

ORDINANCE NO. 2026-05

AN ORDINANCE FOR FOOD ESTABLISHMENT AND/OR BED AND BREAKFAST ESTABLISHMENT

WHEREAS, Indiana Code 36-1-3, et. seq. ("the Indiana Home Rule Act"), permits any county in the State of Indiana to exercise any power or for the performance of any function necessary to the public interest in the context of its county or internal affairs which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Board of Commissioners of the County of Wells ("Commissioners") is the county legislative and executive body and is authorized to adopt ordinances and resolutions concerning Wells County governmental operations;

WHEREAS, The Commissioners enacted Wells County Ordinance 2007-16, to establish standards and conditions and sanctions for the health and well being of the citizens of Wells County and for those visiting establishments located within Wells County to safeguard public health and assure that food provided to consumers is safe, unadulterated, and honestly presented.

WHEREAS, This ordinance is intended to and does replace Wells County Ordinance 2007-16, to update the established definitions, standards for management and personnel, food operations, and equipment and facilities, and provide for Food Establishment and/or Bed and Breakfast Establishment plan reviews, permits, inspections, and employee restrictions compliant with updated statutes and administrative laws issued by the State of Indiana and its department agencies; and

WHEREAS, This ordinance provides definitions for clarity and consistency; requires construction and/or alteration plans; requires a Permit and payment of Permit fees for the operation of Bed and Breakfast Establishment and/or Food Establishment; prohibits sale of adulterated, unwholesome, or misbranded food; regulates inspection of such establishments; provides for compliance and the enforcement of this ordinance; provides penalties for violations of said ordinance; and incorporates by reference Indiana Code(s) (IC) 16-41-31, 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2 and Indiana Department of Health Rule(s) 410 Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-26, 410 IAC 7-21-47, and 410 IAC 7-23.

WHEREAS, The Wells County Health Department is hereby authorized to issue Bed and Breakfast Establishment and/or 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.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WELLS, INDIANA, THAT:

SECTION I – REPEAL OF PRIOR LAW

- (1) Repeal. All provisions of ordinances and resolutions previously adopted are hereby repealed, specifically in regard to Ordinance 2007-16, that this Ordinance replaces, to the extent they are inconsistent with or in conflict with this ordinance.
- (2) Ratification. All previous actions prior to the adoption of this ordinance are hereby ratified, confirmed, and approved in their entirety to the extent the actions otherwise conform to this ordinance.
- (3) Restatement. To the extent that the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, the provisions shall not be deemed a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
- (4) Continuance. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- (5) Rulemaking. All rules and regulations adopted under any continued version of this ordinance shall remain in full force and effect except as specifically provided otherwise.
- (6) Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.

SECTION II.

The following shall be enacted:

SECTION 1 - DEFINITIONS

Bed and Breakfast Establishment (as defined in 410 IAC 7-15.5) means an Operator 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.

Food Establishment (as defined in IC 16-18-2-137) for purposes of IC 16-42-5, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(1) The term does not include the following:

- (a) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.
- (b) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:
 - i. the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and
 - ii. the gathering is for a purpose of the organization.Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.
- (c) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.
- (d) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.
- (e) Except for food prepared by a for-profit entity, a venue of the sale of food prepared for the organization:
 - i. that is organized for:
 - (A) religious purposes; or
 - (B) educational purposes in a nonpublic educational setting;
 - ii. that is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. that offers the food for sale to the final consumer at an event held for the benefit of the organization; unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.
- (f) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:
 - i. is organized for civic, fraternal, veterans, or charitable purposes;
 - ii. is exempt from taxation under Section 501 of the Internal Revenue Code; and
 - iii. offers food for sale to the final consumer at an event held for the benefit of the organization; if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.
- (g) An individual vendor that meets the requirements of IC 16-42-5.3 (Home Based Food Vendor).

Hazard Analysis Critical Control Point (HACCP) Plan (as defined in 410 IAC 7-26-54) means 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.

Health Department means the local health department in Wells County, Indiana or authorized representative having jurisdiction over a Bed and Breakfast and/or Food Establishment.

