

ORDINANCE 2025- 14

**THE MORGAN COUNTY RETAIL FOOD ESTABLISHMENT  
AND/OR BED AND BREAKFAST ESTABLISHMENT ORDINANCE**

**In Morgan County, Indiana**

WHEREAS, the purpose of this ordinance is to safeguard public health and assure that food provided to consumers is safe, unadulterated, and honestly presented. It establishes definitions, sets standards for management and personnel, food operations, equipment and facilities, and provides for Retail Food Establishment and/or Bed and Breakfast Establishment plan review, permits, inspections, and employee restrictions.

WHEREAS, this ordinance defines Bed and Breakfast Establishment, Conflict of Interest, Morgan County Health Department, Health Department Official, Hazard Analysis Critical Control Point, Health Officer, Hearing Officer, Imminent Health Hazard, Inspection Report, Operator, Order, Permit, Person, Retail Food Establishment; and Temporary Food Establishment; requires construction and/or alteration plans; requires a Permit and payment of Permit fees for the operation of Bed and Breakfast Establishment, Retail Food Establishment, and/or Temporary 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 (IC) 16-42-1, IC 16-42-2, IC 16-42-5, Indiana Department of Health Rule(s) 410 Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-26 (effective April 2025, and incorporating any changes to Retail Food Establishment Sanitation Requirements), 410 IAC 7-21-47, 410 IAC 7-22 (effective December 2006) and 410 IAC 7-23 (effective November 2004).

WHEREAS, the Morgan County Health Department is hereby authorized to issue Bed and Breakfast Establishment, Retail Food Establishment, and/or Temporary 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 Morgan County, State of Indiana, as follows:

## **Section 1: Definitions**

**Bed and Breakfast Establishment** (as defined in 410 IAC 7-15.5)- 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 accommodation for no more than thirty (30) consecutive days to a particular guest.

**Catering** (as defined in 410 IAC 7-26)- the preparation of food in an approved retail food establishment and may include the transportation of such food for service and consumption at some other site.

**Commissary** (as defined in 410 IAC 7-26)- a registered catering establishment, restaurant, or any retail food establishment in which food, food containers, or food supplies are:

- (1) kept;
- (2) handled;
- (3) prepared;
- (4) packaged; or
- (5) stored;

from which meals are catered and mobile retail food establishments or pushcarts are serviced.

**Conflict of Interest** (derived from IC 35-44.1-1.4 and 42 IAC 1-5-7)- a situation in which the private interest of Morgan County Official, Morgan County Official's spouse, ex-spouse, siblings, in-laws, children and/or un-emancipated child, may influence the Morgan County Official's judgment in the performance of a public duty.

**Farmer's Market Permit**- a retail food establishment permit that allows an operator to sell from the permit holder's farm or a place of business which may include but is not limited to a Farmers Market or roadside stand. This permit covers both the freezers and coolers where the product is kept and the place of sale. Examples of products include frozen, inspected raw meats or non-chicken in-shell eggs. No open foods or food preparation may occur under this permit.

**Hazard Analysis Critical Control Point (HACCP) Plan** (as defined in 410 IAC 7-26)- a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

**Health Officer** (as described in IC 16-20-2-16 and IC 16-20-1-14)- the Health Officer having jurisdiction in Morgan County/City or his/her duly authorized representative.

**Hearing Officer-** an individual or panel of individuals acting in the capacity of a Hearing Officer in proceedings. The Hearing Officer is not the Health Officer or any other employee of the Morgan County Health Department. (Examples of Hearing Officer could be the Morgan County Health Board, a subcommittee of Morgan Health Board, a subcommittee of health professionals from the community or other non-bias third party appointed by the Health Board.)

