

TITLE XI: BUSINESS REGULATIONS

Chapter

110. CABLE TELEVISION

111. TATTOO AND BODY PIERCING

112. FOOD/BED AND BREAKFAST ESTABLISHMENTS

CHAPTER 110: CABLE TELEVISION

Section

General Provisions

- 110.01 Grant of franchise
- 110.02 Forfeiture for noncompliance with terms and conditions
- 110.03 Nonexclusive franchise
- 110.04 Easements and permits required; compliance with regulations
- 110.05 Area to be served
- 110.06 Franchise fee

Construction and Maintenance of System

- 110.20 Initial construction schedule and requirements
- 110.21 Minimum interference; liability for restoration
- 110.22 Requirement to use existing utility systems when practicable
- 110.23 General construction and maintenance requirements
- 110.24 Relocation of facilities on demand of county
- 110.25 Insurance requirements; indemnification of county

Subscriber Service

- 110.40 Commencement of service
- 110.41 Initial rates and charges
- 110.42 Amendment of rates and charges
- 110.43 Adjustment of charges upon interruption of service
- 110.44 Operator=s office; resolution of complaints
- 110.45 Privacy provisions

Administration

- 110.60 Non-assignment of rights without consent of Commissioners
- 110.61 Termination; removal of facilities and restoration of property

Statutory reference:

Authority to grant franchises, see I.C. 36-2-2-23

GENERAL PROVISIONS

' 110.01 GRANT OF FRANCHISE.

(A) Pursuant to the provisions of I.C. 36-2-2-23, which authorizes a non-exclusive grant of franchise by the County Executive, and in consideration of the faithful performance and the faithful observation of the conditions, terms and agreements contained herein, there may be hereby granted to an operator a nonexclusive right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways, and other public places in the county wires, poles, cables and other conductors and fixtures as necessary for the maintenance and operation of a cable television system.

(B) The term of this franchise shall be for a period of 15 years. No operator may offer cable television services to subscribers living within the unincorporated areas of the county without a valid franchise, nor without the timely payments of franchise fees as per agreement. (1985 Code, ' 2-2-1) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.02 FORFEITURE FOR NONCOMPLIANCE WITH TERMS AND

CONDITIONS.

Washington County - Business Regulations

This franchise is subject to forfeiture by the company if for any reason the company fails to abide by the terms hereof.

(1985 Code, ' 2-2-2) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.03 NONEXCLUSIVE FRANCHISE.

(A) The right and privilege granted herein is nonexclusive. The county reserves the following rights, powers and authorities under this chapter:

(1) To grant similar franchises to other persons, firms or corporations at any time in the future;

(2) To fix the location of any and all poles, wires, cables and other conductors, fixtures and structures; and

(3) To demand that any such fixtures and/or structures be removed at the expense of the operator in the future for public convenience.

(B) In addition, the right by the operator to engage in the transmission of messages between two or more parties as a commercial enterprise is specifically excluded from the grant of this franchise. (1985 Code, ' 2-2-3) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.04 EASEMENTS AND PERMITS REQUIRED; COMPLIANCE WITH REGULATIONS.

(A) It shall be the sole responsibility of the operator to secure easements necessary for the operation of the cable television system and to obtain permission to use poles and equipment which is the property of any public utility, all at no expense to the county.

(1985 Code, ' 2-2-4)

(B) The operator shall at all times be subject to the lawful police powers of the county and to other regulation as the county shall from time to time impose. The operator shall at all times operate in compliance with any and all federal and state rules and regulations as may from time to time be promulgated. It shall be the sole responsibility of the operator to acquire any permits as may be necessary from any regulatory agencies prior to furnishing service and/operating its business in the county.

(1985 Code, ' 2-2-5) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.05 AREA TO BE SERVED.

(A) The area subject to franchise and contractual agreement is the entire unincorporated area of the county, not including the geographical territory within the physical limits of any municipality.

(B) Service shall be provided to, but not limited to, all areas of the franchise community having a density of 20 dwelling units per cable-bearing strand mile as measured from the central distribution point.

(C) The operator agrees to extend the cable system to serve any future subdivisions or other newly developed areas in the county as each subdivision or area is completed or within six months of the installation of telephone and electric utility services whichever is less, provided that the operator is able to obtain from property owners any necessary easements and/or permits at no cost in order to provide the system extension, and provided that the operator is able to project at least 20 potential subscribers per mile of cable line extension in these future subdivisions or other newly developed areas.

(1985 Code, ' 2-2-6) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.06 FRANCHISE FEE.

(A) In consideration of the rights, privileges and authority hereby granted, and in compensation to the county for the use of its public places, the operator shall agree to pay to the county a sum equal to 3% of the gross revenues received by the operator, from the users of the cable television system within the area of the county described in ' 110.05 above.

(B) All payments shall be made in quarterly installments due and payable within 30 days following the end of each calendar quarter.

(C) **GROSS SUBSCRIBER REVENUES** shall mean those revenues derived from the monthly service charges paid by subscribers served by the operator for regular cable television reception service, which includes the transmission of broadcast signals and the programming presented on the required access and origination channels, if any. **GROSS SUBSCRIBER REVENUES** shall not include any revenues received as advertising payments; or revenues from per channel, per program, or pay for view programs; or revenues from installation charges and fees for reconnections, inspections, repairs or modifications of installments; or for premium channels; or channels not included in basic subscription services.

(D) The quarterly payments shall be subject to adjustment, if necessary, within 120 days after the end of each fiscal year of the operator based upon any annual statement to be filed by the operator with the county.

(E) Not later than 120 days after the end of the operators fiscal year, a copy of its report to its stockholders, if any; an income statement applicable to its operation within the county during the preceding 12-month period; and a balance sheet as of the end of the fiscal year; shall be filed by the operator with the county.

(F) These reports shall be prepared or approved by a certified public accountant as being in accordance with generally accepted accounting practices.

(G) The operator shall furnish to the county upon request by the county the reports, documents, and

information reasonably necessary to enable the county to verify the accuracy of the payments made to it by the operator.

(1985 Code, ' 2-2-13) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

CONSTRUCTION AND MAINTENANCE OF SYSTEM

' 110.20 INITIAL CONSTRUCTION SCHEDULE AND REQUIREMENTS.

(A) Full scale construction of the cable system shall begin immediately after the final license is granted by the county.

(B) It is specifically understood that it is the responsibility of the operator to seek and obtain all variances, permits, easements, and authorizations for construction.

(C) The operator shall submit monthly construction status reports to the Board of Commissioners.

(D) Construction of the entire cable system shall be completed and energized and available for installation in the subscribers= homes two years from the date of execution of the franchise.

(E) Time is deemed to be of the essence to the extent that the construction schedule is within the reasonable control of the operator.

(F) Notwithstanding the above, upon written application by the operator to the Commissioners at least 15 days prior to the construction deadline or any extension thereof, the Commissioners shall grant a reasonable extension of time under the circumstances to comply with the conditions of this section; provided that the written application sufficiently states and documents that the need for the delay is for good cause and due to circumstances beyond the reasonable control of the operator.

(G) Among events or circumstances deemed to be beyond the reasonable control of the operator are: the timely performance of make-ready and the location of utilities by the telephone and/or electric utility companies; the timely delivery of equipment by suppliers, provided the operator exercises due diligence in placing purchase orders for the equipment; the timely performance of contractual obligations by subcontractors, providing the operator exercises due diligence in selecting subcontractors, supervising their performance and seeking compliance of any and all agreements with them; labor disputes, providing the operator exercises due diligence in seeking settlement of the disputes; and acts of God, including severe weather conditions.

(H) The area to be served shall be wired and activated throughout the entire area within the period specified in this section.

(I) Operators are encouraged to approach the county Commissioners at a regular meeting as a scheduled agenda item to discuss or announce intentions to expand the service area or the services offered.

(J) Moreover, the operator may assume the reasonable assurance that if subscribers are satisfied with the services provided and the rates, and the operator is otherwise in compliance with the provisions of this chapter, the County Commissioners, in order to protect the considerable investment of said operator, may reasonably deny franchise access to other providers of cable television services.

