

25 **Conflict of Interest** [derived from 68 IAC 9-1-1 (b) (2)] means a situation in which a member's
26 private interest, usually of a financial nature, may influence the member's judgment in the
27 performance of the member's public duty.

28

29 A conflict of interest includes, but is not limited to, the following:

30 (A) Any conduct that would lead a reasonable person, knowing all of the circumstances,
31 to conclude that a member is biased.

32 (B) Acceptance of any form of compensation other than from the commission for any
33 services rendered as part of the member's official duties for the commission.

34 (C) Participation in any business being transacted with the commission by any person in
35 which the member or the member's spouse or child has a financial interest.

36 (D) Use of the member's position, title, or any authority associated with it in a manner
37 designed for personal gain or benefit.

38 (E) Demonstration, through work or action in the performance of the member's official
39 duties, of any preferential attitude or treatment toward any person.

40

41 **Cass County Health Department** means the local health department in Cass County or
42 representative having jurisdiction over a Bed and Breakfast Establishment, Retail Food
43 Establishment and/or Temporary Food Establishment.

44 **Cass County Official** means any appointed or elected Official of Cass County, Indiana

45 **Farmer's Market Vendor** means a Retail Food Establishment, who's operation shall not
46 exceed (6) months in a calendar year. It will also operate with the prior approval of the
47 Market Master at a common facility where two (2) or more farmers or growers gather on a
48 regular recurring basis to sell a variety of fruits, vegetables and other farm products
49 directly to the consumer. This does not constitute a Mobile Retail Food Establishment.

50 **Hazard Analysis of Critical Control Points (HACCP)** plan means a written document that
51 delineates the formal procedures for following the Hazard Analysis Critical Control Point
52 principles developed by the National Advisory Committee on Microbiological Criteria for
53 Foods.

54 **Health Officer** means an individual or panel of individuals acting in the capacity of a
55 Hearing Officer in proceedings. The Hearing Officer is not the Health Officer or any other
56 employee of the Cass County Health Department. (Examples of Hearing Officer could be
57 Cass County Health Board, a subcommittee of Cass County Health Board, a subcommittee of
58 health professionals from the community or other non-biased third party appointed by the
59 Health Board.)

60 **Hearing Officer** means an individual or panel of individuals acting in the capacity of a
61 Hearing Officer in proceedings. The Hearing Officer is not the Health Officer or any other
62 employee of the Cass County Health Department. (Examples of Hearing Officer could be

63 Cass County Health Board, a subcommittee of Cass County Health Board, a subcommittee of
64 health professionals from the community or other non-biased third party appointed by the
65 Health Board.)

66 **Imminent health hazard (as defined in 410 IAC 7-24)** means a significant threat or
67 danger to health that is considered to exist when there is evidence sufficient to show that a
68 product, practice, circumstance, or event creates a situation that requires immediate
69 correction or cessation of operation to prevent injury or illness based on the:

- 70 (1) number of potential injuries or illnesses; and
- 71 (2) nature, severity, and duration of the anticipated injury or illness.

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

74 **Mobile Retail Food Establishment** means a retail food establishment that is:

- 75 (1) Wheeled;
- 76 (2) On skids;
- 77 (3) Mounted on a vehicle;
- 78 (4) A marine vessel; or
- 79 (5) Otherwise readily movable; such as a pushcart or trailer;
- 80 (6) And complies with all sanitation requirements as provided in Title 410 IAC 7-24.

81 **Operator** means the person who has a primary oversight responsibility for operation of
82 the establishment through ownership, lease, or contractual agreement, and who is
83 responsible for the storage, preparation, display, transportation or serving of food to the
84 public.

85 **Order** means an agency action of particular applicability that determines the legal rights, duties,
86 privileges, immunities, or other legal interests of one (1) or more specific persons. The term
87 includes:

- 88 (1) a license; or
- 89 (2) a determination under IC 4-21.5-3-6(a) (3) or IC 4-21.5-3-6(a) (4).

