

ORDINANCE NUMBER 2005- 322

ELKHART COUNTY FOOD SERVICE ORDINANCE

WHEREAS, Indiana Code Sections 36-1-3-1 et seq. permit any county in the State of Indiana to exercise any power or to perform any function necessary to the public interest in the context of its county or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana is the County legislative body and is by law authorized to adopt ordinances for the performance of functions in the County of Elkhart, Indiana;

WHEREAS, the Elkhart County Board of Health has conducted a public hearing concerning this Food Service Ordinance for Elkhart County, Indiana and has recommended the adoption of this Ordinance to the Board of Commissioners of the County of Elkhart, Indiana;

WHEREAS, the Board of Commissioners of the County of Elkhart, Indiana deem it to be reasonable, appropriate, and in the best interests for the public health, safety, and general welfare of the citizens of the County of Elkhart, Indiana to adopt an ordinance concerning food services in Elkhart County, Indiana; regulating the inspection of all such food services; requiring licenses and license fees of such food services; prohibiting the sale of adulterated, unwholesome, or misbranded foods; providing for the examination and condemnation of adulterated, unwholesome, or misbranded food; providing for the enforcement of this Ordinance; fixing penalties for the violation of this Ordinance; and providing for the adoption by reference of 410 IAC 7-24 et seq., 410 IAC 7-15.5 et seq., 410 IAC 7-22 et seq., and 410 IAC 7-23 et seq. all as amended from time to time and as promulgated by the Indiana State Department of Health;

NOW, THEREFORE, BE IT ORDAINED, ORDERED, AND ESTABLISHED by the Board of Commissioners of the County of Elkhart, Indiana, as follows:

SECTION 1. Title. This Ordinance may be referred to as the “Elkhart County Food Service Ordinance.”

SECTION 2. Adoption of Regulations by Reference. The regulations located at 410 IAC 7-24 et seq. entitled “Sanitary Standards for the Operation of Retail Food Establishment,” 410 IAC 7-15.5 et seq. entitled “Bed and Breakfast Establishments,” and 410 IAC 7-22 et seq. entitled “Certification of Food Handlers,” 410 IAC 7-23 et seq. entitled “Schedule of Civil Penalties for Violations” as amended from time to time, and as promulgated by the Indiana State Department of Health, are hereby incorporated and adopted by reference. A food service shall comply with the applicable regulations located at 410 IAC 7-24 et seq., 410 IAC 7-15.5 et seq., 410 IAC 7-22 et seq., and 410 IAC 7-23 et seq. pertaining to the type of respective establishment whether such be a Retail Food Establishment or a Bed and Breakfast Establishment. One copy of these regulations shall be on file with the Elkhart County Health Department.

SECTION 3. Definitions. For purposes of this Ordinance, the terms below shall be defined as follows:

A. “Bed and Breakfast Establishment” shall have the same meaning as defined in 410 IAC 7-15.5-2.

B. “Catered Event” shall mean an occasion at which the food products being served have been prepared in a licensed food service establishment and are merely held and served at the off-site location for a private event or an organized group (such as a wedding reception or corporate picnic). No preparation shall take place at the event location. The food shall be paid

for in one bulk sum by the organization holding the event. Food shall not be sold individually, although it may be served or portioned in individual servings at the event location.

C. "Change of Ownership" shall be deemed to occur when any person, other than a spouse, acquires, through an asset purchase agreement, stock purchase agreement, merger, consolidation, gift, or other similar method, more than fifty percent (50%) of the control of a prior licensee's business.

D. "County" shall mean the County of Elkhart, State of Indiana.

E. "Food Service" shall mean and shall include a Retail Food Establishment and a Bed and Breakfast Establishment.

F. "Full Service Food Service" shall mean a Retail Food Establishment that prepares, packages, handles, vends, or serves potentially hazardous foods or prepares and/or serves non-potentially hazardous foods. All food services that do not meet the definition of a limited service food service shall constitute and be deemed to be a full service food service.

G. "Health Department" shall mean the Elkhart County Health Department.

H. "Health Officer" shall mean the Elkhart County Health Officer and his or her duly authorized representatives.

I. "License Revocation" shall mean the cancellation of a food service license and the denial of a new food service license in accordance with Section 8 of this Ordinance for a period of not less than one (1) year. In the event the license is revoked a second time, the revocation shall become permanent.

