

# MIAMI COUNTY RAILROAD CAMP CAR INSPECTION ORDINANCE

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## MIAMI COUNTY ORDINANCE 2010-

An ordinance pertaining to railroad camp car inspection, requiring permits and establishing fees, regulating the inspection of such establishments, providing for the fixing of penalties for violations of said ordinance, incorporating by reference the Indiana State Department of Health Rules: 410 IAC 6-14, IC 16-19-3-4.4 et seq., as amended, Railroad mobile camps.

Whereas the State of Indiana has delegated the authority to protect the health, safety and welfare of persons living in railroad mobile camps to the counties pursuant to IC 16-19-3-4 et seq, and

Whereas, it is necessary to inspect railroad camp car facilities for sanitary conditions, light, air, safety and protection from fire hazards, equipment, maintenance and operations of the camp, sewage disposal through septic tank absorption fields and/or wastewater (sewage) facilities, and other matters appropriate for the security of life and health of occupants, and

Whereas the Board of Health has determined and recommended appropriate fees. Now therefore be it ordained by the Board of Commissioners of Miami County, State of Indiana, as follows:

### **ARTICLE I** **DEFINITIONS**

**Board:** shall mean the Miami County board of Health, Miami County, Indiana

**Communicable Disease:** shall include those diseases which epidemiological evidence can be transmitted through food preparation or service.

**Department:** shall mean the Miami County board of Health, Miami County, Indiana, and/or its employees.

**Health Officer:** means the duly appointed Health Officer as set forth in IC 16-20-2-16. The County Health Officer or designee shall be designated as official in charge of enforcing this ordinance. The Health Officer may designate a representative in the health department to perform those duties and responsibilities of the Health Officer.

**Imminent Health Hazard:** shall mean 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 or illnesses; and the nature, severity, and duration of the anticipated injury or illness.

**Mobile Camp:** shall mean a temporary location where at least two (2) railroad maintenance of way employees are housed.

**Permit:** shall mean a certificate and/or a permit number of a size and style previously approved by the Health Officer.

**Permittee:** shall include the person who is the owner of or responsible for the operation of a railroad mobile camp which shall include his/her/its authorized representative and who shall be responsible for the acceptance of all notices at the address listed on the application for any permit issued here under.

**Person:** shall include, but not be limited to, an individual, corporation, firm, partnership, association, business, organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.

**Retail Food Service Establishment:** shall mean any food establishment, including, but not limited to, a restaurant, coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich stand, soda fountain, commissary, drive-in restaurant, drink establishment, snack bar, food counter, dining room, food catering facility, industrial feeding establishment, private, public, or non-profit organization or institution routinely serving food, and any other eating or drinking establishment, where food or drink products are prepared, served or provided for human consumption with or without charge. The term does not include private homes where food is prepared or served for individual family consumption.

**Temporary Food Service Establishments:** shall mean any food establishment in any enclosure stall or other facility, whether fixed or mobile, operating at one site or location for a period of time not in excess of fourteen (14) consecutive days, in conjunction with a single event or celebration, where food in open form intended for human consumption off the premises is offered with or without charge.

## **ARTICLE II** **PERMITS**

**Permit Requirements:** It shall be unlawful for any person to operate a Mobile Camp or to act, whether actually or ostensibly, as a Mobile Camp operator in Miami County, Indiana, who does not possess a valid permit for each such operation from the health Officer, unless otherwise exempted from the provisions of the Ordinance.

**Posting:** All permits shall be posted in a conspicuous place while in operation in Miami County and must be kept at the Mobile Camp site itself.

**Separate Permits:** A separate permit shall be required for each Mobile Camp and for each time a Mobile Camp arrives into Miami County.

**Application:** The application for a Mobile Camp permit shall be made to the Health Officer on forms provided by the Health Officer no later than two (2) days upon arrival of the Mobile Camp and its employees into Miami County. Such forms shall show, among other information which may be required by the Health Officer, the legal name, address, and telephone number of the permittee, the name under which said permittee intends to operate, the address and general location of the Mobile Camp. Said application shall include the signature of the permittee or his/her authorized representative.

**Permit Issuance:** A permit shall be issued subsequent to application and inspection and upon a determination by the Health Officer or his/her representative(s) that the permittee has complied with all of the applicable provisions of this Ordinance and tendered the appropriate fee as hereinafter specified.

