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WABASH COUNTY GENERAL ORDINANCE #2-64

FOOD MARKET ORDINANCE

An ordinance defining food market, food, employee, utensil, person, health officer, and other items; requiring permits, licenses, license fees for the operation of such establishments; prohibiting the sale of adulterated, unwholesome, or misbranded food; regulating the inspection of such establishments; providing for the enforcement of this ordinance; and fixing penalties.

BE IT ORDAINED by the Board of County Commissioners of WABASH COUNTY, INDIANA, that:

SECTION I. DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this ordinance:

A. Food Market -- The term "food market" shall mean retail grocery, meat market, poultry market, fish market, fresh fruit and vegetable market, delicatessen, confectionery, candy kitchen, nut store, retail bakery store, or any other establishment where food, intended for human consumption is manufactured, produced, stored, prepared, processed, handled, transported, sold or offered for sale at retail. The term "food market" however, shall not include a food establishment licensed by the State Board of Health or one that is known as a food service establishment or vending machine.

B. Food -- The term "food" as used herein shall include all articles used for food, drink, confectionery, or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

C. Employee -- The term "employee" shall mean any person who comes in contact with any utensil or equipment in which food is prepared or stored, or who is employed in a room or place in which food is prepared, processed, displayed or sold.

D. Utensil -- The term "utensil" shall include all containers, or any equipment of any kind or nature with which food comes in contact after delivery to a food market, during storage, preparation, processing, display or sale.

E. Health Officer -- The term "health officer" shall mean the Wabash County Health Officer, or his authorized representative.

F. Wabash County -- The term "Wabash County" shall mean those rural and urban areas which are under the jurisdiction of the Wabash County Health Officer and shall not apply to incorporated cities or towns, except as provided for under authority of Chapter 80, Indiana Acts of 1953, and Chapter 118, Indiana Acts of 1957.

G. Person -- The term "person" shall mean, but not limited to, any individual, partnership, co-partnership, firm, company, corporation, association, joint-stock company, trust, estate, or municipality, or his or its legal representative or agent.

ROBERT F. GONDERMAN, WABASH, INDIANA

SECTION II. PERMITS.

A. Permits -- It shall be unlawful for any person to operate a food market in Wabash County, who does not possess a valid permit from the health officer. Such permit shall be posted in a conspicuous place in such food market. Only persons who comply with the applicable requirements of this ordinance shall be entitled to receive and retain such a permit. The permit for a food market shall be for a term of one year beginning January 1st and expiring December 31st of the same year and shall be renewed annually. Any permit issued by the health officer shall contain the name and address of the person to whom the permit is granted, the address of the premises for which the same is issued, and such pertinent data as may be required by the health officer.

A separate permit shall be required for each food market operated or to be operated by any person. A permit issued under this ordinance is not transferable.

A permit shall be issued to any person on application after inspection and approval by the health officer; provided, that the food market complies with all the applicable provisions of this ordinance.

No permit or renewal thereof shall be denied or revoked on arbitrary or capricious grounds.

B. License and License Fee Exemption -- Mobile food markets owned by a person operating a food market which is licensed under the provisions of this ordinance, and possessing a valid permit from the health officer to operate such a food market, shall be exempt from the provisions of Section II B of this ordinance.

SECTION III. MINIMUM REQUIREMENTS FOR FOOD MARKETS.

All food markets shall comply with the minimum requirements specified by the Indiana State Board of Health as now provided in its Regulation HFD 19 or as the same may be hereafter changed or amended. Such regulation and any changes and amendments thereto which may be hereafter adopted or promulgated are by reference incorporated herein and made part hereof, two copies of which are on file in the office of the Clerk of Wabash County, Wabash, Indiana, for public inspection.

SECTION IV. SALE, EXAMINATION, AND CONDEMNATION OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD.

It shall be unlawful for any person to sell through a food

market any food which is unwholesome, adulterated or misbranded.

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 in his opinion are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe.

SECTION V. DISEASE CONTROL.

A. Disease Control -- No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any food market, and no food market shall employ any such person or any person believed to be affected with any disease in a communicable form or of being a carrier of such disease. If the food market manager has reason to believe that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately.

B. Procedure When Infection Indicated -- When the health officer has reason to believe that there exists possibility of transmission of infection from any food market employee, the health officer is authorized to require any or all of the following measures:

1. The immediate exclusion of the employee from all food markets.
2. The immediate closing of the food market concerned until no further danger of disease outbreak exists in the opinion of the health officer.
3. Adequate medical examination of the employee and of his associates with such laboratory examinations as may be indicated.

