

WELLS COUNTY ORDINANCE NO. 2007-19

AN ORDINANCE PROVIDING GUIDELINES REGARDING
FOOD ESTABLISHMENTS AND/OR
BED AND BREAKFAST ESTABLISHMENTS

WHEREAS, it is the duty of the Wells County Board of Health and the Wells County Board of Commissioners to safeguard public health and assure that food provided to consumers is safe, unadulterated, and honestly presented;

AND WHEREAS, Wells County Board of Health and the Wells County Board of Commissioners finds there is a need to set standards for management, personnel, food operations, equipment, and facilities;

AND WHEREAS, Wells County Board of Health and the Wells County Board of Commissioners are desirous to provide for food establishment and bed and breakfast establishment plans, reviews, permits, inspections, and employee restrictions;

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Wells County, State of Indiana, that:

Section A: Definitions

Bed and Breakfast Establishment 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.

Conflict of Interest means a situation in which the private financial interest of a Wells County Official, Wells County Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Wells County Official's judgment in the performance of a public duty.

Critical Violation means a violation that, if in noncompliance, is more likely than other violations to significantly contribute to food contamination, illness, or environmental health hazard.

Food Establishment means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) 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:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) 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.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) 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.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared for the organization: (A) that is organized for: (i) religious purposes; or (ii) educational purposes in a nonpublic educational setting; (B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and (C) 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.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:
(A) is organized for civic, fraternal, veterans, or charitable purposes;
(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and
(C) 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.

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

Hazard Analysis Critical Control Point (HACCP) Plan 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 Officer means the person, appointed as specified in IC-16-20-2-16, or his/her duly authorized representative, as specified in IC 16-2-1-14, who may conduct inspections and make a final decision on an enforcement action.

Health Board means a local board that manages the Wells County Health Department, and is composed of seven (7) members appointed as described in IC 16-20-2-3 through IC 16-20-2-12.

Hearing Panel means a panel of individuals acting in the capacity of a Hearing Officer in proceedings. The Hearing Panel may not include the Health Officer or any other employee of the Wells County Health Department. The Hearing Panel shall include one member from the Health Board, one health professional appointed by the Chairman of the Health Board, and one agent from the Purdue University Cooperative Extension Office in Wells County.

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].

Incorporation of Code and Administrative Code by Reference means Incorporated into this ordinance by reference are Indiana Code (IC) 16-42-1, IC 16-42-2, IC 16-42-5, and Indiana

State Department of Health Rule(s) 410 and Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-24, 410 IAC 7-21-47, and 410 IAC 7-22 as amended.

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.

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 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 shall include, but not be limited to, an association, corporation, individual, partnership, firm, business organization, municipality, or other legal entity, government, or governmental subdivision or agency.

Temporary Food Establishment 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 with the approval of the organizers of the event or celebration.

Single Event or Celebration shall mean a gathering associated with a recognized special occasion. It shall not include an individual or group preparing food items for a limited time when not associated with such recognized occasions. An individual, a business, or a commercial entity may obtain a temporary food service license for a recognized occasion, such as a promotional event, an auction, a fair, or a celebration for a time period of no longer than fourteen (14) consecutive days. Temporary licenses for an event or celebration may not be issued to an individual, business, or commercial entity on a routine or continuous basis in order to avoid compliance with 410 IAC 7-24.

Vending Machine Location means the room, enclosure, space or area where one (1) or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

Section B: Permits

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 7-24 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.

No permit issued to any Operator under this Ordinance shall be transferable between locations or between operators. Upon change of location, operator or owner, all existing permits become void.

A Bed and Breakfast Establishment and/or Food Establishment Permitted by the Wells County Health Department shall be considered registered as required in IC 16-42-1-6.

Types of Permits:

- (1) 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.
- (2) 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 period of time not to exceed six months. This does not include Food Establishments offering

only whole, uncut fruits and vegetables, nuts in the shell, or prepackaged, non-potentially hazardous food.

- (3) 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, non-potentially hazardous food, or a Food Establishment with very limited preparation of open, non-potentially hazardous food. A Limited Food Permit shall be issued for a term beginning January 1, and/or before commencement of operation and expiring on December 31 of the same year and shall be applied for by the Person and/or operator annually.
- (4) 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 7-24, 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.
- (5) A Retail Food Establishment Permit shall be issued to any Person and/or Operator of a Retail Food 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.
- (6) A Seasonal Food Permit shall be issued to any Person or Operator of a Food Establishment who is going to operate either part time or full time for a maximum of 6 months. This does not include Temporary Food Establishments. A Seasonal Food Permit shall be issued for a term beginning on commencement of operation and expiring no more than six (6) months from the date of issue.
- (7) 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. Temporary Food Establishment Permits are not transferable with respect to the food establishment and/or the event.

- (8) 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 7-24, which dispense potentially hazardous 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.

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 date(s); and
- (4) other such pertinent data as may be required by the Wells County Health Officer.