Health Officer means the person, appointed as specified in IC-16-20-2-16, 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.

Hearing Officer means an individual or panel of individuals acting in the capacity of a Hearing

Officer in an appeals process. The Hearing Officer is not the Health Officer or any other employee of the Wells County Health Department. (Examples of Hearing Officer could be the Wells County Health Board, a subcommittee of the Wells County Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the Health Board.)

Imminent Health Hazard means 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 and illnesses and the nature, severity and duration of the anticipated injury or illness [e.g., sewage backing up in a food preparation area or contamination of food products with toxic materials].

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

Official means any Official of Wells County, Indiana.

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 (derived from IC 4-21.5-1-9) means a Wells 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.

Permit means the document issued by the Wells County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment and/or Food Establishment.

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

Time/Temperature Control for Safety Food or (TCS) as defined in IC 16-18-2-351.7.

SECTION 2 – PLAN REVIEW

- (1) The owner or other authorized agent of an existing or proposed Bed and Breakfast Establishment and/or Food Establishment shall submit to the Wells County Health Department properly prepared plans and specifications for review and approval before:
 - (a) the construction of a Bed and Breakfast Establishment and/or Food Establishment;
 - (b) the conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Food Establishment; or
 - (c) the remodeling of a Bed and Breakfast Establishment and/or Food Establishment or a change of type of Bed and Breakfast Establishment and/or Food Establishment or food operation if the Wells County Health Department determines that plans

and specifications are necessary to ensure compliance with this section.

- (2) The plans and specifications for a Bed and Breakfast Establishment and/or Food Establishment shall include all of the following: (i) the type of operation, (ii) the type of food preparation (as specified in the published version of 410 IAC 7-26), (iii) and the menu.
- (3) The plans and specifications shall be deemed satisfactory and approved by Wells County Health Department before a Permit can be issued.
- (4) A pre-operational inspection shows that the Bed and Breakfast Establishment and/or Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this ordinance, 410 IAC 7-26 and/or 410 IAC 7-15.5.

SECTION 3 – PERMITS

(1) **General:** It is unlawful for a Person to operate any Bed and Breakfast Establishment and/or Food Establishment in Wells County, without first obtaining a valid Permit from the Health Officer. The valid Permit must be posted in a conspicuous location in the Bed and Breakfast Establishment and/or Food Establishment.

Only persons who comply with the applicable requirements of 410 IAC 7-15.5 and /or 410 IAC 7-26 will be entitled to obtain and keep a Permit.

A separate Permit shall be required for each Bed and Breakfast Establishment, and/or Food Establishment operated or to be operated by any Person.

A Permit issued under this ordinance is not transferable.

(2) **Permit Types:**

- (a) A Bed and Breakfast Permit shall be issued to any Person and/or Operator of a Bed and Breakfast Establishment, 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 annually.
- (b) A Farmers Market Food Permit shall be issued to any Person and/or Operator of a Food Establishment participating in a Farmers Market in Wells County 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 annually.
- (c) A Limited Food Permit shall be issued to any Person and/or Operator of a Food Establishment operating on a continual basis and offering only pre-packaged, not TCS food, or a Food Establishment with very limited preparation of open, non TCS food, 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 annually.
- (d) A Mobile Retail Food Establishment Permit shall be issued to any Person and/or

Operator of a Mobile Retail Food Establishment, as defined by 410 IAC 7-26-75, 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 annually.

- (e) A Retail Food Establishment Permit shall be issued to any Person and/or Operator of a Retail Food Establishment, as defined by 410 IAC 7-26-105, 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 annually.
 - (f) A Temporary Food Establishment Permit shall be issued to any Person and/or Operator of a Temporary Food Establishment at a fixed location for a period of time not to exceed fourteen (14) consecutive days in conjunction with a single event or celebration.
 - (g) A Vending Retail Food Establishment Permit shall be issued to any Person and/or Operator who furnishes, services, operates, or maintains one or more vending machines as defined by 410 IAC 7-26-130 and IC 16-42-5-32(c), 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 annually.
- (3) **Permit Period:** A Permit for a Bed and Breakfast Establishment and/or 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 and shall be applied for by the Person and/or Operator annually.