**Imminent Health Hazard** (as defined in 410 IAC 7-26)- a significant threat or danger to health that is considered to exist when there is enough evidence to show that a product, a practice, a circumstance, or an event creates a situation that requires immediately correcting or ending operations to prevent injury or illness based on the:

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

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

**Mobile Food Establishment-** a retail food establishment that:

- (1) has wheels;
- (2) is on skids;
- (3) is mounted on a vehicle;
- (4) is a marine vessel; or
- (5) is otherwise readily movable;

such as a pushcart or trailer that changes location too frequently to be a candidate for permanent utility connections, as determined by the Health Officer. This unit is required to have a Commissary from which to perform operations such as storage, cooking, cleaning, clean water intake and sewage removal, as required by the unit and menu. The unit must physically return to the service area/commissary at least once daily for any support activities (derived from 410 IAC 7-26-488).

**Mobile Unit/Caterer Permit-** a retail food establishment permit issued by the Morgan County Health Department allowing the operation of a mobile unit or caterer at a non-fixed location with the use of a Commissary for necessary operations.

**Morgan County Health Department-** the local health department in Morgan County or an authorized representative having jurisdiction over a Bed and Breakfast Establishment, Retail Food Establishment and/or Temporary Food Establishment.

**Morgan County Official-** any Official of Morgan County, Indiana.

**Operator-** 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)- a Morgan County Health Department action of 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-** the document issued by the Morgan County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment.

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

**Provisional Food Establishment Permit-** a retail food establishment permit issued by the Morgan County Health Department that allows a new owner of an existing retail food establishment to operate temporarily while it works to meet all the requirements for a full permit. This is a temporary license issued for a limited time, allowing the business to begin operating while completing any necessary steps, like facility upgrades or staff training. A non-renewable provisional permit is available for a person taking over an existing permitted establishment. The following conditions apply:

(a) The provisional permit shall be provided by the Morgan County Health Officer if a completed application, and the appropriate fee based on the risk level, are received by the Morgan County Health Department;

(b) The provisional permit will be valid for 90 days from the date of issue. No extensions will be provided;

(c) An annual permit must be obtained before the expiration of the provisional permit. The annual permit will not be issued until all outstanding violations, if any, have been corrected, and an acceptable compliance inspection by the Morgan County Health Department is recorded.

**Retail Food Establishment** (derived from 410 IAC 7-26)-

(a) Any building, room, basement, or vehicle of transport that does the following:

(1) Stores, prepares, packages, repackages, serves, or vends food directly to the consumer, or otherwise provides food for human consumption, such as:

(A) a restaurant;

(B) a catering operation, if the operation provides food directly to a consumer;

(C) a conveyance used to transport people;

(D) a market, including, but not limited to;

(i) a grocery store;

(ii) a convenience store;

(iii) a micro market; or

(iv) a vending location;

(E) a mobile retail food establishment;

(F) an institution and its satellite or catered feeding location, such as:

(i) hospice services under IC 16-25-3;

(ii) a health care facility as defined in IC 16-18-2-161;

(iii) a health facility as defined in IC 16-18-2-167;

(iv) a child care facility operated under IC 12-13-5 and 470 IAC 3;

(v) a housing with services facility operating under IC 12-10-15;

(vi) a correctional facility; or

(vii) an educational facility; or

(G) a food bank.

- (2) Relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service provided by common carriers.
- (b) The term includes the following:
  - (1) An element of a retail food establishment, such as:
    - (A) a transportation vehicle operated by a food employee;
    - (B) a central preparation facility that supplies a vending location, mobile retail food establishment, or satellite feeding location unless the vending or feeding location is separately permitted by the regulatory authority; or
    - (C) an outdoor food operation.
  - (2) An operation that is conducted in:
    - (A) a mobile;
    - (B) a stationary;
    - (C) a temporary;
    - (D) a permanent;
    - (E) an indoor; or
    - (F) an outdoor;
 facility or location, where consumption is on or off the premises and regardless of whether there is a charge for the food.
- (c) The term does not include the following:
  - (1) An establishment that offers only prepackaged foods that are not TCS.
  - (2) A person who offers only whole, uncut produce.
  - (3) A food processing plant.
  - (4) A bed and breakfast establishment operated under IC 16-41-31 and 410 IAC 7-15.5.
  - (5) A private home, whether or not it receives catered or home delivered food.
  - (6) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.
  - (7) 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, including:
      - (i) funerals;
      - (ii) wedding receptions;
      - (iii) christenings;
      - (iv) bar or bat mitzvahs;
      - (v) baptisms;
      - (vi) communions; and
      - (vii) other events or celebrations sponsored by the organization.
  - (8) A vehicle used to:
    - (A) transport food solely for distribution to the needy, either free of charge or for a nominal donation; or
    - (B) deliver only food described in IC 16-42-5.3.
  - (9) A vehicle not operated by a food employee that is used to:
    - (A) deliver non-TCS food;