90 *As added by P.L.18-1986, SEC.1. Amended by P.L.42-1995, SEC.1.*

91 **Permit** means the document issued by the Cass County Health Department that authorizes
92 a Person to operate a Bed and Breakfast Establishment, Retail Food Establishment,
93 Temporary Food Establishment, and/or as a vendor at a Farmer's Market.

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

96 **Retail Food Establishment (410 IAC 7-24)** means an operation as follows that:

97 (1) Stores, prepares, packages, serves, vends, or otherwise provides food for human
98 consumption, such as the following:

- 99 (A) A restaurant.
- 100 (B) A satellite or catered feeding location.
- 101 (C) A catering operation if the operation provides food directly to a consumer
102 or to a conveyance used to transport people.
- 103 (D) A market.
- 104 (E) A grocery store.
- 105 (F) A convenience store.
- 106 (G) A vending location.
- 107 (H) A conveyance used to transport people.
- 108 (I) An institution.
- 109 (J) A food bank.
- 110 (K) A commissary.
- 111 (L) A cottage industry.
- 112 (M) A hospice facility as defined in IC 16-25-11.
- 113 (N) A health care facility as defined in IC 16-21-2.
- 114 (O) A health facility as defined in IC 16-18-2.
- 115 (P) A child care facility as defined in IC 12-13-5, such as the following:
 - 116 (i) Licensed child care centers licensed under 470 IAC 3-4.7.
 - 117 (ii) Licensed child care institutions licensed under 470 IAC 3-11, 470
118 IAC 3-12, and 470 IAC 3-13.
 - 119 (iii) Registered child care ministries registered under 470 IAC 3-4. 5.
- 120 (Q) An assisted living facility as defined in IC 12-10-15.

121 (2) Relinquishes possession of food to a consumer directly or indirectly through a
122 delivery service, such as home delivery of grocery orders or restaurant takeout
123 orders, or delivery service that is provided by common carriers.

124
125 (b) The term includes the following:

- 126 (1) An element of operation, such as a transportation vehicle or a central
127 preparation facility that supplies a vending location or satellite feeding location
128 unless vending or feeding location is permitted by the regulatory authority.
- 129 (2) An operation that is conducted in a:
 - 130 (A) mobile;
 - 131 (B) stationary;
 - 132 (C) temporary; or
 - 133 (D) permanent;

134 facility or location, where consumption is on or off the premises and regardless of whether
135 there is a charge for the food.

136 (c) The term does not include the following:

- 137 (1) An establishment that offers only prepackaged foods that are not potentially
138 hazardous.
- 139 (2) A produce stand that offers only whole, uncut fresh fruits and vegetables.
- 140 (3) A food processing plant operated under IC 16-42-5.
- 141 (4) A private home where food is prepared by a member of an organization that is
142 operating under IC 16-42-5-4.

- 143 (5) An area where food that is prepared as specified in subdivision (4) is sold or
- 144 offered for human consumption.
- 145 (6) A bed and breakfast establishment as defined and regulated under IC 16-41-31
- 146 and 410 IAC 7-15.5.
- 147 (7) A private home that receives catered or home-delivered food.
- 148 (8) A private home.

149
150 **Seasonal Food Establishment** means an annual retail food establishment that operates
151 during a time period of not more than nine (9) months in a calendar year.

152
153 **Temporary Food Establishment** (410 IAC 7-24) means a retail food establishment that
154 operates for a period of no more than fourteen (14) consecutive days in conjunction with a
155 single event or celebration with the approval of the organizers of the event or celebration.

156 157 158 **Section B: Permits**

159
160 **General:** It shall be deemed unlawful for a person to operate any Bed and Breakfast
161 Establishment, Retail Food Establishment, Temporary Food Establishment and/or as a
162 Farmer's Market Vendor in Cass County, without first obtaining a valid Permit from the
163 Health Officer. The valid Permit must be posted in a conspicuous location in the Bed and
164 Breakfast Establishment, Retail Food Establishment, Temporary Establishment and/or
165 Farmer's Market Booth.

166
167 Only persons who comply with the applicable requirements of 410 IAC 7-15.5 and/ or 410
168 IAC 7-24 will be entitled to obtain and keep a Permit.

