

**ORDINANCE NUMBER 2015-3-2**

**RETAIL FOOD ESTABLISHMENT / BED AND BREAKFAST  
ESTABLISHMENT ORDINANCE**

WHEREAS, it is the desire and duty of the County Board of Commissioners to protect human health; and

WHEREAS, in the opinion of the County Board of Commissioners, it is necessary to enact this Ordinance to safeguard human health;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF PUTNAM COUNTY, STATE OF INDIANA, as follows:

**ARTICLE I  
TITLE**

This Ordinance shall be titled "Retail Food Establishment / Bed and Breakfast Establishment Ordinance", and may be cited as such. Reference shall be Ordinance Number 2015-3-2

**ARTICLE II  
PURPOSE**

The purpose of this Ordinance is to safeguard public health and assure that food provided to the consumers is safe, unadulterated, and honestly presented. It establishes definitions; sets standards for management and personnel, food operations, equipment, and facilities; and provides for Retail Food Establishment, Bed and Breakfast Establishment, Mobile Food Establishment, and/or Temporary Food Establishment plan reviews, permits, inspections, and employee restrictions.

This Ordinance defines the specific terms used herein; requires construction and/or alteration plans; requires a permit and payment of permit fees for the operation of Bed and Breakfast Establishment, Retail Food Establishment, Mobile Retail Food Establishments, and/or Temporary Food Establishments; prohibits sale of adulterated, unwholesome, or misbranded food; regulates inspection of such establishments; provides for a Food Safety Education Class; provides for compliance and the enforcement of this Ordinance; provides penalties and sanctions for violations of the Ordinance; and incorporates by reference Indiana Codes IC 16-41-31, IC 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2 and Indiana State Department of Health Indiana Administrative Codes Rule 410 IAC 7-15.5, Rule 410 IAC 7-24, Rule 410 IAC 7-22 and Rule 410 IAC 7-23.

The Putnam County Health Department is hereby authorized to issue Bed and Breakfast Establishment, Retail Food Establishment, Temporary Food Establishment, and/or Mobile Food Establishment permits, collect permit fees and penalties, perform inspections, hold hearings, order or otherwise compel correction of violations of this Ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this Ordinance.



### ARTICLE III DEFINITIONS

**Applicant:** means a person that prepares an application for a permit and/or plan review.

**Bed and Breakfast Establishment:** (as defined in Rule 410 IAC 7-15.5) means an Operate occupied residence that:

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

The term does not include hotels, motels, boarding houses, or food service establishments.

**Commissary:** A registered catering establishment, restaurant, or any retail food establishment in which food, food containers, or food supplies are kept, handled, prepared, packaged, or stored.

**Catering ONLY Permit:** A retail food establishment that prepares food in an approved kitchen and may include the transportation of such food for service and consumption at some other site (NO FOOD SERVED AT THE SITE WHERE FOOD IS PREPARED).

**Conflict of Interest:** means a situation in which the private financial interest of a Putnam County Health Department Employee, Employee's spouse, ex-spouse, siblings, in-laws, and/or child/children, may influence said Employee's judgment in the performance of a public duty.

**Employee:** means full and part-time Health Department personnel who are paid, in whole or in part, by Putnam County funds.

**Event:** means one occasion that will last no longer than fourteen (14) consecutive days.

**Food Establishment:** means any Bed and Breakfast Establishment, Retail Food Establishment, Mobile Food Establishment, Food Establishment, and/or Temporary Food Establishment.

**HACCP Plan:** means Hazard Analysis Critical Control Point, and is 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. (as defined in Rule 410 IAC 7-24)

**Health Officer:** means the person, appointed as specified in IC 16-20—16, or his/her duly authorized representative, as specified in IC 16-20-1-14, who may conduct inspections and make a final decision on an enforcement action within the jurisdiction of Putnam County.

**Imminent Health Hazard:** means any circumstance or situation, which in the opinion of the Health Officer, presents a serious health risk to the public (i.e. sewage backing up in a food preparation area or contamination of food products with toxic materials).

**Inspection Report:** means the document prepared by the Putnam County Health Department that is completed as the result of the inspection and provided to the Operator.

**Mobile Unit Permit:** (as defined in Rule 410 IAC 7-24-55) means a retail food establishment that is:

- (1) Wheeled;
- (2) On skids;
- (3) Mounted on a vehicle;
- (4) A marine vessel; or
- (5) Otherwise readily movable; (i.e. pushcart or trailer)

Mobile Units **MUST** be physically transported to a commissary or servicing area or both at least once daily for all supplies, cleaning, and servicing operations.