- (B) deliver TCS food directly from the retail food establishment into the possession or control of the consumer within two (2) hours of the time the food leaves temperature control; or
  - (C) deliver TCS food into the possession or control of the consumer in a sealed package that allows the consumer to determine the package has been tampered with and is in a temperature self-controlled container.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) A person that:
- (A) is a home-based vendor or an individual vendor that sells food products that meet the requirements of IC 16-42-5.3; or
  - (B) is the holder of a farm winery permit under IC 7.1-3-12-5 or a brewer's permit under IC 7.1-3-2-7(5) if the requirements of IC 16-42-5-30 are met.

**Retail Food Establishment Permit (Full-Time or Part Time)-** a retail food establishment permit issued by the Morgan County Health Department required by businesses that handle, store, prepare, or sell food directly to the public.

The term Retail Food Establishment in this Ordinance shall be understood to include all types of food permits issued by the Morgan County Health Department.

**Risk Level of Food Operations:**

Low Risk (Risk Level 1): Establishments with limited food preparation and serving only pre-packaged foods, such as convenience stores, coffee shops, or snow cone stands.

Medium Risk (Risk Level 2): Places like sandwich shops, delis, and fast-food restaurants that prepare and cook potentially hazardous foods but have simpler processes.

High Risk (Risk Level 3): Full-service restaurants and establishments involved in complex food preparation, extensive cooking, cooling, and reheating, and preparing food for highly susceptible populations.

High Risk (Risk Level 4): Full-service restaurants and establishments involved in complex food preparation, extensive cooking, cooling, and reheating, and preparing food for highly susceptible populations. Also engaging in Specialized Food Processes such as reduced oxygen packaging (ROP) for extended shelf-life, smoking or curing food, bottling or canning, acidification to control pathogen growth, or freezing to destroy parasites, with proper variances obtained from IDOH.

**Temporary Food Establishment** (derived from 410 IAC 7-26) means a Retail Food Establishment that operates in conjunction with a single event or celebration for a period of not more than 14 consecutive days.

**Temporary Food Establishment Permit-** a retail food establishment permit issued by the Morgan County Health Department that allows food vendors to operate with a limited menu at temporary events such as festivals, fairs, or farmer's markets for a period not longer than 14 consecutive days.

**Time/Temperature Control for Safety (TCS) Food** (derived from IC 16-18-2-351.7)- A food is considered to be a TCS food if, because of the interaction of its  $a_w$  and pH values, it is designated as product assessment required in Table A or B as follows:

Table A. Interaction of pH and $a_w$ for control of spores in food heat-treated to destroy vegetative cells and later packaged			
$a_w$ values	pH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
$\leq 0.92$	non-TCS food*	non-TCS food	non-TCS food
>0.92 - .95	non-TCS food	non-TCS food	PA**
>0.95	non-TCS food	PA	PA

Table B. Interaction of pH and $a_w$ for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged				
$a_w$ values	pH values			
	<4.2	4.2 - 4.6	>4.6 - 5.0	>5.0
<0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
>0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
>0.92	non-TCS food	PA	PA	PA