169
170 A separate Permit shall be required for each Bed and Breakfast Establishment, Retail Food
171 Establishment, Temporary Food Establishment and/or Farmer's Market Vendor operated
172 or to be operated by any Person.

173
174 A Permit issued under this ordinance is **Not Transferable.**

175
176 A Bed and Breakfast Establishment and/or Retail Food Establishment Permitted by Cass
177 County Health Department shall be considered registered as required in IC 16-42-1-6.

178
179 **Permit Period:** A permit for an annual Bed and Breakfast Establishment and/or Retail
180 Food Establishment shall be issued for a term of one (1) year; beginning January 1 and
181 expiring December 31, of the same year and shall be applied for by the Person and/ or
182 Operator annually.

183
184 A permit for a Seasonal Food Establishment and/ or Farmer's Market Vendor shall be
185 applied for annually or a minimum of thirty (30) days prior to the day of operation.

186

187 A permit for a Temporary Food Establishment shall be for the term of one (1) continuous
188 operation, and applied for a minimum of five (5) days prior to the day of operation.

189
190 **Permit Content:** Any Permit Issued by the Health Officer shall contain:

- 191
192 1. The name and address of Person and/ or Operator to whom the Permit is
193 granted;
194 2. The address and/or location of the establishment for which the Permit is issued;
195 3. The issuance and expiration date(s); and
196 4. Other such pertinent data as may be required by the Cass County Health Officer.
197

198 **Application:** A Person desiring to operate a Bed and Breakfast Establishment, Retail Food
199 Establishment, Temporary Food Establishment and/or Farmer's Market Vendor shall
200 submit to the Cass County Health Department a written application for a Permit on a form
201 provided by the Cass County Health Department.
202

203 **Content of the Application:** The application shall include:

- 204
205 1. The name, mailing address, telephone number, and original signature of the
206 Person and/or Operator applying for the Permit and the name, mailing address,
207 and location of the Bed and Breakfast Establishment, Retail Food Establishment,
208 Temporary Food Establishment and/or Farmer's Market Vendor;
209 2. Information specifying whether the Bed and Breakfast, Retail Food
210 Establishment and/or Temporary Food Establishment is owned by an
211 association, corporation, individual, partnership or other legal entity;
212 3. A statement specifying whether the Bed and Breakfast Establishment, Retail
213 Food Establishment, Temporary Food Establishment and/or Farmer's Market
214 Vendor:
215 (A) If not permanent, is a mobile and/or temporary, and
216 (B) The operation includes one (1) or more of the following:
217 1. Prepares, offers for sale, or serves potentially hazardous food:
218 a. Only to order upon a consumer's request;
219 b. In advance in quantities based on projected consumer demand
220 and discards food that is not sold or served at an approved
221 frequency; or
222 c. Using time, rather than temperature as the public health
223 control as specified under 410 IAC 7-24.
224 2. Prepares potentially hazardous food in advance using a food
225 preparation method that involves two or more steps, which may
226 include combining potentially hazardous ingredients; cooking;
227 cooling; reheating; hot or cold holding; freezing; or thawing;
228 3. Prepares food as specified under section (3) subsection (B, 2) of this
229 article for delivery to and consumption at a location off the premises
230 of the Bed and Breakfast Establishment and/ or Retail Food
231 Establishment where it is prepared;

- 232 4. Prepares food as specified under section (3) subsection (B, 2) of this
233 article for service to a highly susceptible population, as defined in 410
234 IAC 7-24;
235 5. Prepares only food that is not potentially hazardous; or
236 6. Does not prepare, but offers for sale only prepackaged food that is not
237 potentially hazardous.
- 238 4. The name, title, address and telephone number of the Operator directly
239 responsible for the Bed and Breakfast Establishment, Retail Food Establishment,
240 Temporary Food Establishment and/or Farmer's Market Booth.
- 241 5. The name, title, address and telephone number of the Person who functions as
242 the immediate supervisor of the Person specified under section (4) of this article
243 such as the zone, district, or regional supervisor;
- 244 6. The names, titles, and address of:
- 245 a. The person(s) comprising the legal ownership as specified under section
246 (2) of this article including the Owner(s) and Operator(s), and
247 b. The local resident agent if one is required based on the type of legal
248 ownership;
- 249 7. A statement signed by the applicant that:
- 250 a. Attests to the accuracy of the information provided in the application, and
251 b. Affirms that the application will:
- 252 i. Comply with this ordinance, and
253 ii. Allow the Cass County Health Department access to the Bed
254 and Breakfast, Retail Food Establishment, Temporary Food
255 Establishment and/or Farmer's Market Booth and records as
256 specified in 410 IAC 7-15.5 and 410 IAC 7-24.
- 257 8. Other information required by the Cass County Health Department.
- 258