**Mobile Unit Seasonal Permit:** (as defined in Rule 410 IAC 7-24-55) means a retail food establishment that is:

- (1) Wheeled;
- (2) On skids;
- (3) Mounted on a vehicle;
- (4) A marine vessel; or
- (5) Otherwise readily movable; (i.e. pushcart or trailer)

Mobile Units **MUST** be physically transported to a commissary or servicing area or both at least once daily for all supplies, cleaning, and servicing operations **AND** is only in operation during a season (i.e. Winter – December to February; Spring – March to May; Summer – June to August; Fall – September – November).

**Non Profit Permit:** IRS 501 (C)(3) Organizations, Civic, Fraternal, Veterans, Charitable – must provide IRS 501(C)(3) Tax Exempt Certificate – Must **NOT** operate a food operation for more than 15 calendar days per year.

**Operator:** means 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 the storage, preparation, display, transportation or serving of food to the public.

**Order:** means a Putnam County Health Department action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. The term includes a permit. (Derived from IC 4-21.5-1-9)

**Permanent Food Establishment Without Catering Permit:** means a facility that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

**Permanent Food Establishment with Catering Permit:** means a facility that stores, prepares, packages, services, vends, or otherwise provides food for human consumption AND prepares food in the retail food establishment that includes the transportation of such food for service and consumption at some other site.

**Permit:** means the document issued by the Putnam County Health Department that authorizes a person to operate a Bed and Breakfast Establishment, Retail Food Establishment, and/or Mobile Retail Food Establishment.

**Person:** means an association, a corporation, an individual, partnership, or other legal entity, government, or governmental subdivision or agency.

**Potentially Hazardous Food:** means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting the growth of infectious/toxigenic microorganisms or harmful bacteria (as defined in Rule 410 IAC 7-24-66)

**Putnam County Health Department:** means the local Health Department in Putnam County or authorized representative having jurisdiction over Bed and Breakfast Establishments, Retail Food Establishments and/or Mobile Retail Food Establishments.

**Retail Food Establishment:** (as defined in Rule 410 IAC 7-24-79) means an operation that:

- (1) Stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as:
  - a. A Restaurant;
  - b. Satellite or catered feeding location;
  - c. A catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people;
  - d. A market;
  - e. A grocery store;
  - f. A convenience store;
  - g. A vending location;
  - h. A conveyance used to transport people;
  - i. An institution;
  - j. A food bank;
  - k. A commissary;
  - l. A cottage industry;
  - m. A hospice facility as defined in IC 16-25;
  - n. A health care facility as defined in IC 16-21-2;
  - o. A health facility as defined in IC 16-18-2;
  - p. A child care facility as defined in IC 12-13-5, such as the following:

- i. Licensed child care center licensed under Rule 470 IAC 3-4.7;
    - ii. Licensed child care institutions licensed under Rule 470 IAC 3-11, Rule 4710 IAC 3-12, and Rule 470 IAC 3-13;
  - q. An assisted living facility as defined in IC 12-10-15.
- (2) Relinquishes possession of food to a consumer directly or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (3) The term includes the following:
- a. An element of the operation, such as transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority.
  - b. An operation that is conducted in a:
    - i. Mobile;
    - ii. Stationary;
    - iii. Temporary; or
    - iv. Permanent;
 Facility or location, where consumption is on or off the premises, and regardless of whether there is a charge for the food.
- (4) The term does not include the following:
- a. An establishment that offers only pre-packaged foods that are not potentially hazardous;
  - b. A produce stand that offers only whole, uncut fresh fruits and vegetables;
  - c. A food processing plant operated under IC 16-42-5;
  - d. A private home where food is prepared by a member of an organization that is operating under IC 16-42-5-4;
  - e. An area where food that is prepared as specified I subdivision (d above) is sold or offered for human consumption;
  - f. A Bed and Breakfast Establishment as defined and regulated under IC 16-41-31 and Rule 410 IAC 7-15.5;
  - g. A private home that receives catered or home-delivered food; or
  - h. A private home.

**Seasonal Food Establishment Permit:** means a permanent retail establishment that is only in operation during a season (i.e. Winter – December to February; Spring – March to May; Summer – June to August; Fall – September to November).

**Temporary Food Establishment Permit:** means a retail food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration (i.e. 4-H Fair; Berry Street Festival; 4<sup>th</sup> of July Festival).