(K) Wherever practicable the operator shall provide service to parts of the area to be served prior to the period specified in this section.
(1985 Code, ' 2-2-7) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**' 110.21 MINIMUM INTERFERENCE;
LIABILITY FOR RESTORATION.**

(A) All construction by the operator shall at all times be in a good and workmanlike manner and shall be in compliance with all safety codes currently in effect in the state.

(B) No construction shall be made in any public street, sidewalk, or public place or grounds without prior notice to and approval of the Board of Commissioners.

(C) All structures, lines, and equipment erected by the operator within the county shall be so located as to cause minimum interference with the proper use of streets, alleys, public utility easements, and other public rights-of-way, public ways, and places and to cause minimum interference with the rights or reasonable convenience of property owners.

(D) The operator shall comply with all reasonable, proper and lawful ordinances of the county now or hereafter in force.

(E) All of the fixtures and structures shall be erected so as not to interfere with traffic or use of public property.

(F) In case of disturbance by the operator of any pavement, sidewalk, driveway, or other surfacing, operator shall at its own cost and expense, replace and restore all the paving, sidewalk, driveway or surface so disturbed in at least as good condition as before work was commenced.

(1985 Code, ' 2-2-8) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

**' 110.22 REQUIREMENT TO USE EXISTING
UTILITY SYSTEMS WHEN PRACTICABLE.**

(A) Existing poles, posts, conduits, and other structures of any electric power system, telephone company or other public utility located in the county shall be contacted by the operator for leasing or licensing upon reasonable terms and rates, and shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities.

(B) It is specifically understood that it is the sole responsibility of the operator to contact the utility companies and to obtain authorization for the utilization of the facilities of the utility companies, and the Commissioners shall have no obligation or responsibility for obtaining joint pole or joint conduit use agreements with utility companies.

(C) To the extent that the existing poles, posts, conduits, and other structures are not available, or are not available under reasonable terms and conditions, including excessive costs or unreasonable limitations upon the use by the operator=s cable television, the operator shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits and other structures as may be necessary for the construction and maintenance of its cable television system. (1985 Code, ' 2-2-9) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.23 GENERAL CONSTRUCTION AND MAINTENANCE REQUIREMENTS.

The construction, maintenance, and operation of the cable system for which this franchise is granted shall be done in compliance with OSHA, the National Electrical Safety Code, and the rules and regulations of the CATV Commission, and the FCC as the same exist or as the same may be hereafter changed or amended, and applicable local codes. The operator shall maintain and operate a state-of-the-art cable system and render efficient service to subscribers during the term of this agreement consistent with the operators proposal. Inoperable equipment will be promptly replaced by the operator. All poles, lines, structures and other facilities of the operator in, on, over and under the streets, sidewalks, alleys, public utility easements, and public grounds or places of the county shall be kept by the operator at all times in a safe and substantial condition and in good order and repair. The operator shall have the authority to trim trees upon and overhanging all streets, alleys, public utility easements, sidewalks and public places of the county so as to prevent the branches of the trees from coming into contact with the operator=s facilities. (1985 Code, ' 2-2-10) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.24 RELOCATION OF FACILITIES ON DEMAND OF COUNTY.

(D) The operator shall furnish to the county as many copies of the insurance contracts and certificates

In the event that at any time during the period of this franchise the county shall lawfully elect to alter or change any street, alley, public way, or public utility easement, requiring the relocation of the operators facilities, then, in that event, the operator, upon reasonable notice by the county, shall remove, relay, and relocate the same at its own expense, provided however that where public funds are available for the relocation pursuant to law, the operator shall not be required to pay the cost.

(1985 Code, ' 2-2-11) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.25 INSURANCE REQUIREMENTS; INDEMNIFICATION OF COUNTY.

(A) The operator shall agree to indemnify, protect and hold the county harmless from any and all claims, damages, judgments, losses, costs, and expenses of every kind arising out of the construction, maintenance, presence, use, operation, and/or termination of the cable television system, and arising out of any act of the operator, its officers, agents, and employees.

(B) The operator shall also pay for all costs and expenses associated with the county=s defense of any court action brought against the county in which it is claimed that the injury or damage arose from the operators activities in the operation of its cable television system.

(C) The operator shall agree to purchase and keep in full force and effect at all times during the term of the franchise a contract or contracts of general comprehensive liability insurance coverage with a company or companies authorized to do business in the state of Indiana, by which both the operator and the county, its boards, commissions, officers, agents and employees are insured against any claim, demand or loss for injury to persons, or damage to property, resulting from, growing out of, or connected with the construction, operation or maintenance of the cable television system within the county.

of insurance as requested, by the county. The insurance contract(s) shall contain a provision that

written notice of any cancellation or reduction in coverage of the policy shall be delivered to the county ten days in advance of the effective date. If the insurance is provided in either case by a policy which also covers the operator or any other entity or person, the policy shall contain the standard cross-liability endorsement.

(E) The insurance contract(s) shall have minimum limits in the following amounts, which shall remain in effect and in force for the entire term of the franchise:

(1) Property damage liability insurance of not less than \$50,000 as to any one occurrence;

(2) Personal injury liability insurance for bodily injury or death not less than \$250,000 as to any one person and not less than \$500,000 as to any one occurrence;

(3) Excess umbrella liability coverage of not less than \$1,000,000; and

(4) During the actual construction of the electronic system, the operator shall carry the insurance to protect it from all claims under any worker=s compensation laws in effect that may apply to the operator.

(1985 Code, ' 2-2-12) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

SUBSCRIBER SERVICE

' 110.35 COMMENCEMENT OF SERVICE.

At the time of the completion of the system, the operator shall submit to the Commissioners a marketing plan which shall include a schedule providing for phased installation of subscriber drops within 30 days of acceptance of an application for service. After the initial marketing and installation of subscriber drops and for the remainder of the term of the franchise, service shall be provided to all subscriber applicants within the service area within 30 days of application therefor. The operator shall use its best efforts to comply within 30 days, but shall not

be bound thereto if the delay is due to factors beyond the reasonable control of the operator.

(1985 Code, ' 2-2-14) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.36 INITIAL RATES AND CHARGES.

The rates and charges to subscribers for signals distributed shall be as set forth in the ASchedule of Rates and Charges@ (Schedule A), which is incorporated herein by reference.

(1985 Code, ' 2-2-15) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.37 AMENDMENT OF RATES AND CHARGES.

(A) The operator shall make changes to the rates and charges in accordance with the following procedures.

(1) The operator shall file with the Board of Commissioners of the county an amended schedule of rates and charges including the operator=s justification for the proposed schedule.

(2) Within ten days notification by the Board of the date, place and time established for a hearing on the amended schedule, the operator shall notify its subscribers of the hearing by announcement on at least one channel of its system between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days, or by written notice conspicuously printed and mailed with two consecutive regular subscriber billings. Additionally, the date, time, and place of the public hearing and the text of the amended schedule shall be published at the operator=s expense in one newspaper of general circulation in the county at least five days before the date of the hearing. Following all proper notice, but in no event later than 90 days from the date the amended schedule is filed, the Board shall hold an appropriate public hearing to consider the proposed amended schedule, at which hearing all parties desiring to be heard, including the operator, shall be heard on any matters relating to the performance of this franchise, the operators services, and the proposed amended schedule.

(3) Within 30 days after the hearing, the Board shall consider the amended schedule and may hold additional public hearings, at the conclusion of which the Board shall make a decision either accepting, rejecting or modifying the proposed rates and charges contained in the amended schedule. The operator may place the rates and charges as have been approved by the Board into effect.

(4) If the Board fails to act within three months of the filing of the amended schedule, the operator shall thereafter be entitled to put its proposed rates and charges into effect on a provisional basis, provided, that it shall keep a full and accurate accounting of all income resulting from the provisional rates and charges, and shall be obliged for a period of six months thereafter to refund the amount by which the provisional rates exceed the rates ultimately established by the Board. Upon request by the Board, the operator shall provide a bond or other reasonable surety to ensure that possible refunds due under this division (A)(4) shall be promptly made. The bond or surety shall be in an amount not to exceed the difference between the amount of revenues generated in six months at the previous existing rates and charges and the amount of the revenues expected to be generated in six months at the provisional rates and charges.

