**TITLE XI: BUSINESS REGULATIONS**

Chapter

 **110.** **GENERAL LICENSING PROVISIONS**

 **111. SPECIFIC LICENSING AND PERMIT REGULATIONS**

 **112. FRANCHISE AGREEMENTS**

 **CHAPTER** **110:** **GENERAL LICENSING PROVISIONS**

Section

110.01 Authority to license

110.02 Duration of license; display required

110.03 Issuance, revocation or suspension

**110.01 AUTHORITY TO LICENSE.**

The town has the authority to impose a license fee that is reasonably related to the administrative cost of exercising such regulating powers.

(1989 Code,  4‑1)

***Statutory reference:***

*Authorizing the regulation of business crafts, professions and occupations, see I.C. 36‑8‑2‑10*

*Providing town with such licensing power, see I.C. 36‑1‑3‑8(5)*

**110.02 DURATION OF LICENSE; DISPLAY REQUIRED.**

(A) All licenses issued under this chapter, unless specified otherwise on the license, shall be issued for the duration of the calendar year for which they were issued, and shall expire on December 31.

(B) Every person who is issued a license under the provisions of the licensed activity is being conducted, or if there are no premises, shall carry the license while engaged in the activity for which he or she has been licensed, and shall exhibit it to any town official or citizen upon request.

(1989 Code,  4‑2) Penalty, see  10.99

**110.03 ISSUANCE, REVOCATION OR SUSPENSION.**

(A) The Clerk‑Treasurer shall issue licenses upon payment of the license fees and compliance with the applicable provisions of this code of ordinances and Town Council approval.

(B) Licenses issued by the town may be revoked or suspended if the person holding the license has violated the terms or conditions of the license or the law under which it was issued, or has conducted the business in such a manner as to constitute a threat to public health, safety or general welfare of the towns citizens.

(1989 Code,  4‑3)

***Statutory reference:***

*Addressing license revocations or suspensions by the Town Executive, see I.C. 36‑5‑4‑11*

*Authorizing the Clerk‑Treasurer to issue licenses, see I.C. 36‑5‑6‑6(8)*

 **CHAPTER 111: SPECIFIC LICENSING AND PERMIT REGULATIONS**

Section

 ***Eating and Drinking Establishments***

111.01 Definitions

111.02 Permits

111.03 Minimum sanitation requirements for restaurants

111.04 Sale, examination and condemnation of unwholesome, adulterated or misbranded food

111.05 Disease control

111.06 Inspection of restaurants

111.07 Inspection of itinerant restaurants

111.08 Approval of plans

 ***Itinerant Vendor and Transient Salesperson License***

111.20 Licenses

111.21 License fees

111.22 License period

 ***Vending Machines and Amusement Devices***

111.35 Definitions

111.36 License fees

111.37 Clerk‑Treasurer

111.38 Enforcement

111.99 Penalty

***Statutory reference:***

*Addressing license revocations or suspensions by the Town Executive, see I.C. 36‑5‑4‑11*

*Authorizing the Clerk‑Treasurer to issue licenses, see I.C. 36‑5‑6‑6(8)*

*Authorizing the regulation of business crafts, professions and occupations, see I.C. 36‑8‑2‑10*

*Municipal authority over transient merchants, see I.C. 25‑37‑1‑11*

*Providing town with such licensing power, see I.C. 36‑1‑3‑8(5)*

*Standards of cleanliness of eating facilities, see I.C. 16‑42‑5*

 ***EATING AND DRINKING ESTABLISHMENTS***

**111.01 DEFINITIONS.**

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

***EMPLOYEE.*** Any person who handles food during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room or other place in which food is stored, prepared, processed, displayed or served.

***FOOD.*** Includes all articles used for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

***HEALTH OFFICER.*** The health authority having jurisdiction in the town, or his or her authorized representative.

***ITINERANT RESTAURANT.*** A restaurant operation for a temporary period, in connection with a fair, carnival, circus, public exhibition or other similar gathering.

***PERSON.*** Any individual, partnership, co‑partnership, firm, company, corporation, association, joint stock company, trust, estate or municipality, or his, her or its legal representative or agent.

***RESTAURANT.*** Restaurant, coffee shop, cafeteria, short‑order café, luncheonette, tavern, sandwich stand, soda fountain, drive‑in restaurant, drive‑in theater restaurant, in‑plant food service, commissary, snackbar, food catering or food establishment, whether fixed or movable, where food for human consumption is prepared or served in such manner that it is ready for consumption on the premises. The term ***RESTAURANT*** shall not include a food establishment that is known as a retail food market where food is not prepared and served for consumption on the premises.