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 prior to commencement of operation of the establishment. A Person desiring to renew a permit must submit a written application for a Permit on a form provided by the Wells County Health Department on or before the last working day of the year.

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 the Bed and Breakfast Establishment, Food Establishment;
- (2) Information specifying whether the Bed and Breakfast Establishment, and/or Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) A statement specifying whether the Bed and Breakfast Establishment and/or Food Establishment:
 - (A) If not permanent, is mobile and/or temporary, and
 - (B) The operation includes one (1) or more of the following:
 - (i) Prepares, offers for sale, or serves potentially hazardous 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 7-24.
 - (d) Prepares acidified foods as defined in 410 IAC 7-21-3.
 - (ii) Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
 - (iii) 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;
 - (iv) Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in 410 IAC 7-24;
 - (v) Prepares only food that is not potentially hazardous; or
 - (vi) 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 Bed and Breakfast Establishment and/or 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 section 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 section including the owners and Operators, 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:
 - (i) Comply with this ordinance, and
 - (ii) 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 7-24.

- (8) Other information required by the Wells County Health Department.

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

- (1) Submit to the Wells County Health Department a completed written application for a Permit on a form provided by the Wells County Health Department;
- (2) Be an owner and/or Operator of the Bed and Breakfast Establishment and/or Food Establishment;
- (3) Comply with the requirements of this ordinance;
- (4) Agree to allow access to the Bed and Breakfast Establishment, and/or Food Establishment and provide required information; and
- (5) Pay the applicable Permit fees at the time the application is submitted.

Plans Requirements: 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:

- (1) the construction of a Bed and Breakfast Establishment and/or Food Establishment;
- (2) the conversion of an existing structure for use as a Bed and Breakfast establishment and/or Food Establishment; or
- (3) 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.

The plans and specifications for a Bed and Breakfast Establishment and/or Food Establishment shall include:

- (1) the type of operation
- (2) type of food preparation (as specified in Appendix B of the published version of 410 IAC 7-24), and
- (3) the menu.

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

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 7-24 and/or 410 IAC 7-15.5.

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.

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:

- (1) 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 State Department of Health;
- (2) Immediately discontinue affected operations and notify the Wells County Health Department if an Imminent Health Hazard may exist;
- (3) Allow representatives of the Wells County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment at all reasonable times;
- (4) 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;
- (5) Accept notices issued and served by the Wells County Health Department; and
- (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 Wells County Health Department.
- (7) Post the Permit in a location in the Bed and Breakfast Establishment and/or Food Establishment that is conspicuous to consumers.

- (8) Comply with applicable building and fire codes.

Section C: Permit Fees

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 for a Bed and Breakfast Permit, Limited Food Permit, Mobile Retail Food Establishment Permit, Retail Food Establishment Permit, and/or Vending Retail Food Establishment Permit 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 annually.

The fee for a Temporary Food Establishment Permit, Farmers Market Food Permit, and/or Seasonal Food Establishment Permit shall be paid for a term beginning the date of commencement of the operation and shall expire on the last scheduled day of the permit period.

Permit fees for the issuance of a Permit under this Ordinance to a Bed And Breakfast Establishment, and/or Food Establishment shall be set by the Wells County Health Board, as provided by the Statutes of the State of Indiana.

Fees are as follows:

Bed and Breakfast Establishment: \$35.00 per year

Farmers' Market: \$10.00

Late Fee: \$20.00 per day

Limited Food: \$35.00

Mobile Retail Food Establishment: \$35.00

Retail Food Establishment: \$100.00

New Retail Food Establishment Opening for Business after September 30: \$50.00

New Retail Food Establishment includes food establishments changing ownership and/or opening for business in a new location.

Seasonal Food Permit: \$50.00

Temporary Food Establishment: \$5.00 per day

Vending Permit: \$20.00 per vending machine location, not to exceed \$100.00.

A receipt for the payment of such fee shall be provided by the Wells County Health Department. No permits shall be issued or renewed until all fees have been paid in full. Payment is non-refundable.

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.

Exemption from Permit Fees: An organization that is exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), of IC 6-2.5-5-21(b)(1)(D), and that offers food for sale to the final consumer at an event held for the benefit of the organization, is exempt from complying with the permit fee requirements of this ordinance.

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 before the close of business on the last working day of the year shall be assessed at \$20.00 per day. Nothing in this section shall prevent the Health Officer from exercising any other of his/her rights and/or duties regarding suspension, closure, or revocation of the permit with regard to any Food Establishment.

Reinstatement Fees: If a Bed and Breakfast Establishment 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 fee for reinstating a permit will be one-half the original fee charged.

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

Section D: Inspection

General: The Wells County Health Department shall inspect a Bed and Breakfast Establishment and/or Food Establishment at least once every 6 months and in accordance with the requirements of IC 16-42-5 et seq.

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

- (1) The Bed and Breakfast Establishment and/or Food Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s).
- (2) 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.
- (3) The Wells County Health Department may contact the Operator to determine that the nature of the food operation has not changed.