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

- (4) **Permit Content:** Any Permit issued by the Health Officer shall contain;
- (a) the name and address of the Person and/or owner to whom the Permit is granted;
 - (b) the location of the establishment for which the Permit is issued;
 - (c) the issuance and expiration date(s); and
 - (d) other such pertinent data as may be required by the Wells County Health Officer.
- (5) **Application:** A Person desiring to operate a Bed and Breakfast Establishment and/or Food Establishment shall submit to the Wells County Health Department a written application for a Permit on a form provided by the Wells County Health Department.
- (6) **Content of the Application:** The application shall include:
- (a) 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 the Bed and Breakfast Establishment and/or Food Establishment;
 - (b) Information specifying whether the Bed and Breakfast Establishment and/or Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;

- (c) A statement specifying the following:
- i. Whether the Bed and Breakfast Establishment and/or Food Establishment is permanent, mobile and/or temporary, and
 - ii. Whether the Bed and Breakfast Establishment and/or Food Establishment does one (1) or more of the following:
 - iii. Prepares, offers for sale, or serves TCS food:
 - (a) Only to 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; or
 - (c) Using time, rather than temperature, as the public health control as specified under 410 IAC 7-26-216.
 - (d) Prepares acidified foods as defined in 410 IAC 7-21-3.
 - iv. Prepares TCS food in advance using a food preparation method that involves two or more steps which may include combining TCS ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
 - v. Prepares food as specified under item (3)(B)(2) of this section for delivery to and consumption at a location off the premises of the Bed and Breakfast Establishment and/or Food Establishment where it is prepared;
 - vi. Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in 410 IAC 7-26-59;
 - vii. Prepares only food that is Non TCS; or
 - viii. Without preparing the food, offers for sale only prepackaged food that is Non TCS.
- (d) The name, title, address, and telephone number of the Operator directly responsible for the Bed and Breakfast Establishment and/or Food Establishment.
- (e) 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 section, such as the zone, district, or regional supervisor;
- (f) The names, titles, and addresses of:
- i. The Persons comprising the legal ownership as specified under subdivision (2) of this section including the owners and Operators, and
 - ii. The local resident agent if one is required based on the type of legal ownership;
- (g) A statement signed by the applicant that:
- i. Attests to the accuracy of the information provided in the application, and
 - ii. Affirms that the applicant will:
 - (a) Comply with this ordinance, and
 - (b) Allow the Wells County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-26;
- (h) Other information required by the Wells County Health Department.

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

- (a) Be an owner and/or Operator of the Bed and Breakfast Establishment and/or Food Establishment;
 - (b) Comply with the requirements of this ordinance;
 - (c) Agree to allow the Wells County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment and provide required information; and
 - (d) Pay the applicable Permit fees at the time the application is submitted.
- (8) **Change of Ownership:** The Wells County Health Department may renew a Permit for an existing Bed and Breakfast Establishment, and/or Food Establishment or may issue a Permit to a new owner of an existing Bed and Breakfast Establishment and/or Food Establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this ordinance.
- (9) **Responsibilities of the Operator:** Upon acceptance of the Permit issued by the Wells County Health Department, the Operator in order to retain the Permit shall:
- (a) Comply with the provisions of this ordinance and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana Department of Health;
 - (b) Immediately discontinue affected operations and notify the Wells County Health Department if an Imminent Health Hazard may exist;
 - (c) Allow representatives of the Wells County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment at all reasonable times;
 - (d) Comply with directives of the Wells County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Wells County Health Department in regard to the Operator's Bed and Breakfast Establishment and/or Food Establishment or in response to community emergencies;
 - (e) Accept notices issued and served by the Wells County Health Department;
 - (f) 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 Wells County Health Department; and
 - (g) Post the Permit in a location in the Bed and Breakfast Establishment and/or Food Establishment that is conspicuous to consumers.

SECTION 4 – PERMIT FEES

- (1) **General:** It shall be unlawful for any Person to operate a Bed and Breakfast Establishment and/or Food Establishment in Wells County, who has not paid the Permit fee required to be paid for the operation of such 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 the permit shall be applied for by the Person and/or Operator annually.