***UTENSIL.*** Any kitchenware, tableware, glassware, cutlery, containers or other equipment of any kind of nature with which food comes in contact during storage, preparation or serving.

(1989 Code,  4‑7a) (Ord. 41, passed 6‑10‑1963)

**111.02 PERMITS.**

(A) *Permits required.*

(1) It shall be unlawful for any person to operate a restaurant or itinerant restaurant in the town who does not possess a valid permit from the health officer. Such permit shall be posted in a conspicuous place in such restaurant or itinerant restaurant. Only persons who comply with the applicable requirements of this subchapter shall be entitled to receive and retain such a permit. The permit for a restaurant shall be for a term of one year beginning January 1 and expiring December 31 of the same year and shall be renewed annually. The permit for an itinerant restaurant shall be for the term of one continuous operation. Any permit issued by the health officer shall contain the name and address of the person to whom the permit is granted, the address of the premises for which the same is issued, and such other pertinent data as may be required by the health officer.

(2) A separate permit shall be required for each restaurant or itinerant restaurant operated or to be operated by any person. A permit issued under this subchapter is not transferable.

(3) A permit shall be issued to any person on application after inspection and approval by the health officer; provided, that the restaurant complies with all the applicable provisions of this section.

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

(B) *License and license fee.*

(1) It shall be unlawful for any person to operate a restaurant in the town who does not possess a valid license for the operation of such establishment. The license shall be for a term of one year beginning January 1 and expiring December 31 of the same year and shall be renewed annually.

(2) Such license shall be provided by the Town Clerk‑Treasurer if there is presented at that office a valid permit from the health officer together with the license fees which shall be established as follows:

|  |  |
| --- | --- |
| ***Seating Capacity*** | ***License Fee*** |
| 1 to 75 | $40 |
| 76 and greater | $80 |

(3) Any person who desires to operate an itinerant restaurant in the town shall, after securing a permit from the health officer, obtain from the Town Clerk‑Treasurer, a license for an itinerant restaurant. Such license shall be provided by the Town Clerk‑Treasurer if there is presented at his or her office a valid permit from the health officer, together with $5 for each day of operation, not to exceed $25 for any one continuous operation.

(C) *License and fee exception.* The provisions of this section shall apply to, and a permit as described in division (A) above shall be obtained for restaurants and itinerant restaurants operated by fraternal organizations, service clubs, religious, educational and charitable institutions; provided, however, that no license shall be required and no license fee shall be paid for restaurants or itinerant restaurants operated by religious, educational, charitable organizations, fraternal organizations or service clubs.

(1989 Code,  4‑7b) (Ord. 41, passed 6‑10‑1963; Ord. 86, passed 3‑1‑1978; Ord. 107, passed 1‑14‑1982) Penalty, see  111.99

**111.03 MINIMUM SANITATION REQUIREMENTS FOR RESTAURANTS.**

All restaurants and itinerant restaurants and other food service establishments shall comply with the minimum sanitation requirements specified by the Indiana State Board of Health as now provided in 410 I.A.C. 7‑24, or as the same may be hereafter adopted or promulgated, are by reference incorporated herein and made part hereof, two copies of which are on file in the Clerk‑Treasurers office of the town for public inspection.

(1989 Code,  4‑7c) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

**111.04 SALE, EXAMINATION AND CONDEMNATION OF UNWHOLESOME, ADULTERATED OR MISBRANDED FOOD.**

(A) It shall be unlawful for any person to sell through a restaurant or itinerant restaurant any food which is unwholesome, adulterated or misbranded.

(B) Samples of food may be taken and examined by the health officer as often as may be necessary to determine freedom from unwholesomeness, adulteration or misbranding. The health officer may, on written notice to the owner or operator, impound and forbid the sale of any food which is unwholesome, adulterated or misbranded, or which he or she has probable cause to believe to be unwholesome, adulterated or misbranded; provided that in the case of misbranding, which can be corrected by proper labeling, such food may be released to the operator for correct labeling under the supervision of the health officer.

(1989 Code,  4‑7d) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

**111.05 DISEASE CONTROL.**

(A) *Disease control.* No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he or she shall notify the health officer immediately.

(B) *Procedure when infection suspected.* When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the health officer is authorized to require any and all of the following measures:

(1) The immediate exclusion of the employee from all restaurants;

(2) The immediate closing of the restaurant concerned until no further danger of disease outbreak exists in the opinion of the health officer; and/or

(3) Adequate medical examination of the employee and of his or her associates with such laboratory examinations as may be indicated.