J. "Licensee" shall mean the person who is the owner of the operation of a licensed food service establishment, which shall include an authorized representative who shall be

responsible for the acceptance of all notices at the address listed on the application for any license issued hereunder.

K. “Limited Service Food Service” shall mean a retail food service establishment selling only pre-packaged potentially hazardous food items or repackaging only non-potentially hazardous food items. These establishments shall not be involved in the preparation of any food items.

L. “Person” shall include, but is not limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality, or any other group acting as a unit, as well as an agent or legal representative thereof.

M. “Preparation” shall include, but is not limited to, slicing, mixing, heating, cooling, or re-constitution.

N. “Outdoor Cooking Facility” shall mean a location outside of the licensed retail food service establishment that is immediately adjacent and connected to the food service.

O. “Retail Food Establishment” shall have the same meaning as defined in 410 IAC 7-24-79.

P. “Seasonal Food Service” shall mean a food service that operates for a limited time during a licensing period, such as a facility that serves ice cream and closes during the winter or a concession stand that only operates in conjunction with a specific sporting event.

Q. “Single Event or Celebration” shall mean a gathering associated with a recognized special occasion. The recognized occasion shall be sanctioned and sponsored by a governmental unit, charity, civic group, or fraternal order. It shall not include an individual or group preparing food items for a limited time when not associated with such recognized occasions. A business or commercial entity may obtain a temporary food service license for a

promotional event or auction for a time period of no longer than fourteen (14) consecutive days. Temporary licenses for a promotional event or auction shall not be issued to an individual business or commercial entity on a routine or continuous basis in order to avoid compliance with 410-IAC 7-24 et seq.

R. “Stop Work Order” shall mean a written order of the Health Officer to stop all work on a project or construction of a food service until in compliance with all provisions of this Ordinance.

SECTION 4. License Requirements. No person shall operate a food service in the County without a valid food service license issued by the Health Officer; however, a Bed and Breakfast Establishment shall not be required to obtain a food service license in order to operate. Any one wishing to operate a Mobile Food Service shall provide proof of licensure for the commissary if the commissary is not located and licensed in Elkhart County. Commissaries operating in jurisdictions not requiring an individual license shall not be acceptable for servicing a Mobile Food Service unit licensed in Elkhart County. Any facility, other than a licensed retail food service establishment, at which food is prepared, or displayed for service or sale to individual consumers or members of the public, must obtain a temporary food service establishment license.

No person may organize an event at which temporary food establishments operate without first having registered the event with the Health Officer. The registration application shall be submitted at least thirty (30) days prior to the event and shall include a list of vendors with food items to be served and other information deemed necessary by the Health Officer. It shall be the organizer’s responsibility to ensure that only persons licensed by the Health Officer shall operate a food service at the event. Catered events do not need a separate food service

license unless the event fails to meet the requirements of a catered event, in which case, a temporary food service license will be required.

A food service license shall be issued for a term of one (1) year beginning April 1st and expiring on March 31st of the subsequent year and shall be renewed annually. Partial year licenses shall not be issued but the renewal period for the new year shall begin on February 1st of the new license year. Subject to compliance with the requirements of this Ordinance, food service licenses issued prior to the adoption of this Ordinance shall remain valid and in effect through March 31, 2006. Food service licenses for temporary food establishments shall be issued for a period of time at a fixed location not to exceed fourteen (14) consecutive days in conjunction with a single event or celebration. Food service licenses are not transferable with respect to the licensee and/or the location.

Food service licenses shall be posted in a conspicuous place in view of the public in each licensed food service. With respect to Mobile Food Establishments, the name, address, and telephone number of the licensee shall be conspicuously displayed on each licensed mobile unit with lettering not less than two (2) inches in height. Elkhart County Mobile Food License Stickers shall be posted on the outside of the Mobile Food Services vehicle and shall be plainly visible from the front and rear of the vehicle.

Mobile Food Establishment operators shall provide to the Health Department a list of their licensed vehicle(s). The list shall include: make, model, and color of the vehicle(s), vehicle license plate number(s), and the Elkhart County Mobile Food License Sticker number(s) assigned to the vehicle(s). This list shall be updated by the Mobile Food Establishment as necessary to remain accurate and complete at all times. Any person found to be operating a food service in Elkhart County, Indiana, without a valid food service license issued by the Elkhart

County Health Department must cease operation immediately until all requirements of this Ordinance are met.