Permit fees for the issuance of a Permit under this Ordinance to a Bed and Breakfast Establishment and/or a Food Establishment shall be set by the Wells County Health Department, as provided under Indiana law. (See IC 16-20-1-27)

A receipt for the payment of such fee shall be provided by the Wells County Health Department. The payment of such fees shall be required for each Bed and Breakfast Establishment and/or Food Establishment operated or to be operated by any Person.

Permit fees shall be listed in the Wells County Health Departments Fee Schedule.

- (2) **Exemption from Permit Fees:** An organization that is exempt under IC 16-18-2-137 will not be subject to permit fees.
- (3) **Late Fees:** A late fee for failure to pay the permit fee prior to the operation of the Bed and Breakfast Establishment and/or Food Establishment or the late fee for failure to renew a permit after the expiration of the permit to operate Bed and Breakfast Establishment and/or Food Establishment shall be assessed per the Wells County Health Department Fee Schedule as set by the Wells County Health Board. Failure to renew a permit within 30 days after the expiration of the previous permit will result in closure of the Bed and Breakfast and/or Food Establishment. A reopening fee will be assessed and must be paid in full along with any other outstanding fees before a new permit can be issued.
- (4) **Reinstatement Fees:** If a Bed and Breakfast and/or Food Establishment has discontinued operation because their permit was suspended or revoked or otherwise, according to law, the Operator must have the Permit reinstated by the Wells County Health Department before resuming operations.

The payment of fees under this ordinance is not transferrable or refundable

SECTION 5 – INSPECTION

- (1) **General:** The Wells County Health Department shall inspect a Bed and Breakfast Establishment and/or Food Establishment at least once every 6 months, unless a system of risk based inspections is utilized as stated below.

The Wells County Health Department may modify the interval between inspections beyond 6 months if:

- (a) The Bed and Breakfast Establishment and/or Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan; (OR)
- (b) The Bed and Breakfast Establishment and/or Food Establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every 6 months the establishment is contacted by telephone or other means by the regulatory authority

- to ensure that the establishment manager and the nature of food operation are not changed; or
- (c) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is non-TCS food such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

The Wells County Health Department should contact the Operator to determine that the nature of the food operation has not changed.

- (2) **Temporary Food Establishment:** The Wells County Health Department shall periodically inspect throughout its Permit period a temporary Food Establishment that prepares, sells, or serves unpackaged TCS food and may inspect a temporary Food Establishment that prepares, sells or serves unpackaged, non-TCS food that:
 - (a) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
 - (b) Has food employees that have not demonstrated knowledge, as per 410 IAC 7-26-135, of food operations
- (3) **Performance and Risk Based Inspections:** Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Wells County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a Bed and Breakfast Establishment and/or Food Establishment's history of compliance with this ordinance and the Bed and Breakfast Establishment and/or Food Establishment's potential as a vector of foodborne illness by evaluating:
 - (a) Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-26, and/or HACCP plan requirements that are Priority (P), Priority Foundation (Pf), or Core;
 - (b) Past performance, for numerous or repeat violations of 410 IAC 7-15.5, 410 IAC 7-26, and/or HACCP plan requirements that are P, Pf, or Core;
 - (c) Past performance, for complaints investigated and found to be valid;
 - (d) The hazards associated with the particular foods that are prepared, stored, or served;
 - (e) The type of operation including the methods and extent of food storage, preparation, and service;
 - (f) The number of people served; and
 - (g) Whether the population served is a highly susceptible population as defined by Indiana law.
- (4) **Access Allowed at Reasonable Times After Due Notice:** After the Wells 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 Wells County Health Department to determine if the Bed and Breakfast Establishment and/or Food Establishment, is in compliance with this ordinance by allowing access to the establishment, allowing

inspection, and providing information and records specified in this ordinance. The Wells County Health Department is entitled to obtain information during the Bed and Breakfast Establishment's and/or 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)

- (5) **Inspection Reports:** At the conclusion of the inspection, the Wells 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.
- (6) **Timely Correction of Priority or Priority Foundation Items:** Except as specified in the next paragraph, an Owner/Operator shall at the time of inspection correct a violation of a Priority (P) or Priority Foundation (Pf) item of 410 IAC 7-15.5 and/or 410 IAC 7-26 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 Wells County Health Department may agree to or specify a longer time frame not to exceed:

- (a) 72 hours after the inspection for a Priority Item; or
(b) 15 calendar days after the inspection for a Priority Foundation Item or HACCP plan deviations, for the Owner/Operator to correct violations.