## **Section 2: Plan Review**

### **Plan Requirements:**

- (1) The owner or other authorized agent of an existing or proposed Bed and Breakfast Establishment and/or Retail Food Establishment shall submit to the Morgan County Health Department properly prepared plans and specifications for review and approval before:
  - (A) The construction of a Bed and Breakfast Establishment and/or Retail Food Establishment;
  - (B) The conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Retail Food Establishment; or
  - (C) The remodeling of a Bed and Breakfast Establishment and/or Retail Food Establishment or a change of type of Bed and Breakfast Establishment and/or Retail Food Establishment or food operation if the Morgan County Health Department determines that plans and specifications are necessary to ensure compliance with this section.
  - (D) The change of ownership of a Bed and Breakfast Establishment and/or Retail Food Establishment, if the Morgan 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 Retail Food Establishment shall be submitted to the Morgan County Health Department on a form provided by the Morgan County Health Department.
- (3) Plans shall include properly completed plan review application from MCHD, Certified Food Protection Manager Certificate (as required), floor and site plans, equipment specifications, a copy of the Indiana Retail Merchant Certificate, a list of all distributors and suppliers, and a complete menu.
- (4) The plans and specifications shall be deemed satisfactory and approved by Morgan County Health Department before a pre-opening inspection can be completed and before a Permit can be issued.
- (5) A pre-operational inspection shows that the Bed and Breakfast Establishment and/or Retail 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**

#### **General:**

(1) It is unlawful for a Person to operate any Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer Permit, Farmer's Market Permit and/or Temporary Food Establishment in Morgan County/City, 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, Retail Food Establishment, Mobile Unit/Caterer, Farmers Market, and/or Temporary Food Establishment.

(2) 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.

(3) A separate Permit shall be required for each Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment operated or to be operated by any Person.

(4) A Permit issued under this ordinance is not transferable.

(5) A Bed and Breakfast Establishment and/or Retail Food Establishment Permitted by Morgan County Health Department shall be considered registered as required in IC 16-42-1-6.

#### **Permit Period:**

(1) A Permit for a Bed and Breakfast Establishment and/or Retail 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/Operator annually.

(2) A permit for a Temporary Food Establishment shall be for the term of each event or celebration, not to exceed a period of 14 days of continuous operation. An additional permit must be obtained for each event. A Temporary permit may not be obtained for the same location for more than 14 days in each calendar year.

#### **Permit Content:**

Any Permit issued by the Health Officer shall contain:

(1) The name 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 Morgan County Health Officer.

**Application:** A Person desiring to operate a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment shall submit to the Morgan County Health Department a written application for a Permit on a form provided by the Morgan County Health Department.

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

- (1) Name, mailing address, phone number and original or electronic signature of the Person/Operator applying for the Permit, and the name, mailing address, and location of the Food Establishment.
- (2) Information specifying whether the Establishment is owned by an association, corporation, individual, partnership, or other legal entity.
- (3) Specify type of establishment: Retail Food, Mobile Unit/Caterer, Farmer's Market, or Temporary Food Establishment. Also include risk type as determined by the Morgan County Health Department.
- (4) Name, title, address and phone number of the Legal owners and the local resident agent (depending on ownership).
- (5) A statement signed by the applicant that:
  - (A) Attests to the accuracy of the information provided on the application, and
  - (B) Affirms the Morgan County Health Department access to the Establishment and records as specified in 410 IAC 7-15.5 and/or 410 IAC 7-26.
- (6) Other information required by the Morgan County Health Department.

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

- (1) Be an owner and/or Operator of the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment;
- (2) Comply with the requirements of this ordinance;
- (3) Agree to allow access to the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment and provide required information; and
- (4) Pay the applicable Permit fees at the time the application is submitted.

**Change of Ownership:**

The Morgan County Health Department may issue a Permit to a new owner of an existing Bed and Breakfast Establishment and/or Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary 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. A full plan review may be required, if it is determined to be necessary by the Morgan County Health Department. Establishments must be brought up to the current code before a permit will be issued.