(5) The criteria for the Board=s decision shall be the establishment of rates and charges which are fair, reasonable and non-discriminatory. Fair and reasonable shall mean what is fair and reasonable both to the operator and the subscribers, and shall be generally defined as the minimum rates and charges necessary to meet all applicable costs of service, including fair return on all invested capital, assuming efficient and economical management of the system.

(6) Any disagreement between the county and the operator concerning interpretations and calculations of the financial and statistical information provided by the operator may be submitted to a court of competent jurisdiction.

(7) A rate for extension of the system to new subscribers shall be deemed to be non-discriminatory if it is not less than the average rate prevailing for existing subscribers, except that rates for commercial subscribers may be set in the manner

set forth in ASchedule A@.

(B) However, in accordance with the Federal Cable Communications Policy Act of 1984, being 47 U.S.C. ' ' 521 et seq., and notwithstanding any other provision of this section, the operator may increase any subscriber rates and charges by an amount not to exceed 5% in any one year without any applicability of the procedures and requirements set forth in divisions (A)(2) through (7) of this section. After December 29, 1986, the operator may also increase any subscriber rates and charges by an amount greater than 5% in any year without the procedures, and requirements of divisions (A)(2) through (7) above applying, unless at any such time it shall be determined that the operator is providing its cable television services without effective competition as defined in accordance with criteria established by the Federal Communications Commission. (1985 Code, ' 2-2-16) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.38 ADJUSTMENT OF CHARGES UPON INTERRUPTION OF SERVICE.

In the event that the operator=s service to any subscriber is interrupted for 24 or more consecutive hours, it will grant the subscriber a pro rata credit or rebate on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or at its option, apply the credit to any outstanding balance then currently due.

(1985 Code, ' 2-2-17) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.39 OPERATOR=S OFFICE; RESOLUTION OF COMPLAINTS.

(A) The operator shall maintain an office open during regular business hours which subscribers may call, without incurring additional fees.

(B) Upon reasonable notice the operator shall expeditiously investigate and resolve complaints regarding the quality of service, equipment, malfunctions, and similar matters.

(C) The operator shall also maintain records of all reported complaints and action taken to respond to the complaints and shall make the records available to the Commissioners for inspection upon request. (1985 Code, ' 2-2-18) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.40 PRIVACY PROVISIONS.

(A) The operator shall inform the county of the nature of any information it will obtain regarding subscribers and the manner in which the information will be used. The operator shall not collect, store, use, or make available to any third party data relating to any individual subscriber households without obtaining the prior written consent of the subscriber.

(B) The only exception to this prohibition is information that is necessary for billing, the provision of service to subscribers, and reports to the Commissioners or other governmental agency required by statute, regulation, or this chapter.

(C) The operator shall inform the subscriber when two-way equipment is installed that would permit the monitoring or recording of information from the subscriber household. To further protect individual rights of privacy, any two-way equipment will have a switch that must be activated by the subscriber before a signal can be transmitted from the subscriber household.

(D) No interactive data will originate from the subscriber household television set, if connected to cable, unless the subscriber has specifically requested and authorized that this be done.

(E) Upon written request, any subscriber may examine all records maintained by the operator pertaining to that subscriber or which are associated with that subscriber=s name, and any improper use of this information upon discovery shall be reported to the Commissioners.

(F) The operator shall ensure that all information relating to billing and service requests is accurate and up-to-date.

(C) In other cases, a franchisee wishing to assign the rights and privileges must give prior written notice

(G) The operator shall also report to the Commissioners any instances of unauthorized recording, tapping, monitoring or data collection of which it has knowledge.

(H) Pursuant to ' 110.25 of this chapter, the operator shall indemnify, protect and hold the county harmless of any and all claims, damages, judgments, losses, costs, and expenses based upon violations of these privacy provisions.

(I) Nothing contained in this section shall be interpreted as rendering ' 110.03 of this chapter null and void. Nothing contained in this section shall be interpreted as allowing the operator to install two-way equipment for commercial reasons. If a conflict exists between this section and ' 110.03, the provisions of ' 110.03 shall prevail. (1985 Code, ' 2-2-19) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

ADMINISTRATION

' 110.50 NON-ASSIGNMENT OF RIGHTS WITHOUT CONSENT OF COMMISSIONERS.

(A) All rights and privileges granted under this franchise are appurtenant to the original franchisee only, and may not be transferred or assigned without the written consent of the Board of Commissioners, which consent shall not be unreasonably withheld.

(B) The consent is hereby granted and may be presumed in case of assignment on foreclosure of any mortgage indenture secured in whole or in part by the assignability of the franchisee=s rights and privileges hereunder and entered into for the purpose of obtaining funding necessary for the construction, expansion, maintenance, upgrading, or operation of the franchisee=s cable television system within the county; or in case of assignment in receivership as may be ordered by a court.

of the proposal to the Commissioners, with the reasons and circumstances therefor and the identity of the

proposed assign, and other information and particulars as the Commissioners may require.

(D) All assigns shall be bound by the provisions of this franchise, as the same may from time to time be lawfully amended, to the same degree as the original franchisee.

(1985 Code, ' 2-2-20) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

' 110.51 TERMINATION; REMOVAL OF FACILITIES AND RESTORATION OF PROPERTY.

Upon the termination of the period of the franchise, unless extended, the operator shall remove, at its own cost, its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public places, in, over, under and along which they are installed, and shall restore the areas to their original condition. If the removal is not completed within six months of the termination, the county may deem the property not removed as having been abandoned.

(1985 Code, ' 2-2-21) (BCC Ord. 1984-1B, passed 6-4-1984; BCC Ord. 1984-C1, passed - -1984)

CHAPTER 111: TATTOO AND BODY PIERCING

Section

- 111.01 Sanitary operation of tattoo parlors
- 111.02 Definitions
- 111.03 Operating training responsibilities
- 111.04 Operator responsibilities
- 111.05 Operator policies
- 111.06 Tattoo artist and body piercer;
minimum training and certification
requirements
- 111.07 Patron records
- 111.08 Illness
- 111.09 Handwashing
- 111.10 Personal protective equipment
- 111.11 Tattooing equipment
- 111.12 Needles
- 111.13 Reusable equipment
- 111.14 Dyes or pigments
- 111.15 Work environment
- 111.16 Infectious waste containment
- 111.17 Treatment and transport of infectious
waste
- 111.18 Permits
- 111.19 Inspections
- 111.20 Procedures when violations are noted
- 111.21 Permit suspension/revocation
- 111.22 Other permit suspension, revocation
and immediate closure orders
- 111.23 Hearing
- 111.24 Appeal
- 111.25 Enforcement
- 111.26 Violations
- 111.27 Injunction
- 111.28 Remedies cumulative

- 111.99 Penalty

' 111.01 SANITARY OPERATION OF TATTOO PARLORS.

All places, individuals, and businesses that offer to affix any type of permanent tattoo or body piercing to a person shall be regulated by the ordinance and shall maintain the premises in which tattoos or body piercing are performed and equipment used in the tattoo or body piercing process in a sanitary manner. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLOOD. Human blood.

BLOOD BORNE PATHOGENS. Pathogenic microorganisms that are present in human blood and can cause disease in humans. These **PATHOGENS** include, but are not limited to, the following:

- (1) HBV;
- (2) HCV; and
- (3) HIV.

BODY PIERCER. Any person who performs body piercing on an individual.

BODY PIERCING. The perforation of any human body part other than ear lobe for the purpose of inserting jewelry or other decoration or for any other non-medical purpose.

CLEANED. Removal of all visible dust, soil, or any other foreign material.

CONTAMINATED. The presence or reasonably anticipated presence of blood or OPIM on an item or surface.

DECONTAMINATED. The use of physical or chemical means to remove, inactivate, or destroy blood borne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

DEPARTMENT. The Washington County Health Department.

FACILITY. A tattoo parlor or body piercing facility, or both, which is any room or space that is mobile or stationary where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

HBV. The hepatitis B virus.

HCV. The hepatitis C virus.

HIV. The human immunodeficiency virus.