After receiving notification that the Operator has corrected a Priority or Priority Foundation Item violation or HACCP plan deviation, or at the end of the specified period of time, the Wells County Health Department shall verify correction of the violation, document the information on an Inspection Report, and enter the report in the Wells County Health Department's records.

- (7) **Refusal to Sign Acknowledgement:** Refusal to sign an acknowledgment 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 acknowledgment of receipt is noted in the Inspection Report and conveyed to the Wells County Health Department historical record for the Bed and Breakfast Establishment and/or Food Establishment.

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

- (8) **Public Information:** Except as specified in 410 IAC 7-26-487 (regarding Confidentiality of Trade Secrets), the Wells County Health Department shall treat the Inspection Report as a public document and shall make it available for disclosure to a Person who requests it as provided in law. (See IC 16- 20-8)

SECTION 6 – COMPLIANCE AND ENFORCEMENT

- (1) **Application Denial:** If an application for a plan review and/or Permit to operate a Bed and Breakfast Establishment and/or Food Establishment is denied, the Wells County Health Department shall provide the applicant with a notice that includes:
- (a) The specific reasons and rule citations for the application and/or Permit denial;
 - (b) The actions, if any, that the applicant must take to qualify for the application and/or Permit; and
 - (c) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.
- (2) **Permit Revocation:** The Wells County Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or 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.
- (3) **Permit Suspension:** The Wells County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or 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. Initial suspension shall not exceed 30 calendar days. The permit may then be suspended for a longer period of time as determined by the Health Officer.
- (4) **Ceasing Operation and Contacting the Wells County Health Department:** An Operator of a Bed and Breakfast Establishment and/or Food Establishment shall immediately discontinue operations and notify the Wells 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 insanitary occurrence or condition, or other circumstance that may endanger public health.

An Operator need not discontinue operations in an area of an establishment that is unaffected by the Imminent Health Hazard.

- (5) **Resuming Operation:** If a Bed and Breakfast Establishment and/or Food Establishment has discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Wells County Health Department before resuming

operations.

- (6) **Outstanding Fees:** Any outstanding fees and civil penalties owed to the Wells County Health Department shall be paid prior to the issuance of a permit.
- (7) **Enforcement Options:** In the event of any violation of this Ordinance, the Wells County Health Department may proceed with any one or more of the following enforcement mechanisms:
 - (a) The Wells County Health Department may impose civil penalties in amounts consistent with the “Schedule of Civil Penalties” set forth under Indiana regulations. (See 410 IAC 7-23-1)
 - (b) The Wells County Health Department may conduct administrative proceedings for suspension and/or revocation of the Bed and Breakfast Establishment and/or Food Establishment Permit in front of the Health Officer. An initial suspension may be imposed for a period no less than 30 days, and no more than 90 days. In the event of further noncompliance, further suspension(s) and/or revocation may be imposed for a longer period of time as determined by the Health Officer.
 - (c) The Wells County Health Officer may issue an “Order To Abate” based on the existence of a condition that may transmit, generate, or promote disease. Failure on the part of the Operator to comply with the Order may 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)
 - (d) The Wells County Health Department may request that the county attorney or county prosecuting attorney institute court proceedings for the enforcement of this Ordinance and/or enforcement of any Orders issued by the Wells County Health Department pursuant to this Ordinance. Within such proceedings, upon a finding of noncompliance, the Wells County Health Department shall be entitled to injunctive relief, damages in the amount of any civil penalties owed, reasonable attorney fees and court costs incurred by the County, and any and all other remedies provided by law. (See IC 34-28-5-1)