However, a provisional permit may be requested by the applicant to continue business for a 90-day period in order to complete/rectify any violations or required upgrades to bring the establishment up to current code, as noted by the Health Officer.

### **Responsibilities of the Operator:**

Upon acceptance of the Permit issued by the Morgan 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 Department of Health.
- (2) Immediately discontinue affected operations and notify the Morgan County Health Department if an Imminent Health Hazard may exist;
- (3) Allow representatives of the Morgan County Health Department access to the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment at all reasonable times.
- (4) Comply with directives of the Morgan County Health Department including time frames for corrective actions specified in Inspection Reports, notices, orders, warnings, and other directives issued by the Morgan County Health Department in regard to the Operator's Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment or in response to community emergencies.
- (5) Accept notices issued and served by the Morgan County Health Department.
- (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 Morgan County Health Department.
- (7) Post the Permit in a location in the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment that is conspicuous to consumers.

### **Section 4: Permit Fees**

- (1) It shall be unlawful for any Person to operate a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment in Morgan County, who has not obtained a permit and paid the Permit fee required to be paid for the operation of such establishment.

(2) 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 shall be applied for by the Person and/or Operator annually. Fees for continuously operating establishments must be paid before February 1 of the calendar year, or the Establishment will be closed. *(Note: This does NOT apply to seasonal establishments, unless they are open through the New Year, as they are not continually operating. These establishments must pay the permit fees before their opening date each year.)*

(3) Permit fees for the issuance of a permit under this Ordinance to a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market and/or Temporary Food Establishment shall be set by the Morgan County Health Department and the Board of Commissioners of Morgan County. These fees will be set forth in the Morgan County Health Department Fee Ordinance. (See IC 16-20-1-27)

(4) A receipt for the payment of such fee shall be provided by the Morgan County Health Department.

(5) The payment of such fees shall be required for each Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment operated by any Person.

**Exemption/ Waiver from Permit Fees:** The Department may waive the payment of permit fees for a nonprofit organization. To be eligible, the nonprofit organization must apply for the waiver in writing and the organization must not receive payment, remuneration, or receive anything of value in exchange for the preparation or distribution of foodstuffs, cooked or uncooked. An example of an eligible entity would be a food pantry or soup kitchen.

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

## **Section 5: Inspection**

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

The Morgan 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); (or)

(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 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

(3) 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. (Information taken from the 2022 FDA Model Food Code Annex 5: Conducting Risk-Based Inspections) The Health Department should contact the Operator to determine that the nature of the food operation has not changed.

**Temporary Food Establishment:** The Morgan 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 (non-TCS) 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, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- (2) Has food employees that have not demonstrated knowledge, as per 410 IAC 7-26, of food operations.

**Mobile Food Establishments and Caterers:** The Morgan County Health Department shall periodically inspect Mobile Food Establishments and Caterers throughout its permit period. A Mobile Food Establishment or Caterer is required to have an approved Commissary on file with the Health Department. The information regarding the Commissary must be supplied on a form provided by the Morgan County Health Department.

**Performance and Risk Based Inspections:** Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Morgan 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:

- (1) Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-26 and/or 410 IAC 7-22 and/or HACCP plan requirements that are Priority (P), Priority Foundation (Pf), or Core;
- (2) Past performance, for numerous or repeat violations of 410 IAC 7-15.5, and/or 410 IAC 7-26 and/or HACCP plan requirements that are P, Pf, or Core;
- (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 as defined by Indiana law.

**Access Allowed at Reasonable Times After Due Notice:** After the Morgan 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 Morgan County Health Department to determine if the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary 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 Morgan County Health Department is entitled the information and records according to IC 16-42-1-13 and IC 16-42-5-23, during the Bed and Breakfast Establishment and/or Retail Food Establishment's hours of operation and other reasonable times.

(1) Access is a condition of the acceptance and retention of a food establishment Permit to operate.