HEALTH COMMISSIONER. The duly appointed Health Commissioner as set forth in I.C. 16-20-2-16. The Washington County **HEALTH COMMISSIONER** or designee shall be designated as the official in charge of enforcing this chapter. The **HEALTH COMMISSIONER** may designate a representative in the County Health Department to perform those duties and responsibilities of the **HEALTH COMMISSIONER**.

HIGH LEVEL DISINFECTION. A process that destroys all microorganisms, with the exception of high numbers of bacterial spores.

INFECTIOUS WASTE. Waste the

epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. **INFECTIOUS WASTE** includes, but is not limited to, the following:

(1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps;

(2) Infectious biological cultures, infectious associated biologicals, and infectious agent stock;

(3) Pathological waste;

(4) Blood and blood products in liquid and semi-liquid form;

(5) Carcasses, body parts, blood, and body fluids in liquid and semi-liquid form, and bedding of laboratory animals; and

(6) Other waste that has been intermingled with infectious waste.

INTERMEDIATE LEVEL DISINFECTION. A process that inactivates the following, but does not necessarily kill bacterial spores:

(1) Mycobacterium tuberculosis;

(2) Vegetative bacteria;

(3) Most viruses; and

(4) Most fungi.

MOBILE FACILITY. A tattoo parlor or body piercing facility, or both, which is any moveable room or space where tattooing or body piercing, or both, is provided or where the business of tattooing or body piercing, or both, is conducted.

OPERATOR. Any person who controls, operates, manages, or owns any facility.

OTHER POTENTIALLY INFECTIOUS MATERIALS or **OPIM.** The following:

(1) Human body fluids as follows:

- (a) Semen;
 - (b) Vaginal secretions;
 - (c) Cerebrospinal fluid;
 - (d) Synovial fluid;
 - (e) Pleural fluid;
 - (f) Pericardial fluid;
 - (g) Peritoneal fluid;
 - (h) Amniotic fluid;
 - (i) Saliva in dental procedures;
 - (j) Any body fluid that is visibly contaminated with blood; and
 - (k) All body fluids where it is difficult or impossible to differentiate between body fluids.
- (2) Any unfixed tissue or organ, other than intact skin, from a human, living or dead.
- (3) HIV-containing cell or tissue cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

PARENTERAL. Piercing the mucous membranes of the skin barrier through such events as needle sticks, human bites, cuts, or abrasions.

PERSONAL PROTECTIVE EQUIPMENT. Specialized clothing or equipment worn for protection against contact with blood or OPIM.

SECURE AREA. An area that is designated and maintained to prevent the entry of unauthorized persons.

SEMI-LIQUID BLOOD, BLOOD PRODUCTS. Blood, blood products that have intermediate fluid

properties and are capable of flowing in a manner similar to liquid.

STERILIZE. The use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

STORE. The containment of infectious waste in such a manner as not to constitute collection, treatment, transport, or disposal.

TATTOO.

(1) Any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments;

(2) Any design, letter, scroll, figure, or symbol done by scarring upon or under the skin; or

(3) Any piercing of the mucous membranes or the skin through which needles or other items are inserted for temporary or permanent placement upon a person.

TATTOO ARTIST. Any person who provides a tattoo to an individual or who performs any type of piercing of the mucus membranes or the skin through which needles or other objects are inserted for temporary or permanent placement.

UNIVERSAL PRECAUTIONS. An approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, HCV, and other blood borne pathogens.

(BCC Ord. 2009-05, passed 9-16-2009)

111.03 OPERATING TRAINING RESPONSIBILITIES.

An individual or entity that is an operator shall comply with the following training responsibilities:

(A) Ensure that the training described in the State Occupational Safety and Health Administration=s Blood Borne Pathogens Standard (as found in 29 C.F.R. ' 1910.1030) is provided to all tattoo artists and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility, who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(B) Ensure that training on the handling of infectious waste is provided to all tattoo artists and body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM; and

(C) Ensure that a record of training described in divisions (A) and (B) above is maintained, as required under State Occupational Safety and Health Administration=s Bloodborne Pathogens Standard (as found in 29 C.F.R. ' 1910.1030) of and individuals participation in the training that is provided. The record shall be made available to the department for inspection upon request.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.04 OPERATOR RESPONSIBILITIES.

(A) The operator shall ensure that tattoo artists, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with blood are provided personal protective equipment and expendables needed to implement the precautions required by this rule and the State Occupational Safety and Health Administration=s Blood borne Pathogens Standard (as found in 29 C.F.R. ' 1910.1030).

(B) The operator shall ensure that tattoo artists, body piercers, anyone employed by the facility, or anyone acting on behalf of the facility who has a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with blood to provide evidence of compliance with the universal precautions education requirements contained in ' 111.06.

(C) The operator shall display a description of compliance with the requirements contained in division (D) below.

(D) The operator shall display written materials prepared or approved by the department explaining universal precautions and patrons= rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department=s duties to investigate.

(BCC Ord. 2009-05, passed 9-16-2009)

' 111.05 OPERATOR POLICIES.

The operator shall develop a written policy in compliance with this rule and the requirements of the State Occupational Safety and Health Administration=s Blood borne Pathogens Standard (as found in 29 C.F.R. ' 1910.1030) that:

(A) Requires the use of universal precautions when performing tattooing or body piercing and any activity or duty that includes any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or OPIM;

(B) Requires disinfection or sterilization of contaminated reusable items;

(C) Includes the safe handling of infectious waste; and

(D) Provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions and/or handle waste safely.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.06 TATTOO ARTIST AND BODY PIERCER; MINIMUM TRAINING AND CERTIFICATION REQUIREMENTS.

(A) All tattoo artists, body piercers, anyone employed by the facility, and anyone acting on behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM shall complete the training program that is required under requirements of the

State Occupational Safety and Health Administration=s Blood borne Pathogens Standard (as

(B) The programs under this section shall be as follows:

(1) A bloodborne pathogen training session provided by the operator meeting the requirements under the State Occupational Safety and Health Administration=s Blood borne Pathogens Standard (as found in 29 C.F.R. ' 1910.1030); and

(2) Any blood borne pathogen continuing education program accredited by a health care licensing entity.

(C) All tattoo artists, body piercers, anyone employed by the facility, and anyone acting on the behalf of the facility who has a reasonably anticipated risk for skin, eye, mucous membrane, or parenteral contact with blood or OPIM must be trained in the facility=s policies on the handling of infectious waste.

(BCC Ord. 2009-05, passed 9-16-2009)

' 111.07 PATRON RECORDS.

Records of each patron shall be maintained for two years. The record shall include the following:

(A) Patron=s name;

(B) Address;

(C) Age. Age must be verified by two items of identification, one which must be valid government issued identification;

(D) Date of the tattoo or body piercing;

(E) Design of the tattoo or body piercing;

(F) Location of the tattoo or body piercing on the patron=s body;

(G) The name of the tattoo artist or body piercer who performed the work;

(H) Jewelry or other decoration used; and

found in 29 C.F.R. ' 1910.1030).

(I) (1) Parental consent must be in writing when performed on any minor as required by law.

(2) I.C. 35-42-2-7(e) requires the parent to be in person and provide consent in writing. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.08 ILLNESS.

Tattoo artists or body piercers who are experiencing symptoms of acute disease that include, but are not limited to the following, shall refrain from providing tattoos or body piercing:

(A) Diarrhea;

(B) Vomiting;

(C) Fever;

(D) Rash;

(E) Productive cough;

(F) Jaundice; or

(G) Draining (or open) skin infections, boils, impetigo, or scabies.

(BCC Ord. 2009-05, passed 9-16-2009)

' 111.09 HANDWASHING.

(A) Handwashing facilities shall be readily accessible in the same room where tattooing or body piercing is provided.

(B) Hands shall be washed with soap and running water immediately before putting on gloves and after removal of gloves or other personal protective equipment.

(C) Only single use towels shall be used. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.10 PERSONAL PROTECTIVE EQUIPMENT.

Appropriate personal protective equipment shall be worn as follows.

(A) A clean protective clothing layer shall be worn whenever there is a reasonably anticipated risk of contamination of clothing by blood or OPIM.

(B) Masks in combination with eye protection devices, such as goggles or glasses with a solid side or chin length face shield, shall be worn whenever splashes, spray, splatter, or droplets of blood or OPIM may be generated and eye, nose, or mouth contamination can be reasonably anticipated.