SECTION 5. Issuance of License.

A. Any person wishing to operate a food service shall make written application for a license to operate such food service on forms provided by the Health Officer. The application shall include the name and address of each applicant (in cases where ownership is by a partnership, limited liability company, corporation, or the like, the names of all partners, members, or officers along with the company name must be included), the location and type of proposed food service, the signature of each applicant, and any other information deemed necessary by the Health Officer.

B. Before approving an application for a license to operate a food service, the Health Officer shall inspect the proposed food service to determine compliance with this Ordinance.

C. The Health Officer shall promptly issue a license if it is determined that the proposed food service is in compliance with this Ordinance and is designed, constructed, and equipped to be operated in a manner which protects public health.

D. A separate license shall be required for each food service operated or to be operated by any person; provided, however, that multiple food services, excluding those in retail mall settings, operated under the same roof and with the same ownership shall be required to have only one license.

SECTION 6. License Restrictions.

A. An outdoor cooking site or facility at a permanent location shall not be permitted unless all requirements of 410 IAC 7-24 et seq. and this Ordinance are met. A food service

establishment wishing to operate an outdoor cooking facility shall include this on the written application for a license to operate.

B. If a temporary food service establishment has an auxiliary cooking or preparation area used in conjunction with their temporary food service license, it must meet the following requirements to be exempted from a separate license:

(1) The auxiliary site must be a part of, or adjacent to, the licensed temporary establishment; and

(2) The food prepared at the auxiliary site must be served and/or sold from the licensed temporary food service establishment unit.

If the auxiliary site does not meet the above requirements, it must be licensed separately.

C. From one (1) year beyond the effective date of this Ordinance, each retail food establishment shall maintain at least one (1) copy of this Ordinance on the premises at all times.

D. A food service that has:

(1) Discontinued operations for more than thirty (30) days, excluding seasonal food services;

(2) Had its license revoked by the Health Officer; or

(3) Changed ownership;

shall be required to apply for a new license before resuming or continuing operations and shall not be issued a license to operate unless it complies with all of the requirements of this Ordinance, including the construction, design, equipment, food safety knowledge, and sanitation requirements applicable to new food services. It shall be unlawful to operate a food service without a valid license to operate.

SECTION 7. Suspension of License.

A. The Health Officer may, upon written notice, without prior warning or hearing, suspend any license to operate a food service for any of the following reasons:

(1) The operation, in the opinion of the Health Officer, constitutes an imminent health hazard, such as may be created by an extended loss of water supply, extended loss of power supply, sewage back up into the establishment, severe structural damage, fire, flood, tornado, or other cause;

(2) The food service has one (1) or more critical item violation(s) not corrected at the time of inspection or has twenty (20) or more non-critical item violations as confirmed by a complete and independent review by a second representative of the Health Officer;

(3) Interference with the Health Officer in the performance of his or her duties; or

(4) Failure to correct any specific violation on two or more consecutive routine inspections.

B. Upon documentation being provided of the existence of any of the circumstances in Section 7(A) above, the food service shall immediately cease operation, and shall immediately institute all corrective measures on all violations identified. Failure to voluntarily cease operations may result in an immediate license suspension.

C. Suspension shall be for a period not exceeding thirty (30) days. Whenever the license to operate a food service is suspended, the licensee or the person-in-charge, shall be notified in writing that the license to operate the food service is, upon serving of the notice, immediately suspended and that opportunity for a hearing will be provided if a written request for a hearing is filed, by the licensee or the person-in-charge, with the Health Officer within ten

(10) days. An opportunity for a hearing with the Health Officer shall be afforded within twenty (20) days of receipt of the request. If no written request for hearing is filed within ten (10) days, the suspension is sustained. Operations shall not be resumed until authorized by the Health Officer. The Health Officer shall end the suspension upon request of the licensee or the person-in-charge if the reason for the suspension no longer exists. Before the license is reinstated, a reinstatement fee, as provided in the Health Department Fee Schedule Ordinance, shall be paid. If after thirty (30) days the suspension is still in place, the Health Officer shall conduct a hearing for license revocation.

D. In the event a temporary food service license expires, as provided in Section 17(B) of this Ordinance, a new license may be obtained only after compliance with all requirements of this Ordinance, the reason for expiration no longer exists, and a new application for license and appropriate fee are submitted. A second expiration of a temporary food service license, at any single event or celebration, shall be deemed a revocation of the license for that event. A new license may not be obtained until all reasons for revocation no longer exist and a period of fourteen (14) days has passed.

