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## Request For Variance

State Form 51164 (12/02)

Food Protection Program

APR 19 2012

INDIANA STATE DEPARTMENT OF HEALTH

Telephone: 317/233-7360

FAX: 317/233-7334

FOOD PROTECTION PROGRAM  
INDIANA STATE DEPT. OF HEALTH

<b>1. Individual Submitting Request:</b>		Date: <u>4 / 4 / 2012</u>
Name: <u>Tom D. Behringer</u>	Telephone: <u>(317) 201-8472</u>	Fax: <u>( )</u>
Mailing Address: <u>3862 Penzance Place</u> <small>Number &amp; Street</small>	Email: <u>tom@icehouseindy.com</u>	
<u>Carmel, IN 46032</u> <small>P.O. Box City State Zip Code</small>		
<b>2. Person/Organization Seeking Variance:</b>		
Name: <u>Ice House Indy, LLC</u>	Email: <u>tom@icehouseindy.com</u>	
Mailing Address: <u>3862 Penzance Place</u> <small>Number &amp; Street</small>		
<u>Carmel, IN 46032</u> <small>P.O. Box City State Zip Code</small>		
<b>3. Food Establishment(s) for Which Variance is Sought</b> Include the following information for each food establishment: (List here or attach additional pages if necessary)		
<ul style="list-style-type: none"> <li>Physical Location (if different than mailing address): <u>3 locations to start. See attached.</u></li> <li>Mailing Address: <u>3862 Penzance Place Carmel IN 46032</u> <small>(Number, Street, City, State, &amp; Zip Code)</small></li> <li>Telephone Number: <u>(317) 201-8472</u> Fax Number: <u>( )</u></li> <li>Person at each retail food establishment most responsible for supervising: <u>none- unmanned Ice House units</u></li> </ul>		
<b>4. State how the proposal varies from each rule requirement, citing relevant rule sections by number:</b> <small>(Attach additional pages if necessary)</small>		
Ice House Indy, LLC is locating a self-service ice vending machine at said location.		
1. 4101AC 7-24-375 states that all permanent structures in Indiana must have sewers attached for the disposal of wastewater. I request a variance to this section. Ice House Indy should not be deemed a permanent structure as the unit will be sitting on 18" blocks and secured to the ground using tie down cables, but does NOT have a concrete slab or sub structure. Therefore a sewer connection would not be required.		
2. Ice House Indy is petitioning the use of a holding tank (to be stored under the unit) to collect the only fluids (gray water) that are produced by the unit. 4101AC 7-24-375		
a. A small amount of cleaning solution when cleaning is required, which is normally 4 times a year unless contamination occurs. The amount of cleaning solution is about 1 gallon per cleaning, thus 4 gallons a year.		
b. In addition, water runoff from the normal "melting" of ice and condensation in the unit. Because the City of Indianapolis will not permit a French Drain, we are petitioning to capture all water (which is filtered) in a holding tank. This tank would be approved by the Health Department and must be 15" or less in height, and 6 feet in width (or less). The water would then be emptied into a sanitary sewer per your requirements.		
3. Ice House Indy is proposing to NOT have a sink in our unit. As this is ONLY the production of ice in which no human hands touch except for quarterly sanitization, there is no need for a sink, as no food is being prepared. We ARE willing to install a small hot water heater with hose attachment for mopping and filling a bucket if needed. 410 IAC 7-24-128, 410 IAC 7-24-344 etc.		
a. The City of Indianapolis has approved Ice House Indy, LLC with NO sink. THEY WILL NOT allow a sink in these units.		
b. Five (5) Ice House units are located in Northern Indiana and do NOT have sinks. FYI, the City of Indianapolis has approved all plans for the Ice House unit (see attached stamp). Only the capturing and holding of gray water is in question, thus this variance submittal.		
<b>5. Explain how the potential public health hazards and/or nuisances will be alternatively addressed by the proposal. Include supporting studies, Hazard Analysis Critical Control Point (HACCP) Plan(s), standard sanitation operating procedures, and/or any other evidence: (Attach additional pages, if necessary.)</b>		
The gray water is in question, and as it is filtered city water, we are asking to be captured in a holding tank. The cleaning agent (about 4 gallons a year) would not dictate the expense of \$20,000 to connect to a City Sewer. This issues has been approved multiple times with Ice for Less on 5/23/11 and Hoosier Iceman March 2009 and January 8, 2012.		
Ice Houses in Indiana without sinks (Cool as a Cube, LLC) with locations: 722 Lincoln Hwy East Goshen, IN 46526; 220 US Hwy 6 W Ligonier, IN 46767; 7995 N. US 20 Shipshewana, IN 46565; 401 N. Detroit Street Warsaw, IN 46581; 631 North Main Street Webster, IN 46555		