(C) Disposable gloves, such as surgical or examination type, shall be worn during the tattooing or body piercing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo or body piercing, when the gloves become torn or punctured, or whenever the ability to function as a barrier is compromised. The disposable gloves shall not be reused.

(D) Gloves shall be worn when decontaminating environmental surfaces and equipment.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.11 TATTOOING EQUIPMENT.

(A) Only single use razors shall be used to shave the area to be tattooed.

(B) All stencils shall be properly disposed of after a single use.

(C) If the design is drawn directly onto the skin, it shall be applied with a single use article only.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.12 NEEDLES.

(A) Needles shall be individually packaged and sterilized prior to use.

(B) Needles shall be single use only.

(C) Needles shall be discarded in sharps containers immediately after use.

(D) Contaminated needles shall not be bent or broken or otherwise manipulated by hand.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.13 REUSABLE EQUIPMENT.

(A) Heating procedures capable of sterilization must be used when heat stable, non-disposable equipment is sterilized.

(B) Equipment that is to be sterilized shall be put in single-use packaging.

(C) Records must be maintained to document the following:

(1) Duration of sterilization technique;

(2) Determination of effective sterility, such as use of a biological indicator, is performed monthly;

(3) Equipment is maintained as recommended by the owner=s manual and proof is available that the owner=s manual recommendations are reviewed monthly; and

(4) Reusable contaminated equipment shall not be stored or processed in a manner that requires any person to reach by hand into the containers where these sharp items have been placed.

(D) Reusable contaminated equipment shall be:

(1) Placed in puncture-resistant containers which are:

(a) Labeled with bio-hazard symbol;

and

(b) Leak proof on both sides and bottom.

(2) Stored in a manner that does not require reaching by hand into the container where the equipment is stored until cleaning prior to sterilization.

(E) Contaminated reusable equipment shall be effectively cleaned prior to sterilization or disinfection.

(F) Any reusable contaminated equipment that comes into direct contact, or is likely to come into direct contact, with an instrument that penetrates the skin or other than a piercing gun shall be effectively cleaned and sterilized prior to use.

(G) All sterilized equipment shall not be removed from wrappers or sterilizer packaging until immediately prior to use.

(H) Any reusable equipment that comes into contact with mucus membranes shall be effectively cleaned and sterilized prior to use.

(I) Piercing guns shall be cleaned and undergo, at a minimum, high level disinfection after each use and whenever visibly contaminated.

(J) All reusable equipment that has contact with intact skin shall undergo, at a minimum, intermediate level disinfection.

(K) All other equipment used during the tattooing or body piercing procedure shall be single use, including corks.

(L) All body piercers and tattoo artists shall comply with all other equipment manufacturer=s recommendations.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.14 DYES OR PIGMENTS.

(A) All dyes or pigments in tattooing shall be from professional suppliers specifically providing dyes or pigments for the tattooing of human skin.

(B) In preparing dyes or pigments to be used by tattoo artists, only non-toxic sterile materials shall be used. Single use or individual portions of dyes or

(E) All equipment and environmental surfaces

pigments in clean, single-use containers shall be used for each patron.

(C) After tattooing, the remaining unused dye or pigment in single use or individual containers shall be discarded along with the container.

(D) Any object placed under the skin shall be sterile.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.15 WORK ENVIRONMENT.

(A) No tattooing or body piercing shall be conducted in any room used as living quarters or in any room that opens directly into living or sleeping quarters.

(B) Live animals shall be excluded from areas where tattooing or body piercing is being conducted. This exclusion does not apply to the following:

(1) Patrol dogs accompanying security or police officers; or

(2) Guide dogs accompanying the following:

(a) Blind persons;

(b) Partially blind persons;

(c) Physically disabled persons;

(d) Guide dog trainers; and/or

(e) Persons with impaired hearing.

(C) Eating, drinking, smoking, applying cosmetics, or handling contact lenses shall not be allowed in work areas where there is a likelihood of exposure to blood or OPIM.

(D) Food and drink shall not be kept in areas where there is a reasonably anticipated risk of exposure to blood or OPIM.

shall be cleaned and disinfected after contact with

blood or OPIM.

(F) Environmental surfaces and equipment not requiring sterilization, that have been contaminated by blood, shall be cleaned and disinfected.

(G) All work surfaces shall be:

- (1) Nonabsorbent;
- (2) Easily cleanable;
- (3) Smooth; and
- (4) Free of:
 - (a) Breaks;
 - (b) Open seams;
 - (c) Cracks;
 - (d) Chips;
 - (e) Pits; and
 - (f) Similar imperfections.

(H) Disinfectant solutions shall be:

(1) A hospital grade, tuberculocidal Environmental Protection Agency (EPA) registered disinfectant; or

(2) Sodium hypochlorite, 0.5% concentration, by volume (common household bleach is 10% concentration in water); the solution shall be dated and shall not be used if it is more than 24 hours old.

(BCC Ord. 2009-05, passed 9-16-2009)

' 111.16 INFECTIOUS WASTE CONTAINMENT.

(A) Contaminated disposable needles or instruments shall be stored in leak-resistant, puncture-resistant containers, tightly sealed to prevent

' 111.17 TREATMENT AND TRANSPORT OF

expulsion, labeled with the bio-hazard symbol, and effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(B) Infectious wastes that are contaminated sharps or objects that could potentially become contaminated sharps shall be placed in containers that:

- (1) Shall be impervious to moisture;
- (2) Shall be of sufficient strength and thickness to prevent expulsion;
- (3) Shall be secured to prevent leakage expulsion;
- (4) Shall be labeled with the bio-hazard symbol; and
- (5) Shall be effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(C) If infectious waste is stored prior to final disposal, all persons subject to this rule shall store infectious waste in a secure area that:

- (1) Is locked or otherwise secured to eliminate access by or exposure to the general public;
- (2) Affords protection from adverse environmental conditions and vermin; and
- (3) Has a prominently displayed bio-hazard symbol.

(D) Infectious waste shall be stored in a manner that preserves the integrity of the container and is not conducive to rapid microbial growth and putrefaction.

(E) Disinfectant reusable containers for infectious waste each time that they are emptied unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags, or other devices that are removed with the infectious waste.

(BCC Ord. 2009-05, passed 9-16-2009)

INFECTIOUS WASTE.

(A) All operators shall ensure that infectious waste is either treated on-site in accordance with this rule or transported off-site for treatment in accordance with this rule.

(B) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:

- (1) Incineration in an incinerator designed to accommodate infectious waste;
- (2) Steam sterilization;
- (3) Chemical disinfection under circumstances where safe handling of the waste is assured;
- (4) Irradiation; or
- (5) Discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(C) All persons subject to this rule shall:

- (1) Transport infectious waste in a manner that reasonably protects waste haulers and the public from contracting a dangerous communicable disease; and
- (2) Effectively treat infectious waste in accordance with this rule before it is compacted.

(D) The operator shall ensure that infectious waste, effectively treated or not, is transported off-site in compliance with 410 I.A.C. 1-3.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.18 PERMITS.

(A) *Business.* Each tattoo/body piercing facility operation shall obtain a permit from the County Health

(4) Should an establishment fail to obtain the permit prior to the opening of a mobile tattoo and/or body piercing facility or should any permittee fail to renew his or her permit on or before the

Department. The permit shall provide the name and address of the owner of the business and the name and address of each tattoo artist and body piercer located at each location.

- (1) The cost for this permit shall be \$100 and shall not be transferable.
- (2) The permit expires on December 31 of each year.
- (3) Should an establishment fail to obtain the permit prior to the opening of a tattoo and/or body piercing facility or should any permittee fail to renew his or her permit on or before the expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo and or body piercing facility.

(4) Any holder of a permit shall be subject to inspection as set forth herein.

(5) The County Health Department shall provide the appropriate forms for this permit.

(6) The permit shall be posted at the facility in the area where the tattoo and/or body piercing services are performed and shall be clearly visible to the public.

(B) *Mobile facility.* Each mobile tattoo/body piercing facility operation shall obtain a permit from the County Health Department.