(1989 Code,  4‑7e) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

***Statutory reference:***

*Training in health precautions for communicable disease, see I.C. 16‑41‑11*

**111.06 INSPECTION OF RESTAURANTS.**

(A) *Frequency of inspection.* At least once each three months the health officer shall inspect each restaurant for which a permit is required under the provisions if this subchapter.

(B) *Procedure when violations noted.* If during the inspection of any restaurant the health officer discovers the violation of any of the sanitation requirements in  111.03, he or she shall issue a written order listing such violations to the proprietor, or in his or her absence, to the person in charge, and fixing a time within which the said proprietor of said restaurant shall abate and remedy such violations. A copy of the written order shall be filed with the records of the Health Department.

(C) *Authority to inspect and to copy records.* The person operating the restaurant shall, upon the request of the Health Officer, permit such health officer or his or her authorized representative access to all parts of such restaurant and shall permit copying any or all records relative to the enforcement of this subchapter.

(D) *Final inspection ‑ prosecution or hearing for violators.* If upon a second and final inspection the health officer finds that such restaurant, person or employee is violating any of the provisions of this subchapter which were in violation on the previous inspection, and concerning which a written order was issued, the health officer shall furnish evidence of the violation to the prosecutor having jurisdiction in the town in which the violation occurs, and he or she shall prosecute all persons violating said provisions of this subchapter; or the health officer may promptly issue a written order to the permittee of such restaurant to appear at a certain time, no later than ten days from the date of final inspection, and at a place in said county fixed in said order to show cause why the permit issued under the provision of  111.02(A) should not be revoked.

(E) *Revocation of permit.* The health officer upon such hearing, if the permittee should fail to show cause, shall revoke said permit and promptly give written notice of such action to the permittee. The health officer shall maintain a permanent record of his or her proceedings filed in the office of the Health Department.

(F) *Suspension of permit.*

(1) Any permit issued under this subchapter may be temporarily suspended by the health officer without notice or hearing for a period of not to exceed 30 days, for any of the following reasons:

(a) Insanitary or other conditions which in the health officers opinion endangers the publics health; or

(b) Interference with the health officer or any of his or her authorized representatives in the performance of his or her duties.

(2) However, that upon written application from the permittee, served upon the health officer within 15 days after such suspension, the health officer shall conduct a hearing upon the matter after giving at least five‑days written notice of the time, place and purpose thereof to the suspended permittee; provided, further, that any such suspension order shall be issued by the health officer in writing and served upon the permittee by leaving a copy at his or her usual place of business or by delivery of registered or certified mail to such address.

(G) *Reinstatement of permit.* Any person whose permit has been suspended may at any time make application to the health officer for the reinstatement of his or her permit.

(1989 Code,  4‑7f) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

**111.07 INSPECTION OF ITINERANT RESTAURANTS.**

(A) *Frequency of inspection.* At least once in each 24‑hour period the health officer shall inspect each itinerant restaurant for which a permit is required under the provisions of this section.

(B) *Procedure to follow when any sanitation violation noted.* If during the inspection or any itinerant restaurant the health officer discovers the violation of any of the sanitation requirements in  111.03, he or she shall order the immediate correction of the violation.

(C) *Authority to inspect and to copy records.* The person operating the itinerant restaurant shall, upon request of the health officer, permit such health officer or his or her authorized representative access to all parts of the itinerant restaurant and shall permit copying any or all records relative to the enforcement of this section.

(D) *Revocation of permit and penalties for continued operation.* Upon failure of any person maintaining or operating an itinerant restaurant to comply with any order of the health officer, it shall be the duty of the health officer summarily to revoke the permit of such person and establishment and to forbid the further sale or serving of food therein. Any person continuing to sell or serve food in such itinerant restaurant, the permit of which has been revoked, shall be subject to the penalties provided in  111.99(B).

(1989 Code,  4‑7g) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

**111.08 APPROVAL OF PLANS.**

All restaurants which are hereafter constructed or renovated shall conform in their construction to applicable requirements of this section. Properly prepared plans and specifications shall be submitted to and approved by the health officer before starting any construction work.

(1989 Code,  4‑7h) (Ord. 41, passed 6‑10‑1963) Penalty, see  111.99

 ***ITINERANT VENDOR AND TRANSIENT SALESPERSON LICENSE***

**111.20 LICENSES.**

(A) It shall be unlawful for any transient salesperson or itinerant vendor to engage in or solicit retail sales of goods, wares and merchandise of any description or nature without first having acquired a license from the town to engage in said activity; provided, however, that this division (A) shall not apply to vendors of farm produce.

(1989 Code,  4‑8a)

(B) Any transient salesperson or itinerant vendor who wishes to engage in the solicitation of the making of retail sales within the town limits shall apply for a license to engage in such activity, which license, shall be issued upon the payment of the prescribed fees and compliance with this subchapter.