SECTION 8. License Revocation.

A. The Health Officer may, after providing opportunity for hearing, revoke a food service license for any of the following:

- (1) A serious violation(s) of this Ordinance;
- (2) Repeated violations of this Ordinance found in consecutive inspections;
- (3) Interference with the Health Officer in the performance of his or her

duties; or

(4) As a result of a license suspension. If circumstances should occur that would require the consideration of license suspension a third time, the license will normally be revoked upon a hearing by the Health Officer confirming the circumstances.

B. Before revocation, the Health Officer shall notify the licensee or the person-in-charge, in writing, of the reasons for which such license is subject to revocation. The license to operate the food service shall be revoked at the end of ten (10) days following service of such notice unless a written request for a hearing is filed with the Health Officer within the ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the license to operate the food service becomes final.

SECTION 9. Service of Notice. A notice provided for in this Ordinance is properly served when it is delivered to the licensee of the food service or to the person-in-charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the licensee of the food service. A copy of the notice and proof of service shall be filed in the records of the Health Department.

SECTION 10. Hearings. The Health Officer, upon written notice, may require any licensee to attend a hearing conducted to determine compliance with any provision of this Ordinance.

The hearings provided for in this Ordinance shall be conducted by the Health Officer at a time and place designated by the Health Officer. A tape recording shall be made of all hearings and then summarized in writing. A transcript of the hearing will be made only if the licensee requests it and agrees to pay the cost of the transcription. The Health Officer shall make findings based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be served upon the

licensee of, or the person-in-charge, by the Health Officer within ten (10) days of the hearing. The licensee shall immediately comply with an order or decision of the Health Officer. In the event that the licensee or his authorized representative fails to attend said hearing, he shall be deemed to have accepted the decision of the Health Officer.

In the event that the licensee fails to abide by the hearing decision or written orders of the Health Officer, the Health Officer may furnish written evidence of the violation to the Elkhart County Prosecutor for appropriate action against the licensee, including prosecution, for violation of the provisions of this Ordinance. The Health Officer may also furnish written evidence of the violation to the Elkhart County Attorney for appropriate action against the licensee, including enforcement action, for violation of the provisions of this Ordinance.

Should the Health Officer be unable to conduct a hearing or should he consider it in the best interests of the County to do so, he may in his discretion establish a hearing board to conduct a Food Service hearing in the County. Any such board shall be comprised of the Manager of the Environmental Health Services Division of the Health Department and two members of the Elkhart County Board of Health.

SECTION 11. License Fees. License fees shall be charged prior to the issuance of a license to operate a food service. All such fees shall be charged in accordance with the Health Department Fee Schedule Ordinance as amended periodically.

SECTION 12. License Late Fee. Any person found to be operating a food service after the effective date of this Ordinance without a valid license shall be assessed a license fee with a late fee as a consequence of the Ordinance violation. The license fee with the late fee shall be equal to three (3) times the appropriate license fee as determined under the Health Department Fee Schedule Ordinance. The license fee with the late fee shall be paid to the Health Department

prior to issuance of a license to operate. Temporary food establishments operating without a license shall be ordered to either immediately obtain a license and pay the license fee with the late fee for the violation or close.

SECTION 13. Exemptions. An organization that is exempt from the Indiana State retail tax under Indiana Code Section 6-2.5-5-21 shall be exempt from the requirements of this Ordinance provided that such organizations comply with the following requirements;

A. An organization seeking exemption from the requirements of this Ordinance under this section shall maintain on file with the Health Department a completed Food Service application and current proof of tax exemption; and

B. An organization seeking exemption from the requirements of this Ordinance under this section shall strictly comply with the requirements for exemption as provided under Indiana Code Section 16-42-5-4. Copies of Indiana Code Section 16-42-5-4 shall be maintained and available at the Health Department.

SECTION 14. Inspection Frequency.

A. A routine inspection of a food service will ordinarily be performed at least once every six (6) months. Additional inspections may be performed as often as necessary for the efficient and effective enforcement of this Ordinance.