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

- 260 1. Be an owner and/or Operator of the Bed and Breakfast Establishment, Retail
261 Food Establishment, Temporary Food Establishment and/or Farmer's Market
262 Booth;
- 263 2. Comply with the requirements of this ordinance;
- 264 3. Agree to allow access to the Bed and Breakfast Establishment, Retail Food
265 Establishment, Temporary Food Establishment and/ or Farmer's Market Booth
266 and provide required information; and
267 4. Pay the applicable Permit Fees at the time the application is submitted.
- 268

269 **Plans Requirements:** The owner or other authorized agent of an existing or proposed Bed
270 and Breakfast Establishment and/ or Retail Food Establishment shall submit to the Cass
271 County Health Department properly prepared plans and specifications for review and
272 approval before:

- 273 1. The construction of a Bed and Breakfast Establishment and/or Retail Food
274 Establishment;
- 275 2. The conversion of an existing structure for use as a Bed and Breakfast
276 Establishment and/or Retail Food Establishment; or

- 277 3. The remodeling of a Bed and Breakfast Establishment and/or Retail Food
278 Establishment or a change of type of Bed and Breakfast Establishment and/or
279 Retail Food Establishment or food operation if the Cass County Health
280 Department determines that plans and specifications are necessary to ensure
281 compliance with this section.
- 282 a. The plans and specifications for a Bed and Breakfast Establishment
283 and/or Retail Food Establishment shall include, the type of operation,
284 type of food preparation as specified in Appendix A (CONT.) of the
285 published version of 410 IAC 7-24), and the menu.
 - 286 b. The plans and specifications shall be deemed satisfactory and complete,
287 before approved by Cass County Health Department and a Permit can be
288 issued.
 - 289 c. A pre-operational inspection shows that the Bed and Breakfast
290 Establishment and/or Retail Food Establishment is built or remodeled in
291 accordance with the approved plans and specifications and that the
292 Establishment is in compliance with this ordinance, 410 IAC 7-24 and/or
293 410 IAC 7-15.5.

294
295 **Change of Ownership:** The Cass County Health Department may renew a Permit for an
296 existing Bed and Breakfast Establishment, and/or Retail Food Establishment or may issue a
297 Permit to a new owner of an Existing Bed and Breakfast Establishment and/ or Retail Food
298 Establishment after a properly completed application is submitted, reviewed, and
299 approved, the fees are paid and an inspection shows that the establishment is in
300 compliance with this ordinance.

- 301
302 **Responsibilities of the Operator:** Upon acceptance of the Permit issued by the Cass
303 County Health Department, the Operator in order to retain the Permit shall:
- 304 1. Comply with the provisions of this ordinance and all laws and rules adopted by
305 reference herein and the conditions of any variances granted by the Indiana State
306 Department of Health;
 - 307 2. Immediately discontinue affected operations and notify the Cass County Health
308 Department if an Imminent Health Hazard may exist;
 - 309 3. Allow representatives of the Cass County Health Department access to the Bed
310 and Breakfast Establishment, Retail Food Establishment, Temporary Food
311 Establishment and/or Farmer’s Market Vendor at all reasonable times;
 - 312 4. Comply with directives of the Cass County Health Department including time
313 frames for corrective actions specified in Inspection Reports, Notices, Orders,
314 Warnings, and other directives issued by the Cass County Health Department in
315 regard to the Bed and Breakfast Establishment, Retail Food Establishment,
316 Temporary Food Establishment and/or Farmer’s Market Vendor or in response
317 to community emergencies;
 - 318 5. Accept notices issued and served by the Cass County Health Department; and
 - 319 6. Be subject to the administrative, civil, injunctive, and criminal remedies
320 authorized in law for failure to comply with this ordinance or a directive of the
321 Cass County Health Department.