- (1) The permit shall provide the name and address of the owner of the business and the name and address of each tattoo artist and body piercer operating at each location.
- (2) The cost of this permit shall be \$50 and shall not be transferable.
- (3) The permit expires on December 31 of each year.

expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo and/or body piercing facility.

Washington County - Business Regulations

(5) Any holder of a permit shall be subject to inspection as set forth herein.

(6) The County Health Department shall provide the appropriate forms for this permit.

(7) The permit shall be posted at the mobile facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

(8) In addition, the date, time, and location of the event where the mobile facility will be used shall be submitted at least 48 hours prior to the start time of the event to the County Health Department.

(C) Tattoo artist or body piercer.

(1) Every person that desires to perform any tattoo or body piercing shall obtain a tattoo artist permit, body piercer permit, or a tattoo artist-body piercer permit from the County Health Department.

(2) This permit must be obtained before any tattoos are affixed or body piercing done to any person and after the requisite training.

(3) The applicant must satisfy the minimum requirements as set forth herein in ' 111.06.

(4) The cost of the permit shall be \$50 and shall not be transferable.

(5) The permit expires on December 31, of each year.

(6) Should a tattoo artist or body piercer fail to obtain the permit prior to performing any tattoo or body piercing or should any permittee fail to renew his or her permit on or before the expiration date of December 31, then the annual fee shall be 125% of the annual fee set forth above for the tattoo artist or body piercer.

(F) Prorating of fees.

(7) Any holder of a permit shall be subject to inspection as set forth herein.

(8) The County Health Department shall provide the appropriate forms for this permit.

(9) The permits shall be posted at the facility in the place where the tattoos or body piercing are performed and shall be clearly visible to the public.

(D) *Owner/operator.* In the event that a tattoo or body piercing facility is a sole proprietorship and the owner shall also perform tattooing or body piercing for their business, the owner shall only be required to obtain a business permit as described in this section.

(E) Guest tattoo artist or body piercer.

(1) Every person that desires to perform any tattoo or body piercing services within the county on a temporary basis shall obtain a guest tattoo artist permit, guest body piercer permit, or a guest tattoo-body piercer permit from the County Health Department.

(2) This permit must be obtained before any tattoos are affixed or body piercing is done to any person and after the required training.

(3) The applicant must satisfy the minimum requirements as set forth herein ' 111.06.

(4) The cost of the permit shall be \$25 and shall not be transferable.

(5) The permit shall expire 30 days after the date of issuance.

(6) Any holder of a permit shall be subject to inspection as set forth herein.

(7) The County Health Department shall provide the appropriate forms for this permit.

(8) The permits shall be posted at the facility in the area where the tattoo or body piercing services are performed and shall be clearly visible to the public.

(1) In the event that a business, mobile facility, tattoo artist, and/or body piercer shall apply

for a permit any time prior to July 1 of any year, he or she or it or they shall be responsible for the total annual fee as described in this section.

(2) In the event that a business, mobile facility, tattoo artist, and/or a body piercer shall apply for a permit any time after June 30 of any year, he or she or it or they shall be required to pay one half of the annual fee. All permits, however, shall expire on December 31 of the year in which they were issued. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.19 INSPECTIONS.

(A) The County Health Department shall conduct inspections of each and every facility and mobile facility located in the county.

(B) The County Health Department shall conduct a minimum of two inspections per year for facilities and one inspection per year for mobile facilities.

(C) Additional inspections may be conducted by the County Health Department as it determines and/or in responses to complaints submitted.

(D) The results of the inspection shall be provided to each operator. Violations noted by the County Health Department shall be corrected immediately. The County Health Department shall conduct follow-up inspections to determine compliance with this chapter. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.20 PROCEDURES WHEN VIOLATIONS ARE NOTED.

(A) If, during an inspection of any facility, the Health Commissioner discovers the violation of any provision of this chapter, he or she shall issue a written report listing the violations and the remedial action(s)

to be taken.

(B) A copy of the report shall be delivered to the permittee by hand delivering the report to him or her on-site, or by mailing notice by certified mail to the address listed by the permittee as his or her or its mailing address on the permit application.

(C) A copy of the written order shall be filed in the records of the County Health Department after appropriate review by supervisory personnel and then shall be made available to the public. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.21 PERMIT SUSPENSION/REVOICATION.

The Health Commissioner may order the suspension or revocation of any permit issued for a facility, which order shall include the prohibition of any further operation for the following reasons:

(A) Interference with the Health Commissioner, or his or her authorized representatives, in the performance of his or her duties. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Commissioner in the performance of his or her duties; and/or

(B) As a result of the willful and/or continued violation of the provisions of this chapter. (BCC Ord. 2009-05, passed 9-16-2009)

' 111.22 OTHER PERMIT SUSPENSION, REVOCATION AND IMMEDIATE CLOSURE ORDERS.

(A) Except as set forth as follows, no suspension or revocation shall be ordered by the Health Commissioner except after a hearing is held as set forth in ' 111.23.

(B) Notwithstanding the provisions above, whenever the Health Commissioner, or his or her authorized representatives find unsanitary or other conditions, involving the operation of any facility which, in his or her reasonable belief, constitutes an imminent health hazard, he or she shall without notice or hearing, issue and serve a written order upon the permittee requiring the immediate closure of its operations, shall cite the existence of the unsanitary conditions and shall specify the corrective actions to be taken.

(1) The order shall be effective immediately.

(2) Upon written request to the Health Commissioner, the permittee shall be afforded a hearing on the next business day as set forth ' 111.23.

(3) The Health Commissioner shall make a re-inspection upon the request of the permittee. When the Health Commissioner determines that the necessary corrective action(s) have been taken, operation of the facility may be resumed.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.23 HEARING.

(A) All hearings required under this section, except those set forth in ' 111.22, shall be held only upon at least ten days written notice to the permittee of time, place, and nature thereof. The notice of hearing shall be served upon the permittee by leaving, or mailing by certified mail, the notice to the address listed on the permit application as the permittee=s mailing address or other address as the permittee shall designate in writing to the Health Commissioner.

(B) At any hearing required under this chapter, the Hearing Officer shall be the Health Commissioner or the Health Commissioner=s designee. Every person who is a party to the proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All the hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.

(C) Upon the conclusion of the hearing, the

Hearing Officer shall enter a final order, subject to the right of appeal in accordance with ' 111.24.
(BCC Ord. 2009-05, passed 9-16-2009)

' 111.24 APPEAL.

(A) Any permittee aggrieved by any final order of the Health Commissioner shall be entitled to a review of the final order before the County Board of Health (Board) by filing a written request therefor with the Secretary of the Board within 15 days after the final order is issued.

(B) Upon the Health Commissioner=s receipt of the request, the Board shall hear the matter de novo in an open hearing after at least ten days written notice of the time, place and nature thereof. (The Health Commissioner and permittee may agree to a shorter period of time, if requested by either party.) The notice shall be issued by the Secretary of the Board to the permittee filing the request.

(C) The notice of hearing shall be served upon the permittee by leaving or mailing by certified mail, the notice to the address listed on the permit application as the permittee=s mailing address or other as the permittee shall designate in writing to the Secretary of the Board.

(D) At the hearing, the same rules of production shall apply as set forth in ' 111.23, provided that upon written request by the permittee or the Health Commissioner, the Board shall cause the proceedings before it to be recorded by a reporter employed for such purpose, and the same, together with all papers and documents filed therein, shall, at the request of either party, be reproduced by the Board in the form of a transcript, a copy of which shall be available to any party.

(E) The expense of the proceedings shall be charged to the permittee who applied for the review, except that copies of the transcripts shall be at the expense of the party requesting the same. At the time the transcript is requested, the Board may require the permittee to pay a deposit in an amount determined by the Board to be necessary to secure the expense(s).

(F) The Board shall make written the findings of

facts and shall enter its final order or determination of the matter in writing.

111.25 ENFORCEMENT.

It shall be the duty of the Health Commissioner to enforce the provisions of this chapter. Any permit issued in conflict with the provisions of this chapter shall be null and void. A violation of an order issued by the Health Commissioner or Board shall be considered to be a violation of this chapter.