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 potentially hazardous food and may inspect Temporary Food Establishment that prepares, sells or serves unpackaged, non potentially hazardous food that:

- (1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as hand washing, food preparation and protection, food temperature control, ware washing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- (2) Has untrained food employees.

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 food borne illness by evaluating:

- (1) Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-22 and/or HACCP plan requirements that are critical or non-critical;
- (2) Past performance, for numerous or repeat violations of 410 IAC 7-15.5 and/or 410 IAC 7-24 and/or HACCP plan requirements that are non critical;
- (3) Past performance, for complaints investigated and found to be valid;

- (4) The hazards associated with the particular foods that are prepared, stored, or served;
- (5) The type of operation including the methods and extent of food storage, preparation, and service;
- (6) The number of people served; and
- (7) Whether the population served is a highly susceptible population.

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 the information and records according to IC 16-42-1-13 and IC 16-42-5-22 & 23, during the Bed and Breakfast Establishment and/or Food Establishment's hours of operation and other reasonable times, including but not limited to all hours of operation and all times when food preparation and/or food service takes place.

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 under IC 16-20-1-26.

Authority to Copy Records: The Operator shall, upon the request of the Health Officer, permit the copying of any and all records relating to establishment ownership, as well as any and all records relating to food and beverage purchases, sources, storage, pest control, and overall sanitation of said Food Establishment.

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 16-20-8-5.

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 410 IAC 7-15.5, 410 IAC 7-24 and/or 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 Wells 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 Wells County Health Department may verify correction of the violation, document the information on an Inspection Report, and enter the report in the Wells County Health Department's records.

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.

Public Information: Except as specified in section 176 (Trade Secrets) of 410 IAC 7-24, 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 16-20-8-6)

Section E: Compliance And Enforcement

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:

- (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.

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.

Permit Suspension: The Wells County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment, and/or Temporary Food Establishment as a result of the willful and/or continuous violation of any provision of this Ordinance; interference with the Health Officer or his/her authorized representatives in the performance of his/her duties; or 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. A suspension shall not exceed 30 calendar days. The Permit may be suspended for a longer period of time as determined by the Health Officer. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Officer in the performance of his/her duties.

Ceasing Operation and Contacting the Wells County Health Department: An Operator of a Bed and Breakfast Establishment and/or Food Establishment and/or Temporary 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 food borne 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 an establishment that is unaffected by the Imminent Health Hazard.

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.

Outstanding Fees: Any outstanding fees may be a condition upon which a permit may not be issued.

Enforcement Options:

- (1) Violation of this Ordinance shall be a Class C infraction and shall be enforced in the name of the municipal corporation by their attorney or the Wells County Prosecuting Attorney under I.C. 34-28-5-1 et seq. or the *Schedule of Civil Penalties* under Title 410 IAC 7-23.
- (2) The Wells County Health Officer may issue an "Order To Abate" based upon a condition that may transmit, generate, or promote disease.
- (3) In the event the Order is not complied with the Wells County Attorney or the attorney for the Wells County Board of Health may institute an action for abatement pursuant to I.C. 16-20-1-25, et seq.

Section F: Appeals Section

- (1) Any Person(s) aggrieved by Orders issued under the Enforcement Options 1-3 of Section E above shall be entitled to a review of the final Order before a Hearing Officer by filing a written request therefore with the Health Officer. The written request must be mailed or hand delivered to the Wells County Health Officer, and must be received within fifteen (15) days after such final Order is issued.
- (2) Upon the Health Officer 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.
- (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 Order or determination of this matter in writing.
- (6) The Order completes the Administrative Appeals procedure.

Section G: Conflict of Interest

Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of this ordinance shall not be affected thereby.

Section H: Repeal and Effective Date

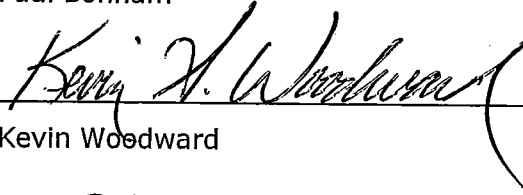
All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect 30 days after its adoption and publication as provided by law.

Passed and adopted by the Commissioners of Wells County, State of Indiana, on this 19 day of November 2007.


Wells County Board of Commissioners:



Paul Bonham

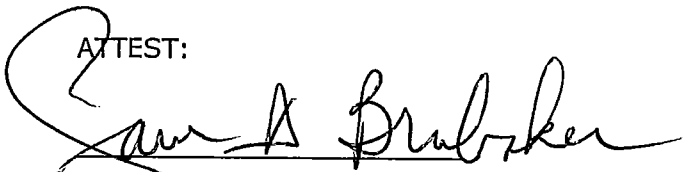


Kevin Woodward



C. Scott Mossburg

ATTEST:



Laura Brubaker, Auditor

This ordinance prepared by:
Trent M. Patterson, Attorney #10657-90
125 South Marion Street, Suite 100
Bluffton, IN 46714
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