ORDINANCE 2018-03

AN ORDINANCE AMENDING BOONE COUNTY ORDINANCE 2016-05
[BOONE COUNTY CODE CHAPTER 111]
RELATING TO FOOD INPSECTIONS AND PENALTIES FOR VIOLATIONS

WHEREAS, The Board of Commissioners of Boone County, Indiana ("Boone County"), may, pursuant to Indiana law [I.C. 36-1-3 (Home Rule)], enact ordinances for effective governance of the County and its Offices and Departments; and

WHEREAS, Boone County is responsible for implementing food inspection programs for establishments in Boone County that sell and package edibles to be purchased and consumed, for the safety and welfare of the citizens of Boone County; and

WHEREAS, Boone County Ordinance 2016-05 (as codified in Boone County Code Chapter 111) adopted a Food Inspection Program, which empowered the Boone County Health Department to inspect food establishments and issue citations for violations of state and local requirements relating to food preparation and serving in conformity with Indiana law; and

WHEREAS, Boone County has determined that it is in the best interests of public safety to permit the Health Department to issue violations and impose fines for violations of state and local requirements relating to food safety, and desire to Amend Ordinance 2016-05 to promote the public health and welfare of the citizens of Boone County.

NOW, THEREFORE, BE IT ADOPTED AND ORDAINED by the Board of Commissioners of Boone County, State of Indiana, do hereby amend Boone County Code Section 111 as follows (*italics denote added language;* language stricken is denoted ~~with lines through the text~~*)*:

111.01 Definitions.

CRITICAL ITEM. "Critical item" means a provision of this rule that, if in noncompliance, is more likely than other violations to significantly contribute to food contamination, illness, or environmental health hazard. (Indiana State Department of Health; 410 IAC 7-24-21).

111.09 Penalties

The provisions of Title 410 IAC 7-23 provides local health departments with authority to assess civil penalties (fines) for violators of laws intended to suppress disease and health risks associated with preparation and distribution of food. For purposes of tracking critical item violations and imposing fines under this chapter the Department shall maintain inspection

records for not less than one year from the date of any inspection conducted after the effective date of this chapter. No fine is payable the first time a "critical item" violation is noted within any one year period after the effective date of this chapter. For a second or subsequent "critical item" violation of this chapter after its effective date, or within one year of the date of an inspection conducted after the effective date of this chapter, a civil penalty is payable as provided in this chapter.

(A) The following civil penalties (fine) shall apply for a "critical item" violation which reoccurs for a second or subsequent time within any one year period after the effective date of this chapter, regardless if that "critical item" can be corrected immediately:

(1) The second time the same "critical item" violation is determined within any one year period, there will be a fine of fifty dollars ($50).

(2) The third time the same "critical item" violation is determined within any one year period there will be a fine of one hundred dollars ($100).

(3) If the same "critical item" reappears as a violation for a fourth (or more) time within any one year period, there will be a fine of two hundred dollars ($200).

(B) Each day after the expiration of the time limit for abating any violation of this chapter or completing other actions as ordered by the Health Department or the Health Officer of the County, shall constitute a distinct and separate offense.

(C) All fines shall be payable in full within 30 days of assessment, unless otherwise ordered by the Hearing Officer. Failure to pay fines by the due date will result in an additional 10% late fee. No permit is to be issued or renewed until all fines have been paid in full. Any fines and late fees may be collected in any manner provided herein or as provided by law including any law for collection of debts, along with attorney fees incurred to collect and said amounts owing and with all costs of collection.

(D) For non-critical violations, a fine of fifty dollars ($50) shall be imposed after the third violation as determined within any one year period, a fine of one hundred dollars ($100) shall be imposed for the fourth violation, and two hundred dollars ($200) for the fifth violation.

(E) Any assessment of a civil penalty by this chapter is subject to the right of appeal and a public hearing which will be scheduled, conducted, and concluded as provided in § 111.06 of this chapter. Any request for an appeal shall be filed in writing with the Health Officer within fifteen (15) days of assessment of the civil penalty.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect commencing June 1, 2018, as provided by law.

This Ordinance shall become effective as set forth in Indiana law. If any portion or provision of this Ordinance is subsequently deemed unconstitutional or otherwise declared void by a Court of competent jurisdiction, the remaining portions of the Ordinance will continue in full force and effect.

PASSED AND ADOPTED BY THE BOARD OF BOONE COUNTY COMMISSIONERS THIS 16th DAY OF APRIL, 2018.

BOARD OF COUNTY COMMISSIONERS OF BOONE COUNTY

Mac Applegate, President

Jeff Wolfe

Donald Lawson

ATTEST: _____
Heather Myers,
Boone County Auditor

This Document was prepared by Robert V. Clutter, Boone County Attorney, 117 W. Main St., Lebanon, IN 46052.

I, Robert Clutter, have taken case to redact all Social Security Numbers from this document as required by Indiana Law.