(BCC Ord. 2009-05, passed 9-16-2009)

111.26 VIOLATIONS.

Whenever the Health Commissioner determines that any facility, or any other person, is in willful violation of any of the provisions of this chapter, the Health Commissioner shall furnish evidence of the willful violation to the Prosecuting Attorney of the county, or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating the provisions of this chapter.

(BCC Ord. 2009-05, passed 9-16-2009)

111.27 INJUNCTION.

The Health Commissioner may bring an action for an injunction in the Circuit or Superior Court of the county, to restrain any person from violating the provisions of this chapter, to cause the violation(s) to be prevented, abated, or removed.

(BCC Ord. 2009-05, passed 9-16-2009)

111.28 REMEDIES CUMULATIVE.

The remedies provided in this section shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

(BCC Ord. 2009-05, passed 9-16-2009)

111.99 PENALTY.

(BCC Ord. 2009-05, passed 9-16-2009)

(A) Any person who willfully violates any of this chapter shall be subject to a fine of not more than \$500 for each violation. Each day of the existence of any violation of this chapter shall be considered to be a separate offense.

(B) Any person violating any of the provisions of this chapter shall be liable to the County Health Department for the expense, loss, or damage occasioned by reason of the violation, including reasonable attorney=s fees and costs.

(BCC Ord. 2009-05, passed 9-16-2009)

CHAPTER 112: FOOD/BED AND BREAKFAST ESTABLISHMENTS

Section

- 112.01 Definitions
- 112.02 Permits
- 112.03 Permit fees
- 112.04 Inspection
- 112.05 Compliance and enforcement
- 112.06 Appeals
- 112.07 Conflict of interest

FOOD ESTABLISHMENT, as defined in I.C. 16-18-2-137, any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. This definition also includes a **RETAIL FOOD ESTABLISHMENT**, as defined in 410 I.A.C. 7-24; however, it does not include a bed and breakfast establishment.

112.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BED AND BREAKFAST ESTABLISHMENT. As defined in 410 I.A.C. 7-15.5, an operator-occupied residence that:

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

CONFLICT OF INTEREST. Derived from 68 I.A.C. 9-1-1(b)(2), a situation in which the private financial interest of County Health Department official, County Health Department official's spouse, siblings, in-laws, children, and/or unemancipated child, may influence the County Health Department official's judgment in the performance of a public duty. (Note: The County Health Department officials should follow the code of ethics if a code of ethics was established for County Health Department officials.)

HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLAN. As defined in 410 I.A.C. 7-24, a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

HEALTH OFFICER. The person, appointed as specified in I.C. 16-20-2-16, or his or her duly authorized representative, as specified in I.C. 16-2-1-14, who may conduct inspections and make a final decision on an enforcement action.

HEARING OFFICER. 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 County Health Department. (Examples of **HEARING OFFICER** could be the County Health Board, a subcommittee of County Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the County Health Board.)

IMMINENT HEALTH HAZARD. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries and the nature, severity and duration of the anticipated injury or illness (e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials).

INSPECTION REPORT. The document prepared by the County Health Department that is completed as the result of the inspection and provided to the operator.

OPERATOR. 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 storage, preparation, display, transportation, or serving of food to the public.

ORDER. Derived from I.C. 4-21.5-1-9, a County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. The term includes a **PERMIT**.

PERMIT. The document issued by the County Health Department that authorizes a person to operate a bed and breakfast and/or food establishment.

PERSON. An association; a corporation; an individual; partnership; or other legal entity, or government subdivision or agency.

WASHINGTON COUNTY HEALTH DEPARTMENT or **COUNTY HEALTH DEPARTMENT.** The local health department in the county or authorized representative having jurisdiction over a bed and breakfast establishment and/or food establishment.

WASHINGTON COUNTY HEALTH DEPARTMENT OFFICIAL. Any official of Washington County, Indiana.
(BCC Ord. 2009-06, passed 10-7-2009)

112.02 PERMITS.

(A) *General.*

(1) It is unlawful for a person to operate any bed and breakfast establishment and/or food establishment in the county, without first obtaining a valid permit from the Health Officer.

(2) The valid permit must be posted in a conspicuous location in the bed and breakfast and/or food establishment.

(3) Only persons who comply with the applicable requirements of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 will be entitled to obtain and keep a permit.

(4) A permit shall be required for each bed and breakfast establishment and/or food establishment operated or to be operated by any person.

(5) A permit issued under this chapter is not transferable.

(6) A bed and breakfast establishment and/or food establishment permitted by the County Health Department shall be considered registered as required in I.C. 16-42-1-6.

(B) *Permit period.* A permit for a bed and breakfast establishment and/or food establishment shall be issued for a term of one year beginning from the date of issuance and shall be applied for by the person and/or operator annually.

(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; and

(4) Other pertinent data as may be required by the County Health Officer.

(D) *Application.* A person desiring to operate a bed and breakfast and/or food establishment shall submit to the County Health Department a written application for a permit on a form provided by the County Health Department.

(E) *Content of 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 and/or food establishment;

(2) Information specifying whether the bed and breakfast and/or food establishment is owned by an association, corporation, individual, partnership; or other legal entity;

(3) A statement specifying whether the bed and breakfast and/or food establishment:

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

(b) The operation includes one 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 discards food that is not sold or served at an approved frequency;

c. Using time, rather than temperature, as public health control as specified under 410 I.A.C. 7-24; and

d. Prepares acidified foods as defined in 410 I.A.C. 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 division (C) above for delivery to and consumption at a location off the premises of the bed and breakfast establishment and/or food establishment where it is prepared;

4. Prepares food as specified under division (C) above for service to a highly susceptible population, as defined in 410 I.A.C. 7-24;

5. Prepares only food that is not potentially hazardous; and/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 and/or food establishment;

(5) The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under division (E)(4) above, such as the zone, district, or regional supervisor;

(6) The names, title, and addresses of:

(a) The person comprising the legal ownership as specified under division (E)(2) above, including the owners and operators; and

Washington County - Business Regulations

(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 chapter;

and

2. Allow the County Health Department access to the bed and breakfast establishment and/or food establishment and records as specified in 410 I.A.C. 7-15.5 and 410 I.A.C. 7-24;

(8) Other information required by the County Health Department.

(F) *Qualification.* To qualify for a permit, an applicant must:

(1) Be an owner and/or operator of the bed and breakfast establishment and/or food establishment;

(2) Comply with the requirements of this chapter;

(3) Agree to allow access to the bed and breakfast and/or food establishment and provide required information; and

(4) Pay the applicable permit fees at the time the application is submitted.

(G) *Plan requirements.*

(1) The owner or other authorized agent of an existing or proposed bed and breakfast establishment and/or food establishment shall submit to the County Health Department properly prepared plans and specification for review and approval before:

(a) The construction of a bed and

breakfast establishment and/or food establishment;

(b) The conversion of an existing structure for the use as a bed and breakfast establishment and/or food establishment; or

(c) The remodeling of a bed and breakfast establishment and/or food establishment or a change of type of bed and breakfast establishment and/or food establishment or food operation if the County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(2) The plans and specifications for a bed and breakfast and/or food establishment shall include, the type of operation, type of food preparation (as specified in Appendix A of published version of 410 I.A.C. 7-24), and the menu.

(3) The plans and specifications shall be deemed satisfactory and approved by County Health Department before a permit can be issued.

(4) A pre-operational inspection shows that the bed and breakfast and/or food establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-15.5.

(H) *Change of ownership.* The County Health Department may renew a permit for an existing bed and breakfast and/or food establishment or may issue a permit to a new owner of an existing bed and breakfast and/or food establishment after a properly completed application is submitted, reviewed, and approved, the fees paid, and an inspection shows that the establishment is in compliance with this chapter.

(I) *Responsibilities of the owner.* Upon acceptance of the permit issued by the County Health Department, the operator in order to retain the permit shall:

(1) Comply with the provisions of this chapter and all laws and rules adopted by reference herein and the conditions of any variances granted by the State Department of Health;

(2) Immediately discontinue affected operations and notify the County Health Department if an imminent health hazard may exist;

(3) Allow representatives of the County Health Department access to the bed and breakfast and/or food establishment at all reasonable times;

(4) Comply with the directives of the County Health Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the County Health Department in regard to the operator=s bed and breakfast and/or food establishment or in response to community emergencies;

(5) Accept notices issued and served by the County Health Department;

(6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the County Health Department; and

(7) Post the permit in a location in the bed and breakfast and/or food establishment that is conspicuous to consumers; (BCC Ord. 2009-06, passed 10-7-2009) Penalty, see ' 10.99

' 112.03 PERMIT FEES.