## **ARTICLE IV PLAN REVIEW**

The owner or other authorized agent of an existing or proposed Food Establishment shall submit to the Putnam County Health Department properly prepared plans and specifications for review and approval before:

1. The construction of a Bed and Breakfast Establishment or Retail Food Establishment;
2. The conversion of an existing structure for use as a Bed and Breakfast Establishment or Retail Food Establishment; or
3. The remodeling of a Bed and Breakfast Establishment or Retail Food Establishment or a change of type of Bed and Breakfast Establishment or Retail Food Establishment or food operation if the Putnam County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

The plans and specifications for a Food Establishment shall include the type of operation, type of food preparation (as specified in Appendix A of the published version of Rule 410 IAC 7-24), and the menu.

The plans and specifications shall be deemed satisfactory and approved by the Putnam County Health Department before a Permit can be issued.

A pre-operational inspection shows that the Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with the Ordinance, Rule 410 IAC 7-24 and Rule 410 IAC 7-15.5, whichever is applicable.

## **ARTICLE V PERMITS**

**General:** It is unlawful for a person to operate any Food Establishment in Putnam County without first obtaining a valid permit from the Health Officer. The valid Permit must be posted in a conspicuous location in the Food Establishment.

A separate Permit shall be required for each Food Establishment operated or to be operated by any person.

Only persons who comply with the applicable requirements of Rule 410 IAC 7-15.5, Rule 410 IAC 7-24, and this Ordinance will be entitled to obtain and keep a permit.

A Food Establishment permitted by the Putnam County Health Department shall be considered registered as required in IC 16-42-1-6.

Prior to participating in an Event, each Food Vendor must present a copy of its' Putnam County Health Department Food Service Establishment Permit to the person organizing the Event. Such event organizer is required to send a list of the participating food vendors to the Putnam County

Health Department, at least two (2) weeks prior to the start of the Event. Failure to have the requisite Permit at the time of the Putnam County Health Department's inspection will result in the immediate termination of food preparation, cooking, and/or selling of food, until such time as the requisite Permit is obtained.

**A PERMIT ISSUED UNDER THIS ORDINANCE IS NOT TRANSFERABLE.**

**Permit Period:** A Permit for a Food Establishment shall be issued for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year Permit is being issued. The Permit shall be applied for by the Person and/or Operator on an annual basis.

A Permit for a Temporary Food Establishment shall be for the term of one continuous operation.

A Permit for a Seasonal Food Establishment shall be for the term of the season (i.e. Winter, Spring, Summer, Fall).

**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 dates; and
- (4) Other such pertinent data as may be required by the Putnam County Health Officer.

**Application:** A Person desiring to operate a Food Establishment shall submit to the Putnam County Health Department a written application for a Permit on a form provided by the Putnam County Health Department.

**Content of the 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 Food Establishment;
- (2) Information specifying whether the Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) A statement specifying whether the Food Establishment:
  - A. If not permanent, is mobile and/or temporary,
  - B. The operation includes one (1) or more of the following:
    - 1) Prepares, offers for sale, or serves potentially hazardous food:
      - a) Only to the 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 the public health control as specified under Rule 410 IAC 7-24-193; or
    - d) Prepares acidified foods as defined in Rule 410 IAC 7-24-3 or Rule 410 IAC 7-21-3
  - 2) Prepares potentially hazardous food in advance using a food preparation method that involves two (2) 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 item (3)(B)(2) of this Article for delivery to and consumption at a location off the premises of the Food Establishment where it is prepared;
  - 4) Prepares food as specified under item (3)(B)(2) of this Article for service to a highly susceptible population, as defined in Rule 410 IAC 7-24-46;
  - 5) Prepares only food that is not potentially hazardous; 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 Food Establishment.
- (5) The name, title, address, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (4) of this Article such as the zone, district, or regional supervisor.
- (6) The names, titles, and addresses of:
  - A. The Persons comprising the legal ownership as specified under subdivision (2) of this Article including the owner(s) and operator(s); and
  - 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 Ordinance; and
    - 2) Allow the Putnam County Health Department access to the, Food Establishment and records as specified in Rule 410 IAC 7-15.5 and Rule 410 IAC 7-24.
- (8) Other information required by the Putnam County Health Department.