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**6. List how the proposal demonstrates the following (if applicable to the request):**

**A) How the proposal differs from what is common and usual in similar industry situations:**  
 It is standard that gray water be disposed of through a sanitary sewage system. We are disposing of the gray water be captured in a holding tank for future disposal in a sanitary sewer.

The use of a sink is not needed. There are no bathroom facilities or food preparation. Only an ice producing unit that is cleaned quarterly (or more if contamination is found). The ice storage unit is not within public access, thus this is a more sterile and clean environment than a typical ice storage bin at a convenience or grocery store anyway. We are not opposed to installing a small hot water heater with a hose attachment.

**B) How the proposal is unique and not addressed in existing rules or law:**  
 There is very little gray water and the majority (other than 4 gallons or so a year) is filtered city water produced from melting ice and/or air condensation. Thus it's potable.

There are no restroom facilities or food preparation

**C) How the proposal does not diminish the protection of public health:**  
 The water being disposed of on site is filtered water and/or condensation. The 4x a year cleaning can be disposed of in a sanitary sewer.

There is no food bacteria in the unit (as no food prep) and no restroom facilities. This is a locked unit from the public.

**D) How the proposal is based on new scientific or technological principle(s):**  
 Not based on new standards. Only proper use of commonly accepted processes and procedures.

**E) How the implementation of the variance would be practical:**  
 The variance would prevent Ice House Indy from being required to attach to a sanitary sewer system. A tap to a sewer system would be cost prohibitive and thus would not allow Ice House Indy to be in business. In addition, it would not create any greater environmental or public safety issues beyond what exists today.

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**7. Explain how the person/organization seeking the variance will assure that all provisions of a granted variance will be enacted at each food establishment for which a variance has been granted:**  
 Ice Houses are unmanned units. Only a few gallons a year of gray water with actual bleach would ever exist in the holding tank. The rest of the tank would be condensation water and ice melt. We will have a contract to dispose of this waste water properly.

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**8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: (Attach additional pages if necessary)**  
 City of Indianapolis Planning, Marion County Health Department

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<p><b>9. Attach copies of any related variances, waivers or opinions issued by other governmental agencies.</b></p>	<p><b>For Office Use Only</b></p>
<p><b>10. Signature of Individual Making Request:</b> </p> <p>Printed Name, Title: <u>Tor Behring</u></p>	

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**Ice House Indy, LLC****Location list****Ice House Indy #1**

**5615 W. 38<sup>th</sup> Street (old Kroger Parking lot)  
Indianapolis, IN 46254**

**Ice House Indy #2**

**4717 W. 30<sup>th</sup> Street (SE corner 30<sup>th</sup> and Georgetown)  
Indianapolis, IN 46222**

**Ice House Indy #3 (tentative)**

**2802 Lafayette Rd. (Marsh parking lot- corner of Lafayette and Tibbs)  
Indianapolis, IN 46222**

**All locations are in parking lots so have no mailing address and are unmanned.**

Corporate office and all mailing:

Ice House Indy, LLC  
3862 Penzance Place  
Carmel, IN 46032  
Fed Tax ID: 45-4287902

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