(A) *Generally.*

(1) It shall be unlawful for any person to operate a bed and breakfast and/or food establishment in the county, who has not paid the permit fee required to be paid for the operation of the establishment.

(2) The fee shall be paid for a term of one year from the date of issuance and shall be applied by the person and/or operator annually.

(3) Permit fees for the issuance of a permit under this chapter to a bed and breakfast and/or food establishment shall be set by the County Health

(1) The County Health Department shall inspect a bed and breakfast and/or food establishment

Department, as provided by the statutes of the state (I.C. 16-20-1-27).

(4) A receipt for the payment of such fee shall be provided by the County Health Department.

(5) The payment of the fees shall be required for each bed and breakfast and/or food establishment operated or to be operated by any person.

(B) *Exemption from permit fees.*

(1) An organization that is exempt from the state gross income tax under I.C. 6-3-2-2.8 and offers food sale to the final consumer at an event held for the benefit of the organization is exempt from the payment of fees.

(2) This exemption only applies to organization(s) that meet the criteria addressed by state statute.

(3) The Health Officer shall be provided, upon request, proof of an organization=s tax exemption.

(C) *Late fees.*

(1) A late fee for failure to pay the permit fee prior to the operation of the bed and breakfast 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 and/or food establishment shall be assessed a \$25 late fee by the County Health Board.

(2) The payment of fees under this chapter is not transferable or refundable. (BCC Ord. 2009-06, passed 10-7-2009) Penalty, see ' 10.99

' 112.04 INSPECTION.

(A) *Generally.*

at least once every six months, unless a system of risk based inspections is utilized as stated below.

Washington County - Business Regulations

(2) The County Health Department may modify the interval between inspections beyond six months if:

(a) Bed and breakfast and/or food establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s);

(b) The bed and breakfast 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/or

(c) The County Health Department contacts the operator to determine that the nature of the food operation has not changed.

(B) *Temporary food establishment.* The County Health Department shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or serves potentially hazardous food and may inspect a temporary food establishment that prepares, sells or severs unpackaged, non-potentially hazardous food that:

(1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or

(2) Has untrained food employees.

(C) *Performance and risk based inspections.* Within the parameters specified in the above inspection divisions(s) of this chapter, the County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a bed and breakfast and/or food establishment=s history of compliance with this chapter and the bed and breakfast and/or food establishment=s potential as a vector of food borne illness by evaluating:

(1) Past performance, for violations of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-22 and/or HACCP plan requirements that are critical or non-critical;

(2) Past performance, for numerous or repeat violations of 410 I.A.C. 7-15.5 and/or 410 I.A.C. 7-24 and/or HACCP plan requirements that are critical or 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;

(6) The number of people served; and

(7) Whether the population served is a highly susceptible population.

(D) *Access allowed at reasonable times after due notice.*

(1) After the County Health Department presents official credentials and provides notice of the purpose of an intent to conduct an inspection, the operator shall allow the County Health Department to determine if the bed and breakfast establishment and/or food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter.

(2) The County Health Department is entitled the information and records according to I.C. 16-42-1-13 and I.C. 16-42-5-23, during the bed and breakfast establishment and/or food establishment=s hours of operation and other reasonable times.

(3) Access is a condition of the acceptance and retention of a food establishment permit to operate.

(4) If access is denied, an order issued by the appropriate authority allowing access may be obtained according to law (I.C. 16-20-1-26).

(E) *Inspection reports.* At the conclusion of the inspection, the County 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 I.C. 16-20-8.

(F) *Timely correction of critical violations.*

(1) Except as specified in the next paragraph, an operator shall at the time of inspection correct a critical violation of 410 I.A.C. 7-15.5, 410 I.A.C. 7-24, and/or 410 I.A.C. 7-22 and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(2) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the 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.

(3) 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 County Health Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the County Health Department=s records.

(G) *Refusal to sign acknowledgment.*

(1) 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 frame specified.

(2) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the County Health Department historical record for the bed and breakfast and/or food establishment.

(3) The operator is not necessarily in agreement with the findings of the County Health Department inspection by acknowledgment of receipt.

(H) *Public information.* Except as specified in

' 194 (Trade Secrets) of 410 I.A.C. 7-24, the 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 by law (I.C. 16-20-8).

(BCC Ord. 2009-06, passed 10-7-2009)

112.05 COMPLIANCE AND ENFORCEMENT.

(A) *Application denial.* If an application for a plan review and/or permit to operate a bed and breakfast and/or food establishment is denied, the 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 revocation.* The County Health Department may revoke a permit to operate a bed and breakfast establishment and/or food establishment for a period not to exceed 90 calendar days. If the permit has been revoked in the past and a clear demonstration of noncompliance is demonstrated by the permit holder then the permit may be revoked for a longer period of time as determined by the Health Officer.

(C) *Permit suspension.*

(1) The County 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 chapter, that an imminent health hazard exists.

(2) A suspension shall not exceed 30 calendar days.

(3) The permit may be suspended for a longer period of time as determined by the Health Officer.

(D) *Ceasing operation and contacting the County Health Department.*

(1) An operator of a bed and breakfast establishment and/or food establishment shall immediately discontinue operations and notify the 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 food-borne illness outbreak, gross unsanitary occurrence condition, or other circumstance that may endanger public health.

(2) An operator need not discontinue operations in an area of an establishment that is unaffected by the imminent hazard.

(E) *Resuming operation.* If a bed and breakfast establishment and/or food establishment has dis-continued operations for the reasons stated above or otherwise according to law, the operator must obtain approval from the County Health Department before resuming operations.

(F) *Outstanding fees.* Any outstanding fees may be a condition upon which a permit may not be issued.

(G) *Enforcement options.* The following are options available to County Health Department for consideration:

(1) Establish a process for the issuing of tickets based on violation of the bed and breakfast and/or food establishment requirements (See I.C. 16-42-5-28(g) and I.C. 33-6-3-1 as well as appeals section of this chapter to ensure that due process is followed);

(2) Conduct administrative proceeding for suspension and/or revocation of the bed and breakfast and/or food establishment permit in front of the Health Officer;

(3) The County Health Officer may issue an Aorder 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 I.C. 16-20-1-25 as well as ' 112.06 to ensure that due process is followed);

(4) If the action concerning public health is a criminal offense, request the county attorney or county prosecuting attorney to institute a proceeding in the courts for the enforcement of the ordinance violation (I.C. 34-28-5-1); and

(5) If the action concerning public health is a criminal offense, request the county attorney or prosecuting attorney to institute a proceeding in the courts for enforcement (I.C. 16-20-1-25(c)). (BCC Ord. 2009-06, passed 10-7-2009)

' 112.06 APPEALS.

(A) Any person(s) aggrieved by orders issued under enforcement options in ' 112.05(A) through (C) shall be entitled to a review of the final order before a Hearing Officer by filing an administrative written request therefor with the Health Officer (Secretary of the County Board of Health (I.C. 16-20-1-10). The written request must be mailed or hand delivered to Health Officer, County Health Department, 806 Martinsburg Road, Suite 100, Salem, Indiana, 47167, and must be received within 15 days after a final order is issued.

(B) Upon the Health Officer receipt of the request, the Hearing Officer shall hear the matter again in an open hearing after at least five days written notice of the time, place, and nature thereof. The time shall be measured pursuant to the rules of the 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 delivery or mailing by certified mail the notice to the address listed on the permit application as the person's mailing address or 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 administrative order or determination of this matter in writing.

(F) The administrative order completes the administrative appeals procedure.
(BCC Ord. 2009-06, passed 10-7-2009)

• 112.07 CONFLICT OF INTEREST.

No County Health Department Official shall conduct himself or herself in a manner that is or could have the appearance of a conflict of interest.
(BCC Ord. 2009-06, passed 10-7-2009)