(1989 Code,  4‑8b) (Ord. 67, passed 8‑10‑1972) Penalty, see  111.99

**111.21 LICENSE FEES.**

There is imposed a fee in the sum of $25 which must be paid before the Clerk‑Treasurer shall issue a license to any transient salesperson or itinerant vendor as herein prescribed.

(1989 Code,  4‑8c) (Ord. 128, passed 5‑14‑1987)

**111.22 LICENSE PERIOD.**

The license herein required and authorized shall be valid for a period of ten days.

(1989 Code,  4‑8d) (Ord. 67, passed 8‑10‑1972)

 ***VENDING MACHINES AND AMUSEMENT DEVICES***

**111.35 DEFINITIONS.**

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

***AMUSEMENT DEVICE.*** A coin slot machine for selling entertainment.

***VENDING MACHINE.*** A coin slot machine for selling merchandise.

(1989 Code,  4‑9a) (Ord. passed 2‑10‑1983)

**111.36 LICENSE FEES.**

(A) *Vending machines.* There shall be charged a license fee on each vending machine in the town in the amount of $10 per machine Said license fee shall be paid by the owner of any commercial establishment where the machine resides. However, said license fee shall not exceed $200 per establishment, regardless of the number of vending machines on the establishment.

(1989 Code,  4‑9b)

(B) *Amusement devices.* There shall be charged a license fee on each amusement device and machine in the town in the amount of $25 per machine. Said license fee shall be paid by the owner of any commercial establishment where the machine resides. However, said license fee shall not exceed $250 per establishment, regardless of the number of vending machines on the establishment.

(1989 Code,  4‑9c) (Ord. passed 2‑10‑1983)

**111.37 CLERK‑TREASURER.**

The owner of said establishment shall pay the license fee directly to the Clerk‑Treasurer. The Clerk‑Treasurer shall issue a receipt and license to the owner of such establishment, showing the payment of said fee, which said receipt and license shall be available, at the establishment, for proof of payment in the event of inspection. Said license fee shall be paid annually on or before July 15 of each year.

(1989 Code,  4‑9d) (Ord. passed 2‑10‑1983)

**111.38 ENFORCEMENT.**

The Town Marshal and his or her deputies are charged with the enforcement of this section.

(1989 Code,  4‑9f) (Ord. passed 2‑10‑1983)

**111.99 PENALTY.**

(A) *Generally.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of  10.99.

(B) *Eating and drinking establishments.* Any person who violates the provisions of  111.02(A) or (B) or any other provisions of  111.01 through 111.08 or who refuses to comply with any lawful order, rules or regulations of the health officer, as provided in  111.01 through 111.08, shall, upon conviction, be punished by a fine of not more than $25. Each day of operation in violation of the provisions of  111.01 through 111.08 shall constitute a distinct and separate offense.

(1989 Code,  4‑7i)

(C) *Itinerant vendors and transient salespeople.* Anyone who, as a transient salesperson or itinerant vendor, engages in the making of retail sales in the town without first acquiring a license as prescribed and paying the fees therefor shall be guilty of an ordinance violation and, upon conviction therefor, shall be fined in the sum of $50. Each retail sale or solicitation of a retail sale by a person not licensed under the terms of  111.20 through 111.22 shall constitute a separate offense.

(1989 Code,  4‑8e)

(D) *Vending machines and amusement devices.*

(1) Notwithstanding all other procedures contained herein for the collection of fees, the town may elect to bring a civil action for said fees as set out in  111.36.

(2) In the event said fees are not paid and delinquent, the town may assess and collect a reasonable attorney fee for the bringing of a civil action to collect fees. In addition thereof, the town may seek an additional penalty of three times the delinquent fee.

(3) The amount due for said license fees shall be trebled.

(1989 Code,  4‑9e)

(Ord. 41, passed 6‑10‑1963; Ord. 67, passed 8‑10‑1972; Ord. passed 2‑10‑1983)

 **CHAPTER 112: FRANCHISE AGREEMENTS**

Section

112.01 Franchise agreements

**112.01 FRANCHISE AGREEMENTS.**

(A) The Town Council may enter into written franchise agreements for companies to serve the town.

(B) Such agreements shall be binding on the parties as to rental amounts, safety requirements, inspections, indemnification, bond requirements and other related areas.

(C) Such agreements, in order to be approved, must be passed by an appropriate ordinance of the Town Council, and shall be kept on file and open for public inspection during regular business hours in the office of the Clerk‑Treasurer.

(1989 Code,  4‑30)