(2) If access is denied, an Order issued by the appropriate authority allowing access may be obtained according to law, including injunction.

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

**Timely Correction of Priority or Priority Foundation 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 7-26 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 Morgan County Health Department may agree to or specify a longer time not to exceed:

(1) 72 hours after inspection for Priority Violations; or

(2) 15 calendar days after the inspection for Priority foundation or HACCP deviations.

After notice of correction or the end of the specified time, the Morgan County Health Department shall verify correction and document the information on the inspection report.

**Refusal to Sign Acknowledgment:** 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.

(1) A refusal to sign an acknowledgment of receipt is noted in the Inspection Report and conveyed to the Morgan County Health Department historical record for the Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment.

(2) The Operator is not necessarily in agreement with the findings of the Morgan County Health Department inspection by acknowledgment of receipt.

**Public Information:** Except as specified in section 487 (Trade Secrets) of 410 IAC 7-26, the Morgan County Health Department shall treat the Inspection Report as a public document and shall make it available per IC 16-20-8.

## **Section 6: Compliance and Enforcement**

**Application Denial:** If an application for a plan review and/or Permit to operate a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment is denied, the Morgan 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 Morgan County Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary 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 Morgan County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment if it determines through inspection, 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.

**Ceasing Operation and Contacting the Morgan County Health Department:** An Operator of a Bed and Breakfast Establishment, Retail Food Establishment, Mobile Unit/Caterer, Farmer's Market, and/or Temporary Food Establishment shall immediately discontinue operations and notify the Morgan 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.

**Resuming Operation:** Operator must obtain approval from the Morgan County Health Department before resuming operations after ceasing operation for any of the above.

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

**Enforcement:**

(1) The Morgan County Health Department is hereby authorized to establish a process and promulgate rules for the issuing of tickets based on violation of Indiana Code, as set forth in IC 16-42-5-28(g). The issuance of tickets is to be based on the Schedule of Penalties for Violations as found in 410 IAC 7-23-1.

(2) Conduct administrative proceedings for suspension and/or revocation of Permit in front of the Health Officer.

(3) The Morgan County Health Officer may issue an "Order to Abate" based on a condition that may transmit, generate, or promote disease (IC 16-20-1-25). Failure on the part of the Operator to comply with the Order could 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. Enforcement of Order before a court may include a request for any available legal or equitable remedy, including injunction, revocation of a Permit, fines and payment of the Department's attorney's fees and costs.

(4) If the action concerning public health is an ordinance violation, the Morgan County Health Officer may request the county attorney or county prosecuting attorney to institute a proceeding in the courts for the enforcement of the ordinance violation (IC 34-28-5-1).

(5) If the action concerning public health is a criminal offense, the Morgan County Health Officer may request the county attorney or county prosecuting attorney to institute a proceeding in the courts for enforcement pursuant to IC 16-20-1-25 (c).

**Section 7: Appeals Section**

(1) Any Person(s) aggrieved by Orders issued under Enforcement Options 1-3 of Section 6 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 (Secretary of the Morgan County Board of Health- 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 Board of Health 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 the 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 Order or determination of this matter in writing.

(6) The Final Order completes the Administrative Appeals procedure.

### **Section 8: Conflict of Interest**

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

### **Section 9: Unconstitutionality Clause**

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 10: 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 thirty (30) days after its adoption and publication as provided by law.

So Passed and Adopted by the Board of Commissioners of Morgan County, State of Indiana, on this 3<sup>rd</sup> day of Nov., 2025.

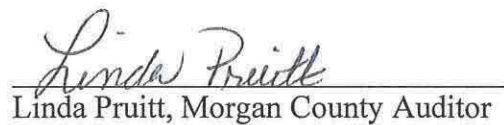
Board of Commissioners of Morgan County, Indiana:

  
Bryan Collier, Commissioner

  
Kenny Hale, Commissioner

  
Don Adams, Commissioner

ATTEST:

  
Linda Pruitt, Morgan County Auditor