- 322 7. Post the Permit in a conspicuous location in the Bed and Breakfast
323 Establishment, Retail Food Establishment and/or Farmer's Market Booth.
324
325
326

327 **Section C: Permit Fees**

328
329 It shall be unlawful for any Person to operate a Bed and Breakfast Establishment, Retail
330 Food Establishment, Temporary Food Establishment and/ or Farmer's Market Booth in
331 Cass County, whom has not paid the Permit Fee required for the operation of such an
332 establishment.
333

334 The fee shall be paid annually for a term beginning January 1 and expiring on December 31,
335 of the same year and shall be applied for by the Person or Operator. Fees for a Seasonal
336 Retail Food Establishment shall be paid a minimum of thirty (30) days prior to operation.
337 Temporary and/ or a Farmer's Market Vendor shall be paid a minimum of five (5) days
338 prior to the day of operation.
339

340 Permit fees for the issuance of a Permit under this Ordinance to a Bed and Breakfast
341 Establishment, a Retail Food Establishment, Temporary Food Establishment and/or a
342 Farmer's Market Vendor shall be set by the Cass County Health Department, as provided by
343 the Statutes of the State of Indiana (IC 16-20-1-27)
344

345 A receipt for the payment of such fees shall be provided by the Cass County Health
346 Department.
347

348 The payment of such fees shall be required for each Bed and Breakfast Establishment,
349 Retail Food Establishment, Temporary Food Establishment and/ or Farmer's Market
350 Vendor operated or to be operated by any Person.
351

352 **Schedule of Permit Fees:**

353
354 The permit fees for the operation of a Bed and Breakfast Establishment, Retail Food
355 Establishment, Temporary Food Establishment and/or Farmer's Market Vendor in Cass
356 County shall be scheduled in accordance to menu category.
357

- 358 1. Menu 1: \$50.00/annual
- 359 2. Menu 2-5: \$100.00/annual
- 360 3. Catering Permit: \$20.00 per day
- 361 4. Temporary Food Establishment: \$20.00 per day
- 362 5. Farmers Market Permit (potentially hazardous foods): \$25.00 per season
363

364 Late Fees & Penalties: A penalty for operating without first registering with the Cass
365 County Health Department shall be assessed equal to the late fee. If a Bed and Breakfast
366 Establishment, Retail Food Establishment, Temporary Food Establishment and/ or

367 Farmer's Market Vendor fail to register with the Cass County Health Department for
368 continuous days, then that violation shall be assessed in accordance with (410 IAC 7-23) at
369 a rate of \$250.00 per day.

370
371 A late fee for failure to pay the permit fee prior to operation of the Bed and Breakfast
372 Establishment, Retail Food establishment and/ or Farmer's Market Booth or the late fee for
373 failure to renew a permit after the expiration of the permit to operate a Bed and Breakfast
374 and/or Retail Food Establishment shall be assessed as set by the Cass County Health Board.
375 Late fee for failure to register with the Cass County Health Department shall be assessed at
376 fifty dollars (\$50) per day of operation.

377
378 **Late Fees: The payment of fees under this ordinance is non-transferable or**
379 **refundable.**

380
381 **Exemption from Permit Fees:** An organization that is exempt from taxation under Section
382 501 of the Internal Revenue Code; offers the food for sale to the final consumer at an event
383 held for the benefit of an organization; and the events conducted take place for not more
384 than fifteen (15) days in a calendar year. (SEA 190) The Health Officer shall be provided,
385 upon request, proof of an organization's 501 tax exemption certification.

386
387

388 **Section D: Inspection**

389
390 **General:** The Cass County Health Department shall inspect a Bed and Breakfast
391 Establishment and/or Retail Food Establishment at least once every six (6) months.