B. Food services that on three (3) or more consecutive routine inspections have no critical item violations and no more than five (5) non-critical item violations may make written request that their inspection frequency be reduced to once annually. If approved, an annual inspection will be conducted until such time as the food service violates these conditions at which time the variance shall be revoked without notice or hearing. Request for annual

inspection may not be made again until the food service again routinely meets the requirements of this Ordinance and again makes written application for the variance.

C. Temporary food establishments shall be inspected prior to beginning any operations and as often thereafter as necessary to assure compliance with this Ordinance.

SECTION 15. Access. The Health Officer, upon proper identification, shall be permitted to enter any food service at any reasonable time and shall be permitted access to all parts of the food service for the purpose of making inspections to determine compliance with this Ordinance. The Health Officer shall be permitted to examine records maintained by the food service to obtain information pertaining to the source of food and supplies in the food service or relevant to the enforcement of this Ordinance.

SECTION 16. Report of Inspection. Whenever an inspection is made of a food service, the findings shall be recorded on the inspection report form approved by the Health Officer. The inspection report form shall summarize the requirements of this Ordinance and shall set forth a cumulative total of all critical item and non-critical item violations. Inspection remarks shall be written to reference by item and state the correction to be made. A copy of the completed inspection report form shall be presented to the person-in-charge of the food service at the conclusion of the inspection. The complete inspection report form constitutes an official notice of the inspection findings and an order of the Health Officer to correct all violations found.

SECTION 17. Correction of Violations.

A. The completed inspection form shall specify a reasonable period of time for the correction of violations found. Corrections of all violations shall be accomplished within the period specified, in accordance with the following provisions:

(1) If an imminent health hazard is determined by the Health Officer to exist, such as, but not limited to, those created by an extended loss of water supply, an extended power outage, or sewage back-up into the food service, the food service shall immediately cease operations. Such operations shall not be resumed until authorized by the Health Officer.

(2) All critical item violations shall be corrected immediately or within any period specified by the Health Officer, but in any event, shall not exceed ten (10) days following inspection. A time extension may be granted by the Health Officer upon documentation and evidence that corrective action is ongoing. Such documentation shall not, however, guarantee an extension of the period for correction. A follow-up inspection shall be conducted to confirm correction.

(3) All non-critical item violations shall be corrected as determined by the Health Officer, but in any event, shall be corrected by the time of the next routine inspection.

(4) In the case of temporary food establishments, all corrections shall be completed prior to the issuance of a license to operate. All violations noted after issuance of a temporary food establishment license shall be corrected immediately.

B. Failure to comply with subsection A(1), A(2), A(3), and/or A(4) above may result in a revocation of the license to operate the food service. If any person fails to maintain and operate a temporary food establishment in compliance with any valid order of the Health Officer, the license of that food service shall automatically expire, and the further sale or serving of food shall be prohibited. Any person continuing to sell or serve food in a temporary food establishment, whose license has expired hereunder, may be referred to the Elkhart County Prosecutor or the Elkhart County Attorney for enforcement action.

SECTION 18. Examination and Condemnation of Food.

A. It shall be unlawful for any person to sell or distribute through a food service any food which is unwholesome, adulterated, misbranded, obtained from an unapproved source, or otherwise prohibited as provided in the Uniform Food, Drug, and Cosmetic Act, Indiana Code Sections 16-42-1 et seq. through Indiana Code Sections 16-42-2 et seq.

Food may be examined or sampled by the Health Officer for the purpose of determining compliance with this Ordinance. The Health Officer may place a hold order on any food which he has probable cause to believe is a violation of any section of this Ordinance and may pose a health hazard to the public, provided:

(1) A written notice of hold order is issued to the licensee of the food service or to the person-in-charge; and

(2) The notice specifies in detail the reason(s) for the hold order. The Health Officer shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, sold, moved from the food service, or destroyed without permission from the Health Officer.

B. The written notice of hold order shall state that a written request for hearing may be filed with the Health Officer within ten (10) days. If a request for hearing is received, the hearing shall be held within twenty (20) days after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be vacated or the licensee may be directed by written order to denature or destroy such food. If the food is to be denatured or destroyed, such action shall be taken under supervision of the Health Officer.