**Qualification:** To qualify for a Permit, an applicant must:

- (1) Be an owner and/or operator of the Food Establishment;
- (2) Comply with the requirements of this Ordinance;



- (3) Agree to allow the Putnam County Health Department access to the Food Establishment and provide said Department with the information it requires; and
- (4) Pay the applicable permit fees at the time the application is submitted.

**Change of Ownership:** The Putnam County Health Department may renew a Permit for an existing Food Establishment or may issue a permit to a new owner of an existing Food Establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection demonstrates that the establishment is in compliance with this Ordinance.

**Responsibilities of the Operator:** Upon acceptance of the Permit issued by the Putnam County Health Department, the Operator, in order to retain the Permit, shall:

- (1) Comply with the provisions of this Ordinance and all laws and rules adopted by referenced herein and the conditions of any variances granted by the Indiana State Department of Health;
- (2) Immediately discontinue affected operations and notify the Putnam County Health Department if an Imminent Health Hazard may exist;
- (3) Allow representatives of the Putnam County Health Department access to the Food Establishment at all reasonable times;
- (4) Comply with directives of the Putnam County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Putnam County Health Department in regard to the Operator's Food Establishment or in response to community emergencies;
- (5) Accept notices issued and served by the Putnam County Health Department;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Ordinance or a directive of the Putnam County Health Department; and
- (7) Post the Permit in a location in the Food Establishment that is conspicuous to consumers.

#### **ARTICLE IV PERMIT FEES**

It shall be unlawful for any Person to operate a Food Establishment in Putnam County, who has not paid the Permit fee required to be paid for the operation of such an Establishment.

The fee shall be paid for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year and shall be applied for by the Person and/or Operator on an annual basis.

Permit fees for the issuance of a Permit under this Ordinance to a Food Establishment shall be set by the Putnam County Health Department, as provided by the Statutes of the State of Indiana (See IC 16-20-1-27).

A receipt for the payment of such fees shall be provided by the Putnam County Health Department.

The payment of such fees shall be required for Food Establishment operated or to be operated by any Person.

**Exemption from Permit Fees:** An organization that is exempt under IC 16-18-2-137 will not be subject to permit fees. The Health Officer may require proof of an organization's 501(c)(3) exemption.

**Late Fees:** Failure to renew a permit after it has expired or failure to pay the permit fee prior to the operation of a Food Establishment shall be assessed a late fee as set by the Putnam County Health Board.

**The payment of fees under this Ordinance is not transferable or refundable.**

## ARTICLE VI INSPECTIONS

**Schedule of Inspection:** The Putnam County Health Department shall inspect Food Establishments based on public health risk associated with the establishment's menu; type of operation including the methods and extent of food storage, preparation, and service; the number of people served; and past performance. The Putnam County Health Officer may establish an inspection schedule, the frequency of which is at the discretion of the Health Officer.

**Access Allowed at Reasonable Times After Due Notice:** After the Putnam County Health Department presents official credentials and provides notice of the purpose of and the intent to conduct an inspection, the Operator shall allow the Putnam County Health Department to determine if the Food Establishment is in compliance with this Ordinance, Rule 410 IAC 7-24, and/or Rule 410 IAC 7-15.5 by allowing access to the Food Establishment, allowing inspection, and providing information and records specified in this Ordinance. The Putnam County Health Department is entitled the information and records according to IC16-42-1-13 and IC 16-42-5-23, during the Food Establishment's hours of operation and other reasonable times.

Access is a condition of the acceptance and retention of a Food Establishment Permit to operate.

If access is denied, an Order issued by the appropriate authority allowing access may be obtained according to law. (See IC 16-20-1-26).

**Inspection Reports:** At the conclusion of the inspection, the Putnam 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 IC 16-20-8.

**Procedure when Violations are Noted:** If during an inspection of any Food Establishment, the Health Officer or their representative discovers a violation of this Ordinance, Rule 410 IAC 7-24, or Rule 410 IAC 7-15.5, whichever applies, he/she shall issue a written order in the form of



an Inspection Report listing such violation to the Operator, or in the Operator's absence, to the Person-in-charge, and setting a date by which the violation shall be abated. A copy of the Inspection Report shall be filed with the records of the Putnam County Health Department.

**Timely Correction of Critical Violations:** Except as specified in the next paragraph, an Operator shall at the time of inspection correct a critical violation of Rule 410 IAC 7-15.5, Rule 410 IAC 7-24, and/or Rule 410 IAC 7-22, and implement corrective actions for a HACCP Plan provision that is not in compliance with its critical limit.

Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Putnam 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.

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 Putnam County Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Putnam County Health Department's records.

**Refusal to Sign Acknowledgement:** Refusal to sign an acknowledgement of receipt will not affect the Operator's obligation to correct the violations noted in the Inspection Report within the time frames specified.

A refusal to sign an acknowledgement of receipt is noted in the Inspection Report and conveyed to the Putnam County Health Department historical record for the Food Establishment.

The Operator is not necessarily in agreement with the findings of the Putnam County Health Department inspection by acknowledgement of receipt.

**Public Information:** After the Inspection Report is completed, the Food Establishment, under IC 16-20-8-5, has the opportunity to review the reports and submit to the Putnam County Health Department a written response. The public will have access to Inspection Reports either ten (10) days after the completion of the inspection; or after a written response to the Inspection Report has been submitted to the Putnam County Health Department under IC 16-20-8-5, whichever is earlier, except as provided in IC 16-20-8-8 and as specified in Rule 7-24-194. (See IC 16-20-8-6).

## **ARTICLE VII FOOD SAFETY EDUCATION**

The Putnam County Health Department shall provide a Food Safety Education Class for all employees of the Food Establishment (excluding Temporary Food Establishments). Such class shall focus upon such skills as good hand washing techniques, food temperature requirements, a basic overview of how foodborne illnesses are spread, and how such illnesses can be minimized. The class shall be required for all management personnel who are not otherwise certified as a Safe Food Handler, pursuant to Title 410 IAC 7-22. Upon completion of the Food Safety



Education Class, the Putnam County Health Department shall provide documentation which confirms class attendance.

## **ARTICLE VIII COMPLIANCE AND ENFORCEMENT**

**Application Denial:** If an application for a plan review and/or Permit to operate a Food Establishment is denied, the Putnam 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.

**Follow-up Inspection – Health Officer Response to Violators:** If upon a follow-up inspection, the Health Officer finds that a Food Establishment, person, or employee is violating any provisions of this Ordinance which were in violation on the previous inspection concerning which a written order was issued, and the date by which the violation shall be abated has passed, the Health Officer may do any or all of the following:

- (1) Offer the alleged violator an opportunity to enter into an agreed order providing for:
  - a. The actions required to correct the violation; and
  - b. If appropriate, the payment of a civil penalty.The Health Officer is not required to extend the offer for more than thirty (30) days.
- (2) Promptly issue a written order to the permittee of the Food Establishment to appear at a certain time and place in the County, in order to show why the permit issued under the provisions of Article V should not be revoked.
- (3) Furnish evidence of the violation to Putnam County legal representatives for enforcement.

**Permit Suspension:** The Putnam County Health Department may suspend a Permit to operate a Food Establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this Ordinance, that an Imminent Health Hazard exists.

**Revocation of Permit:** The Putnam County Health Department may revoke a permit to operate a Food Establishment for a time period not to exceed 90 calendar days. If the permit has been revoked in the past and a clear demonstration of non-compliance is demonstrated by the permit holder then the permit may be revoked for a longer period of time as determined by the Health Officer.

**Permit Reinstatement:** Any person whose permit has been suspended or revoked may, at any time, make application with demonstration of compliance to the Health Officer for reinstatement of his/her permit.

**Ceasing Operation and Contacting the Putnam County Health Department:** An operator of a Food Establishment shall immediately discontinue operations and notify the Putnam 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 foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

An operator need not discontinue operations in an area of a Food Establishment that is unaffected by the Imminent Health Hazard.

**Resuming Operation:** If a Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Putnam County Health Department before resuming operations.

**Outstanding Fees:** Any outstanding fees and fines owed to the Putnam County Health Department shall be paid prior to the issuance of a permit.

**Enforcement:** The Putnam County Health Officer may issue an “Order 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 IC 16-20-1-25; See also the Appeals Section of this Ordinance to ensure that due process is followed.)

If the action concerning public health is an Ordinance violation, the Putnam County Health Department will request the County Attorney or County Prosecuting Attorney to institute a proceeding in the courts for the enforcement of the Ordinance violation. (See IC 34-28-5-1).

If the action concerning public health is a criminal offense, the Putnam County Health Department will request the County Attorney or County Prosecuting Attorney to institute a proceeding in the courts for enforcement. (See IC 16-20-1-25(c)).

