fee to the recipient and so long as the establishment is operated by an organization, corporation or association exempt from federal taxation under 26 USC 501(c). The fee for the license shall be \$20. However, this section's reduced fee provision shall not apply to educational institutions.

(b) This Chapter, including its licensing provisions, applies to retail food establishments operated by schools licensed by the State of Indiana providing merely beverage service or provision of prepackaged food products obtained at a commissary licensed by the Health Officer. The fee for the license shall be \$80.

[Gen.Ord. 13-2023 Passed 1/8/24 Effective Date 3/15/24]

Sec. 8-309. Farmers' Markets

- (a) A market master must register a farmers' market with the Corporation thirty (30) days before the first date of operation.
- (b) A market master must notify the Corporation about changes in food establishment status by the last business day prior to the first date of operation of the food establishment.
- (c) The Corporation requires a separate license for each food establishment operating within the farmers' market.
- (d) A person may not operate a food establishment within the farmers' market without a license.
- (e) Each food establishment operating in a farmers' market must:
 - (1) submit an Application For License to the Corporation,
 - (2) pay fines and fees owed to the Corporation, and
 - (3) comply with IC § 16-42 and 410 IAC 7.
- (f) Each food establishment operating in the farmers' market must obtain the license by 3:00 p.m. of the last business day prior to the first date of food establishment operation.
- (g) Each food establishment must have the license on-site at the farmers' market.
- (h) The Corporation imposes an additional fee of twenty-five percent (25%) of the license fee when a food establishment operates without first obtaining a license.

[Gen.Ord. 1-2009 Passed 3/17/09 Effective Date 4/1/09]

- (i) The Corporation establishes the following yearly operating fees for food establishments operating in a farmers' market:
 - (1) The license fee for a food establishment providing samples of food is \$20.
 - (2) The license fee for all other food establishments is \$187.50.

[Gen.Ord. 1-2011 Passed 4/19/11 Effective Date 5/1/11]

Section 8-310. Shared Kitchens and Shared Kitchen Users

- (a) Shared kitchen means a food establishment used as a place of business for the primary purpose of using, leasing, or renting its kitchen space to individuals or entities for food preparation, food storage, or other food-related purposes.
- (b) The Corporation requires a shared kitchen food establishment license if the person seeking to engage in the primary business of a shared kitchen does not hold a valid retail food establishment license under this chapter for the premises identified in the shared license application. The annual license fee is established in Sec. 8-301.
- (c) Shared kitchen user means a person or entity who uses, leases, or rents kitchen space at any shared kitchen licensed or required to be licensed under this chapter.
- (d) The Corporation requires a shared kitchen user to obtain a food establishment license. The annual operating license fee is \$150. The fee for a new establishment filing its license application between July 1 and December 31 of any year is one-half of the annual license fee. The Corporation will not provide a refund for any unexpired period of a food establishment license.

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