SECTION 19. Review of Plans. Before beginning the construction or major remodeling of a food service or an existing structure to be converted to a food service, a plan review fee, as provided in the Health Department Fee Schedule Ordinance as amended periodically, along with

properly prepared plans and specifications for such construction, major remodeling, or conversion shall be submitted to the Health Officer for review and approval. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed and non-fixed equipment and facilities. No food service shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Health Officer. Failure to submit the appropriate plan review fee and obtain approval of construction plans prior to beginning construction, major remodeling, or conversion may result in the issuance of a stop work order. A late fee will be assessed for any food service that begins construction or remodeling of a new or existing structure without first submitting properly prepared plans to the Health Officer. The late fee shall be equal to the amount set forth in the Health Department Fee Schedule Ordinance. The plan review fee with the late fee shall be paid to the Health Department with the submission of the plans for review.

SECTION 20. Pre-Operational Inspections. Whenever plans and specifications are required by Section 19 of this Ordinance, the Health Officer shall inspect the food service during construction and prior to the beginning of operations to determine compliance with the approved plans and specifications and with the requirements of this Ordinance.

SECTION 21. Fines and Enforcement.

A. Ordinance violations may be enforced under proceedings brought pursuant to Indiana Code Sections 34-28-5 et seq. in a manner similar to that for infractions with complaint and summons described in Indiana Code Section 9-30-3-6 issued by the Elkhart County Sheriff's Department or other police agency. Ordinance violations may also be enforced by the issuance of an order to abate by the Health Officer.

(1). If any person violates any provision of this Ordinance, that person shall be deemed to have committed an Ordinance violation and, upon conviction, may be fined not more than Five Hundred Dollars (\$500.00) for the first offense, and not more than One Thousand Dollars (\$1,000.00) for the second or each subsequent offense. Each violation of the Ordinance shall constitute a separate Ordinance violation. Each day that an Ordinance violation continues, after the time period permitted for correction, if applicable, shall constitute a separate Ordinance violation. In addition to the other specific enforcement mechanisms contained within this Ordinance, the Health Officer may furnish written evidence of any violation of this Ordinance to the Elkhart County Prosecutor and/or the Elkhart County Attorney for appropriate action against the licensee, including prosecution and enforcement action, for violation of the provisions of this Ordinance.

(2). Penalties pursuant to 410 IAC 7-23 et seq. may be assessed by the Health Officer. A person assessed penalties pursuant to 410 IAC 7-23 et seq. may appeal the decision of the Health Officer if a written request for an appeal hearing is filed with the Health Officer within ten (10) days after notice of the penalty is served. The Health Officer shall immediately forward the request to the President of the Elkhart County Board of Health. An opportunity for an appeal hearing with the Elkhart County Board of Health shall be afforded within thirty (30) days of receipt of the request.

B. No licenses shall be issued or renewed until all fines have been paid in full.

SECTION 22. Construction.

A. To the extent that any provision of this Ordinance is ultimately determined by a court of competent jurisdiction to be pre-empted by any state or federal law, this Ordinance shall

automatically be deemed amended by eliminating the pre-empted provision and incorporating in its place the applicable provision of the pre-empting state or federal law.

B. Each provision of this Ordinance shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

C. Compliance with the requirements of this Ordinance does not obviate or eliminate the necessity of complying with any other applicable federal, state, or local laws and regulations affecting food services.

SECTION 23. Authority of Health Officer. It is hereby acknowledged, understood, and declared by the Board of Commissioners of the County of Elkhart, Indiana that under this Ordinance the Health Officer is required to exercise and is vested with the authority to exercise his or her discretion and judgement in order to protect and preserve the public health, safety, and general welfare of the citizens of the County of Elkhart, Indiana in enforcing this Ordinance. The authority of the Health Officer to issue, deny, suspend, or revoke, or fail or refuse to issue, deny, suspend, or revoke any license, approval, order, or similar authorization under this Ordinance is hereby declared to be discretionary.

SECTION 24. Effective Date and Repeal. This Ordinance shall take effect on the 1st day of July, 2005. All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

ORDAINED AND ADOPTED by the Board of Commissioners of the County of Elkhart, Indiana this 20day of June, 2005.

Board of Commissioners of the
County of Elkhart, Indiana

Phil R. Stiver, President

Mike Yoder

Terry Rodino

ATTEST:

David L. Hess, Auditor

APPROVAL

The above and foregoing Elkhart County Food Service Ordinance is approved by the Elkhart County Board of Health and recommended to the Board of Commissioners of the County of Elkhart, Indiana for approval this 26 day of May, 2005.

ELKHART COUNTY BOARD OF HEALTH

By _____
Chairman