392 The Cass County Health Department may increase the interval between inspections beyond
393 6 months if:

- 394 1. The Bed and Breakfast Establishment and/or Retail Food Establishment are fully
395 operating under an approved and validated Hazard Analysis of Critical Control
396 Points (HACCP) plan(s);
- 397 2. The Bed and Breakfast Establishment and/ or Retail Food Establishment is
398 assigned a less frequent inspection frequency based on a written risk-based
399 inspection schedule that is being uniformly applied throughout the jurisdiction.
- 400 3. The Cass County Health Department may contact the Operator to determine that
401 the nature of the food operation has not changed.

402 **Temporary Food Establishment:** The Cass County Health Department shall periodically
403 inspect throughout its Permit period a Temporary Food Establishment that prepares, sells,
404 or serves unpackaged potentially hazardous food and may inspect Temporary Food
405 Establishment that prepares, sells or serves unpackaged, non-potentially hazardous food
406 that:

- 407 1. Has improvised rather than permanent facilities or equipment for accomplishing;
408 a. functions such as hand washing, food preparation and protection, food
409 temperature
410 b. control, ware washing, providing drinking water, waste retention and
411 disposal, and
412 c. insect and rodent control; or
413 2. Has untrained food employees.

414 **Farmer's Market Vendor:** The Cass County Health Department shall periodically inspect
415 throughout its Permit period a Farmer's Market Vendor that sells or serves potentially
416 hazardous foods.

- 417 1. Has improvised rather than permanent facilities or equipment for accomplishing;
418 a. functions such as hand washing, food preparation and protection, food
419 temperature control
420 b. ware washing, providing drinking water, waste retention and disposal, and
421 c. insect and rodent control; or
422 2. Has untrained food employees.

423 **Performance and Risk Based Inspections:** Within the parameters specified in the above
424 Inspection Subsection(s) of this Ordinance, the Cass County Health Department shall
425 prioritize, and conduct more frequent inspections based upon its assessment of a Bed and
426 Breakfast Establishment, Retail Food Establishment, Temporary Food Establishment
427 and/or Farmer's Market Vendor's history of compliance with this ordinance and the Bed
428 and Breakfast Establishment, Retail Food Establishment, Temporary Food Establishment
429 and/or Farmer's Market Vendor's potential as a vector of foodborne illness by evaluating:

- 430 1. Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-24 and/or 410 IAC 7-
431 22 and/or HACCP plan requirements that are critical or non-critical;
432 2. Past performance, for numerous or repeat violations of 410 IAC 7-15.5 and/or 410
433 IAC 7-24 and/or HACCP plan requirements that are noncritical;
434 3. Past performance, for complaints investigated and found to be valid;
435 4. The hazards associated with the particular foods that are prepared, stored, or
436 served;
437 5. The type of operation including the methods and extent of food storage,
438 preparation, and service;
439 a. The number of people served; and
440 b. Whether the population served is a highly susceptible population.

441 **Access Allowed at Reasonable Times After Due Notice:** After the Cass County Health
442 Department presents official credentials and provides notice of the purpose of and the
443 intent to conduct an inspection, the Operator shall allow the Cass County Health
444 Department to determine if the Bed and Breakfast Establishment, Retail Food
445 Establishment, Temporary Food Establishment and/or Farmer's Market Vendor is in

446 compliance with this ordinance by allowing access to the establishment, allowing
447 inspection, and providing information and records specified in this ordinance. The Cass
448 County Health Department is entitled the information and records according to IC 16-42-1-
449 13 and IC 16-42-5-23, during the Bed and Breakfast Establishment and/or Retail Food
450 Establishment's hours of operation and other reasonable times.

451 Access is a condition of the acceptance and retention of a food establishment Permit to
452 operate.

453 If access is denied, an Order issued by the appropriate authority allowing access may be
454 obtained according to law. (See IC 16-20-1-26)

455 **Inspection Reports:** At the conclusion of the inspection, the Cass County Health
456 Department shall provide a copy of the completed Inspection Report and the notice to
457 correct violations to the Operator or to the Person-in-charge, as required under IC 16-20-8-
458 5.