## ARTICLE IX PENALTIES AND SANCTIONS

**General:** The doing of any prohibited act or the omission of any required act governed by this Ordinance is declared to be a violation of this Ordinance. If the Putnam County Health Department documents a violation in an Inspection Report, the subject Food Establishment shall be assessed a Penalty in an amount consistent with the Schedule of Civil Penalties in Rule 40 IAC 7-23.

**Certification of Food Handler Requirement Penalties:** Unless adjusted by an administrative order, the schedule of monetary penalties shall be used if penalties are to be assessed for violations of Rule 410 IAC 7-22. Penalties shall be enforced by the Putnam County Health Department at the rate of twenty-five percent (25%) of the maximum penalties allowed for each violation.

**Civil Penalties:** The Putnam County Health Department may commence an action, under IC 16-42-5-28, to levy civil penalties against a person who:

- (1) Fails to comply with IC 16-42-5, Rule 410 IAC 7-21, or Rule 410 IAC 7-24; or

- (2) Interferes with or obstructs the Putnam County Health Department or its designated agent in the performance of duties under IC 16-42-5, Rule 410 IAC 7-21 or Rule 410 IAC 7-24.

A civil penalty at the rate of twenty-five percent (25%) of the maximum penalties allowed for each critical and noncritical violation will be assessed to the Food Establishment per Rule 410 IAC 7-23, except as follows:

- (1) In the event that a Food Establishment accumulates more than two (2) critical violations or more than six (6) noncritical violations, during the course of an inspection, the rate of fifty percent (50%) of the maximum penalties allowed for each violation documented.

If there are any unpaid penalties due and owing on December 31<sup>st</sup> of any calendar year, a permit will not be issued for the following year, until such time as the penalties are satisfied.

In the event that any penalties imposed under this Ordinance are not able to be collected by the Putnam County Health Department without the necessity of Court intervention, the Health Officer shall request that the Court enter a judgment for the amount of said penalties, plus Court costs and reasonable Attorney fees.

## **ARTICLE X APPEALS**

- (1) Any person(s) aggrieved by an application denial, a revocation of permit, or by orders issued under Enforcement of Article VIII above shall be entitled to a review of the final order by filing a written request to the Health Officer. The written request must be mailed or hand delivered to the Health Officer, and must be received within fifteen (15) days after such final order is issued.
- (2) Upon the Health Officer's receipt of such request, the Health Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof.
- (3) The notice of the hearing shall be served upon the person requesting the review by certified mail or hand delivery to the address listed on the permit application as the person's mailing address or such other address, as the person shall designate in the letter of request to the Health Officer.
- (4) The Health Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- (5) The Health Officer shall make written findings of fact and shall enter its final administrative order or determination of this matter in writing.
- (6) The administrative order completes the appeals procedure.

**ARTICLE XI  
CONFLICT OF INTEREST**

No Putnam County Health Department employee shall conduct himself/herself in a manner that is or could have the appearance of a Conflict of Interest.

**ARTICLE XII  
SEVERABILITY**

Each section, subsection, sentence, clause and phrase of the Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. Finding or holding of any section, subsection, sentence, clause, and phrase to be unconstitutional, void or ineffective for any cause shall not affect another section, subsection, sentence, clause, and phrase or part thereof.

**ARTICLE XIII  
APPLICATION, REPEAL AND EFFECTIVE DATE**

Throughout this Ordinance, the use of the singular number shall be construed to include the plural, the plural the singular, and the use of any gender shall include all genders, whenever required by the context. All portions of former Ordinances, including Ordinance Numbers: 1988-5-16; 1988-12-5; 1990-4-2; 1994-9-6-94-1; 1999-7-6; and 2005-4-4-2, including and amendments thereof, which are in conflict herewith are hereby repealed and/or superseded. This Ordinance shall be in full force and effect immediately upon and after its adoption and publications as required by law.

Passed and adopted by the Board of Commissioners of Putnam County, State of Indiana, on this 2 day of March, 2015.

PUTNAM COUNTY COMMISSIONERS:

Prepared by Lisa Zeiner

Donald K. Walton

Donald Walton,

David E Berry

David Berry,

Rick Woodall

Rick Woodall,

ATTEST BY:

Lorie Hallett

Lorie Hallett, Auditor

"I AFFIRM, UNDER THE PENALTIES FOR PERJURY,  
THAT I HAVE TAKEN REASONABLE CARE TO  
REDACT EACH SOCIAL SECURITY NUMBER IN  
THIS DOCUMENT, UNLESS REQUIRED BY LAW."

NAME: Nadine Bursary