**Term:**

**A.** The permit for a Mobile Camp shall be the number of consecutive days the Mobile Camp is located in Miami County and becomes void once the Mobile Camp leaves Miami County. A new permit must be obtained upon each arrival in Miami County.

**B:** Said permits shall be obtained no later than two (2) days upon the Mobile Camp and its employees' arrival into Miami County. If the application for such Mobile Camp is not submitted within the required two-day arrival period as stated above, a late fee of \$250 (per each day of violation) will also be added to the overall permit fee.

**Permit Not Transferable:** No permit issued to any permittee under this Ordinance shall be transferable between location with Miami County, between operators, or between Mobile Camp visits in Miami County. Upon change of location or leaving the county after the initial inspection for which the permit was granted or upon change of operator or owner, all existing permits become void.

**ARTICLE III**  
**RAILROAD EMPLOYEE AND MOBILE CAMP SANITARY REQUIREMENTS**

**Railroad Employee and Mobile Camp Sanitary Requirements:** All Mobile Camps which are hereinafter utilized to house railroad maintenance of way employees shall conform in their construction and overall operation to the applicable requirements of IC 16-19-3 and 410- IAC 6-14, as amended, as well as with this ordinance. The Board hereby incorporates by reference all rules and regulations established by the Indiana State Department of Health regarding the operation of Mobile as set forth in the Indiana Administrative Code and all such establishments shall abide by said rules and regulations as the now exist and as are amended hereafter. The Health Officer may prohibit the further housing of railroad maintenance of way employees in any Mobile Camp in Miami County that fails to meet the requirements of this ordinance or the requirements of IC 16-19-3 and 410 IAC 6-14, as amended.

**ARTICLE IV**  
**APPLICATION AND PERMIT FEES**

**Fees:** Prior to the issuance of any permit, each permittee shall first tender to the Treasurer of Miami County, Indiana, a fee or fees, which shall be deposited into the Miami County Board General Fund for each such operation in accordance with the classification as established in the following schedule of fees.

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| 1. 1-10 total cars in the Mobile Camp System   | \$465.00 |
| 2. 11-20 total cars in the Mobile Camp System  | \$620.00 |
| 3. 21 or more total cars in Mobile Camp System | \$775.00 |

If, upon application, the total numbers of cars submitted and paid for is not correct as determined upon actual on-site inspection and the actual total number of cars is higher, the late fee of \$250.00 will automatically be assessed in addition to the difference between the fee paid and the fee owed based on the actual number of cars, and payment will be required within twenty-four (24) business hour. If unpaid, the Mobile Camp will be immediately closed upon the expiration that 24-hour period.

**ARTICLE V**  
**INSEPCIONS**

**Frequency of Inspection:** The Miami County Health Department will inspect Mobile Camps within two (2) business days or as soon after that as is possible upon permit of application of the mobile Camp Operator and as often thereafter as necessary to ensure compliance with all applicable regulations with regard to operations as set forth in this ordinance.

**ARTICLE VI**  
**VIOLATIONS**

**Procedure When Violations are Noted:**

A: If, during the inspection of any Mobile Camp the Health Officer discovers the violation of any provision of Miami County Railroad Camp Car Inspection Ordinance or 410 IAC 6-14 (or as amended hereafter), he/she shall issue a written report listing such violations and the remedial action(s) to be taken. A copy of said report shall be delivered to the permittee by hand delivering the report to him/her on-site, or mailing the notice by certified mail to the address listed by the permittee as his/her/its mailing address on the permit application.

B: A copy of the written order shall be filed in the records of the department.

**Permit Suspension/Closure:** The Health Officer may order the suspension of any permit issued for a Mobile Camp which order shall include the prohibition of any further residential occupancy or preparing/serving of food or beverages for the following reasons:

**A:** Interference with the Health Officer, or his/her authorized representatives, in performance of his/her duties. Interference shall be defined as the process of obstructing hampering or blocking the Health Officer in the performance of his/her duties.

**B:** As a result of the willful and/or continuous violation of any provisions of this Ordinance or applicable Indiana Administrative Code.