459 **Timely Correction of Critical Violations:** Except as specified in the next paragraph, an
460 Operator shall at the time of inspection correct a critical violation of 410 IAC 7-15.5, 410
461 IAC 7-24 and/or 410 IAC 7-22 and implement corrective actions for a HACCP plan
462 provision that is not in compliance with its critical limit.

463 Considering the nature of the potential hazard involved and the complexity of the
464 corrective action needed, the Cass County Health Department may agree to or specify a
465 longer time frame after the inspection, for the Operator to correct critical code violations or
466 HACCP plan deviations.

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

471 **Refusal to Sign Acknowledgement:** Refusal to sign an acknowledgment of receipt will
472 not affect the Operator's obligation to correct the violations noted in the Inspection Report
473 within the time frames specified.

474 A refusal to sign an acknowledgment of receipt is noted in the Inspection Report and
475 conveyed to the Cass County Health Department historical record for the Bed and Breakfast
476 Establishment, Retail Food Establishment, Temporary Food Establishment and/or
477 Farmer's Market Vendor.

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

480 **Public Information:** Except as specified in section 194 (Trade Secrets) of 410 IAC 7-24,
481 the Cass County Health Department shall treat the Inspection Report as a public document
482 and shall make it available for disclosure to a Person who requests it as provided in law. (IC
483 16-20-8-6)

484 **Section E: Compliance and Enforcement**

485 **Application Denial:** If an application for a plan review and/or Permit to operate a Bed
486 and Breakfast Establishment, Retail Food Establishment, Temporary Food Establishment
487 and/or Farmer's Market Vendor is denied, the Cass County Health Department shall
488 provide the applicant with a notice that includes:

- 489 1. The specific reasons and rule citations for the application and/or Permit denial;
- 490 2. The actions, if any, that the applicant must take to qualify for the application and/or
491 Permit; and
- 492 3. Advisement of the applicant's right of appeal and the process and time frames for
493 appeal that are provided in law.

494 **Permit Suspension:** The Cass County Health Department may suspend a Permit to
495 operate a Bed and Breakfast Establishment, Retail Food Establishment, Temporary Food
496 Establishment and/or Farmer's Market Vendor if it determines through inspection, or
497 examination of employee, food, records, or other means as specified in this ordinance, that
498 an Imminent Health Hazard exists.

499 **Inspection protocol:** The Standard Operating Procedure (SOP) for the Cass County Health
500 Department in regarding inspections of a Bed and Breakfast Establishment, Retail Food
501 Establishment, Temporary Food Establishment and/or Farmer's Market Vendor shall be as
502 follows:

- 503 1. The first (1st) inspection will be known as a routine inspection, and depending
504 on the severity of violations may warrant a follow-up inspection;
- 505 2. The second (2nd) inspection will be known as a follow-up inspection to ensure
506 compliance and corrective measures have been taken, during this inspection if it
507 is found that an establishment has repeat violations persisting from the first (1st)
508 inspection, fines will be issued at a frequency of (\$25) per each non-critical
509 violation which has been repeated and at a frequency of (\$50) per each critical
510 violation which has been repeated; If during the second (2nd) inspection it is
511 found that corrective measures have not been taken resulting in ongoing issues
512 with non-compliance;
- 513 3. A third (3rd) inspection is necessitated, the third inspection will be known as an
514 additional follow-up to ensure compliance, at this time if violations found in this

515 inspection are continually being repeated from the first (1st) and second (2nd)
516 inspections it will result in a minimum twenty four hour (24 hr) closure of the
517 establishment or until such time that all violations have been corrected
518 whichever is longer.

519 **Ceasing Operation and Contacting the Cass County Health Department:** An Operator
520 of a Bed and Breakfast Establishment, Retail Food Establishment, Temporary Food
521 Establishment and/or Farmer's Market Vendor shall immediately discontinue operations
522 and notify the Cass County Health Department if an Imminent Health Hazard may exist
523 because of an emergency such as a fire, flood, extended interruption of electrical or water
524 service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent
525 foodborne illness outbreak, gross insanitary occurrence or condition, or other
526 circumstance that may endanger public health.