SECTION 7 – APPEALS

- (1) Any Person(s) aggrieved by Orders issued under the Enforcement Options 1-3 of Section 6 above shall be entitled to a review of the final Order before a Hearing Officer by filing an administrative written request therefore with the Health Officer (See IC 16-20-1-10). 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 Hearing 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. The time shall be measured pursuant to the rules of court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)

- (3) The notice of the hearing shall be served upon the Person requesting the review by hand delivering or mailing by Certified Mail the notice 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 Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- (5) The Hearing Officer shall make written findings of facts and shall enter its final administrative Order or determination of this matter in writing.
- (6) The administrative Order completes the Administrative Appeals procedure.

SECTION 8 – ETHICAL CONDUCT AND DISCLOSURE

- (1) Purpose - The purpose of this section is to ensure that decisions made under this ordinance are conducted with transparency and integrity, while avoiding unnecessary or subjective restrictions on officials.
- (2) Definition – Financial Interest
For purposes of this section, a “Financial Interest” means:
 - (a) A direct ownership interest in a business or property subject to this ordinance;
 - (b) Receipt of compensation, income, or contractual benefit from a person or entity subject to this ordinance; or
 - (c) Any financial benefit that is reasonably expected to result from an official decision.
 - (d) Except, a Financial Interest shall not include:
 - (i) Standard compensation as a public official;
 - (ii) Ownership in broadly held investments (including mutual funds or retirement accounts) where the official does not control individual investment decisions.
- (3) Disclosure Requirement
Any Wells County Official who has a Financial Interest in a matter subject to this ordinance shall:
 - (a) Disclose the existence of such interest in writing; and
 - (b) Submit the disclosure to the Wells County Auditor prior to any vote, decision, or action on the matter.
- (4) Recusal Requirement
An Official shall not participate in a decision under this ordinance if:
 - (a) The Official has a direct Financial Interest in the specific matter; and

(b) The decision would have a material financial impact on that interest. Participation includes voting, direct decision-making, and formal recommendations in an official capacity.

(5) No "Appearance" Standard

No violation of this section shall be based solely on the appearance of a conflict. A violation must be based on a demonstrable Financial Interest as defined herein.

(6) Applicability to Employees

This section applies to appointed officials and employees of the Wells County Health Department only when they have decision-making authority related to permitting, enforcement, or regulatory actions under this ordinance.

(7) Enforcement and Limitations

(a) Alleged violations of this section shall be reviewed by the Wells County Attorney.

(b) If a violation is confirmed, the remedy shall be limited to:

(i) correction of disclosure;

(ii) recusal;

(iii) administrative discipline consistent with county personnel policies.

(c) This section shall not:

(i) Invalidate an otherwise lawful permit, inspection, or enforcement action;

(ii) Create a private cause of action;

(iii) Be used to delay or obstruct regulatory decisions under this ordinance.

(8) Safe Harbor


An Official who makes a good-faith disclosure and recusal in accordance with this section shall be deemed in compliance.

SECTION III – MISCELLANEOUS

(1) References.

- (a) Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
- (b) Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) Wells County (Indiana).”
- (c) Should a provision of this ordinance require an act to be done which, by law, an agent or deputy may do instead of the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- (d) **Judicial Review.** This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may be applicable to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the County or such related parties are provided by law.
- (e) **Conflicts.** No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize the same.
- (f) **Severability.** Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of this ordinance as a whole, nor any other portion thereof, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- (g) **Promulgation.** The Auditor is hereby authorized, empowered, and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- (h) **Codification.** To the extent a substantive change in meaning does not result, the codifier of ordinances may omit the Name, Recitals, Miscellaneous, Repeals, and Adoption sections of this ordinance from the official code, may renumber, reorder, or reorganize any section of this ordinance, and may alter references to and within this ordinance as appropriate.
- (i) **Effective Date.** This ordinance shall take effect as of July 1, 2026.

ATTEST:



Lisa McCormick, Auditor

This instrument was prepared by the Wells County Attorney, Theodore T. Storer, Attorney No. 17576-02, 110 W. Berry St. Ste. 1100 Fort Wayne, IN 46802.

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Lisa McCormick*