**ARTICLE VII**  
**OTHER PERMIT REVOCATION, SUSPENSION AND CLOSURE ORDERS**

- A. No permit suspension or revocation shall be ordered by the Health Officer except after a hearing is held.
- B. Notwithstanding any other provisions of this Ordinance, whenever the Health Officer, or his/her authorized representatives, find unsanitary or other conditions, involving the operation of any Mobile Camp operation which, in his/her reasonable belief, constitutes an imminent health hazard, he/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 said unsanitary condition(s) and shall specify the corrective action(s) actions to be taken.
  - a. Such order shall be effective immediately.
  - b. Upon written request to the Health Officer, the permittee shall be afforded a hearing on the next business day as set forth in this ordinance.
  - c. The Health Officer or his/her representative shall make a

reinspection upon the request of the permittee during normal (Health Department) business hours. When the Health Officer determines that the necessary corrective action(s) have been taken, operation of the Mobile Camp may be resumed.

**ARTICLE VIII**  
**HEARING**

- A. All hearings required under this section, shall be held only upon at least ten (10) 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 such other address as the permittee shall designate in writing to the Health Officer.
- B. At any hearing required under this Ordinance, every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.
- C. Upon the conclusion of such hearing, the Health Officer shall enter a final order, subject to appeal in this Ordinance.

**ARTICLE IX**  
**APPEAL**

- A. Any permittee aggrieved by any final order of the Health Officer shall be entitled to review of the final order before the Board of Health (hereinafter "Board") by filing a written request therefore with the Secretary of the Board within fifteen (15) days after such final order is issued.
- B. Upon the Health Officer's receipt of such request, the board shall hear the matter de novo in an open hearing after at least ten (10) days written notice of the time, place and nature thereof. (The Health Officer and 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 such other address as the permittee shall designate in writing to the Secretary of the Board.
- 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 such other address as the permittee shall designate in writing to the Secretary of the Board.
- D. At such hearing, the same rules of procedure shall apply as in the case of the hearing before the Health Officer, provided, that upon written request by the permittee or the Health Officer, 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 said Board in the form of a transcript, a copy of which shall be available to any party.

- E. The expense of such proceedings shall be charged to the permittee who applied for the review,. Except that copies of 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 such expense(s).
- F. The Board shall make written findings of facts and shall enter its final order or determination of the matter in writing.

## **ARTICLE X** **ENFORCEMENT**

**Enforcement:** It shall be the duty of the Health Officer or his/her representative(s) to enforce the provisions of this Ordinance and all applicable state statutes in this regard. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. A violation of an order issued by the Health Officer or Board shall be considered to be a violation of this Ordinance.

**Violations:** Whenever the Health Officer determines that any Mobile Camp or Mobile Camp personnel or any other person, is in willful violation of any of the provisions of this Ordinance, the Health Officer shall furnish evidence of said willful violation to the Prosecuting Attorney of Miami County, Indiana or the attorney for the Board who shall seek all appropriate legal remedies against the person(s) violating said provisions of this Ordinance.

**Penalty:** Any person who willfully violates any of the provisions of this Ordinance shall be subject to a fine of not more than five hundred (\$500.00) for each violation. Each day of the existence of any violation of this Ordinance shall be considered to be a separate violation.

**Injunction:** The Health Officer may bring an action for an injunction in the Circuit or Superior Court of Miami County, Indiana, to restrain any person from violating the provisions of this Ordinance, to cause such violation(s) to be prevented, abated or removed.

**Expense:** Any person violating any of the provisions of this Ordinance shall be liable to the Miami County Health Department for the expense, loss or damage occasioned by reason of such violation, including reasonable attorney=s fees and costs.

**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.

**ARTICLE XI**  
**MISCELLANEOUS**

**Repeal:** All ordinances or parts of ordinances in conflict herewith are expressly repealed.

**Severability:** Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

**Effective Date**

This Ordinance shall be enforceable from and after its adoption and approval by the Board of Commissioners as stated herein and any publication as required by law.

Passed and enacted by the board of Commissioners of the County of Miami this \_\_\_\_\_ day of July 2010 by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays

\_\_\_\_\_  
Greg Deeds, Chairman

\_\_\_\_\_  
Craig Boyer, Vice Chairman

\_\_\_\_\_  
Jon Faust, Member

Attest:

\_\_\_\_\_  
Jane Lilly, Auditor