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

529 **Resuming Operation:** If a Bed and Breakfast Establishment, Retail Food Establishment,
530 Temporary Food Establishment and/or Farmer's Market Vendor have discontinued
531 operations for the reasons stated above or otherwise according to law, the Operator must
532 obtain approval from the Cass County Health Department before resuming operations.

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

535 **Enforcement Options:** *(See IC 16-42-5-28(g))*

536 The following are options available to Cass County Health Department for consideration:

- 537 1. Issue citation based upon Cass County Ordinance 2012-03 Citation Ordinance and
538 Retail Food Establishment and/or Bed and Breakfast Establishment requirements.
539 (See IC 16-42-5-28(g) and IC 33-6-3-1 for guidance) (See also the Appeals Section
540 of this Ordinance to ensure that due process is followed.)
- 541 2. Conduct administrative proceeding for suspension and/or revocation of the Bed and
542 Breakfast Establishment, Retail Food Establishment, Temporary Food
543 Establishment and/or Farmer's Market Vendor Permit in front of a Hearing Officer.
544 (See the Appeals Section of this Ordinance to ensure that due process is followed.)
- 545 3. The Cass County Health Officer may issue an "Order to abate" based on a condition
546 that may transmit, generate, or promote disease. Failure on the part of the Operator
547 to comply with the Order could result in the enforcement of the Order in the court of
548 jurisdiction by the initiation of an action by the county attorney or county

- 549 prosecuting attorney. (See IC 16-20-1-25; See also the Appeals Section of this
550 Ordinance to ensure that due process is followed.)
- 551 4. If the action concerning public health is an ordinance violation, request the county
552 attorney or county prosecuting attorney to institute a proceeding in the courts for
553 the enforcement of the ordinance violation. (See IC 34-28-5-1)
- 554 5. If the action concerning public health is a criminal offense, request the county
555 attorney or county prosecuting attorney to institute a proceeding in the courts for
556 enforcement. (See IC 16-20-1-25 (c)).
- 557

558 **Section F: Appeals Section**

559 Any Person(s) aggrieved by Orders issued under the Enforcement Options 1-3 of Section E
560 above shall be entitled to a review of the final Order before a Hearing Officer by filing a
561 written request therefore with the Health Officer (*Secretary of the Cass County Board of*
562 *Health*)(See IC 16-20-1-10). The written request must be mailed or hand delivered to
563 Health Officer, 512 High St., Logansport, IN 46947, and must be received within fifteen (15)
564 days after such final Order is issued.

- 565 1. Upon the Health Officer receipt of such request, the Hearing Officer shall hear the
566 matter again in an open hearing after at least five (5) days written notice of the time,
567 place and nature thereof. The time shall be measured pursuant to the rules of court
568 of the jurisdiction. (A shorter period of time may be granted, if requested by either
569 party and agreed upon.)
- 570 2. The notice of the hearing shall be served upon the Person requesting the review by
571 hand delivering or mailing by Certified Mail the notice to the address listed on the
572 Permit application as the Person's mailing address or such other address, as the
573 Person shall designate in the letter of request to the Health Officer.
- 574 3. The Hearing Officer establishes the Rules of Procedure and advises the parties prior
575 to the start of the proceedings.
- 576 4. The Hearing Officer shall make written findings of facts and shall enter its final
577 Order or determination of this matter in writing.
- 578 5. The Order completes the Administrative Appeals procedure.

579

580 **Section G: Conflict of Interest**

581 No Cass County Official shall conduct himself or herself in a manner that is or could have
582 the appearance of a Conflict of Interest.

583

Section H: Unconstitutionally Clause

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

587

Section I: Repeal and Effective Date

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

591 Passed and adopted by the Commissioners of Cass County, State of Indiana, on this 19
592 day of October 2015.

593 Signed:

594 James A. Sailer
595 [Signature]
596 [Signature]
597 Cass County Commissioners

609 ATTEST:

610

611 

612 Cass County Auditor

613