SECTION VI. INSPECTION OF FOOD MARKETS.

A. Frequency of Inspection -- At least once each three months the health officer shall inspect each food market for which a permit is required under the provisions of this ordinance.

B. Procedure When Violations Noted -- If during the inspection of any food market the health officer discovers the violation of any of the requirements in Section III of this ordinance, he shall issue a written order listing such violations to the proprietor or, in his absence, to the person in charge and fixing a time within which the said proprietor of said food market shall abate and remedy such violations. A copy of the written order shall be filed with the records of the health department.

C. Authority to Inspect and to Copy Records -- The person operating the food market shall, upon the request of the health officer, permit such health officer or his authorized representative access to all parts of such food market and shall permit the health officer or his authorized representative to collect evidence and/or exhibits and to copy any or all records relative to the enforcement of this ordinance.

D. Final Inspection -- Prosecution or Hearing for Violators
If upon a second and final inspection the health officer finds that such food market, person, or employee is violating any of the provisions of this ordinance which were in violation on the previous inspection, and concerning which a written order was issued, the health officer shall furnish evidence of the violation to the prosecutor having jurisdiction in the county in which the violation occurs, and he shall prosecute all persons violating said provisions of this ordinance. Or the health officer may promptly issue a written order to the permittee of such food market to appear at a certain time, no later than ten days from the date of final inspection, and at a place in said county fixed in said order to show cause why the permit issued under the provisions of Section II A should not be revoked.

E. Revocation of Permit -- The health officer upon such hearing if the permittee should fail to show cause, shall revoke said permit and promptly give written notice of such action to the permittee. The health officer shall maintain a permanent record of his proceedings filed in the office of the health department.

F. Suspension of Permit -- Any permit issued under this ordinance may be temporarily suspended by the health officer without notice or hearing for a period of not to exceed 30 days for any of the following reasons:

1. Insanitary or other conditions which in the health officer's opinion endangers the public's health;
2. Interference with the health officer or any of his authorized representatives in the performance of their duties;

provided, however, that upon written application from the permittee, served upon the health officer within 15 days after such suspension, the health officer shall conduct a hearing upon the matter after giving at least 5 days' written notice of the time, place, and purpose thereof to the suspended permittee; provided, further, that any such suspension order shall be issued by the health officer in writing and served upon the permittee by leaving a copy at his usual place of business or by delivery of Registered or Certified Mail to such address.

G. Reinstatement of Permit -- Any person whose permit has been suspended may at any time make application to the local health officer for the reinstatement of his permit.

H. Review -- Any order made by the County health officer shall be reviewable by the Wabash County Board of Health, provided, however, that the order of the County Health Officer shall be given full force and effect pending final decision

by the Board. Any individual feeling aggrieved by an order or decision of the county health officer may, in writing, request an appeal and review of the health officer's decision and said review will be granted as a matter of right. The Board of Health is empowered to hear the matter and a quorum of said Board will be sufficient to render a binding decision therein. The hearing will be informal, however, minutes thereof shall be kept and the Board of Health may, from time to time, adopt such other procedural rules as it deems advisable.

SECTION VII. APPROVAL OF PLANS.

All food markets which are hereafter constructed or altered shall conform with the applicable requirements set forth in Section III of this ordinance. Properly prepared plans and specifications shall be submitted to and approved by the health officer as may be required before starting any work.

SECTION VIII. PENALTIES.

Any person who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor. On conviction the violator shall be punished for the first offense by a fine of not more than five hundred dollars (\$500.); for the second offense by a fine of not more than one thousand dollars (\$1000); and for a third offense and each subsequent offense by a fine of not more than one thousand dollars (\$1000) to which may be added imprisonment for any determinate period not exceeding ninety (90) days. Each day of operation of a food market in violation of Section II of this ordinance or after the expiration of the time limit for abating insanitary conditions and completing improvements to abate such conditions as ordered by the health officer shall constitute a distinct and separate offense.

SECTION IX. REPEAL AND DATE OF EFFECT.

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

SECTION X. UNCONSTITUTIONALITY CLAUSE.

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

Passed and adopted by the Commissioners of Wabash County, State of Indiana, on this 11 day of May, 1964.

Wilbur Curless
Wilbur Curless
Thomas Earl
Thomas Earl
Eldon Landis
Eldon Landis

County Commissioners

ATTEST:

James A. Bricker
James Bricker, Auditor

ROBERT F. GONDERMAN, WABASH, INDIANA