

FOOD ESTABLISHMENT AND/OR BED AND BREAKFAST
ESTABLISHMENT ORDINANCE

ORDINANCE NO. _____
In Sullivan, Indiana

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

This ordinance provides definitions for clarity and consistency; requires construction and/or alteration plans; requires a Permit and payment of Permit fees for the operation of Bed and Breakfast Establishment and/or Food Establishments; 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) 16-41-31, IC 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-42-5.2 and Indiana State Department of Health Rule(s) 410 Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-26, 410 IAC 7-21-47, 410 IAC 7-22 and 410 IAC 7-23

The Sullivan County Health Department is hereby authorized to issue Bed and Breakfast Establishment and/or Food Establishment permits, collect Permit fees and penalties, perform inspections, hold hearings, Order or otherwise compel correction of violations of this ordinance, and is otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

Be it ordained by the Board of Commissioners of Sullivan County, State of Indiana, that:

Section A: Definitions

Bed and Breakfast Establishment (as defined in 410 IAC 5-15.5) means an Operator occupied residence that:

- (1) provides sleeping accommodations to the public for a fee;
- (2) has no more than fourteen (14) guest rooms;
- (3) provides breakfast to its guests as part of the fee; and
- (4) provides sleeping accommodations for no more than thirty (30) consecutive days to a particular guest.

Civil Penalty is a monetary penalty assessed pursuant to 410 IAC 7-23-1.

Conflict of Interest (derived from 68 IAC 9-1-1(b)(2)) means a situation in which the private financial interest of a Sullivan County Official, Sullivan County Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Sullivan County Official's judgment in the performance of a public duty.

Consecutive Inspections means an inspection that occurs directly after another inspection, regardless of type or time between inspections.

Farmers Market for the purpose of this rule means a reoccurring public marketplace where 2 or more farmers, growers, or producers gather to sell goods directly to consumers.

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

(b) 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.

(7) 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.

(8) A home based vendor or individual vendor who sells a food product under 16-42-5.3.

(9) A homestead vendor (as defined in IC 16-42-5.4-1)

(10) A small farm (as defined in IC 16-42-5.4-4)

This definition also includes a Retail Food Establishment as defined in 410 IAC 7-26; however, it does not include a Bed and Breakfast Establishment.

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

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

Health Officer means the person appointed as specified in IC-16-20-2-16, or his/her duly authorized representative, as specified in IC-16-20-1-14, who may conduct inspections and make a final decision on an enforcement action.

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

Imminent Health Hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness based on the number of potential injuries or illnesses; and the nature severity, and duration of the anticipated injury or illness [e.g. sewage backing up in the food preparation area or contamination of food products with toxic material].

Inspection includes routine inspections, follow-up inspections, complaint investigations, or any officially documented inspection conducted by Sullivan County Health Department.

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

Mobile Retail Food Establishment means a retail food establishment that is readily movable. The term includes a retail food establishment that has wheels; is on skids; is mounted on a vehicle; or is a marine vessel. The term does not include a vehicle used solely to transport food.

Official means any Official of Sullivan County, Indiana.

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

Order (derived from IC 4-21.5-1-9) means a Sullivan 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 Sullivan County Health Department that authorizes a Person to operate a Bed and Breakfast Establishment and/or Food Establishment.

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

Repeated Violation is a violation of the same code provision that has been documented during consecutive inspections.

Temporary Food Establishment (as defined in IAC 7-26) means a Retail Food Establishment that operates in conjunction with a single event or celebration for a period of no more than fourteen (14) consecutive days or while at the Indiana State Fair.

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

Section B: Plan Review

(1) The owner or other authorized agent of an existing or proposed Bed and Breakfast Establishment and/or Food establishment shall submit to the Sullivan County Health Department properly prepared plans and specifications for review and approval before:

(A) The construction of a Bed and Breakfast Establishment and/or Food Establishment;

(B) The conversion of an existing structure for use as a Bed and Breakfast Establishment and/or Food Establishment; or

(C) The remodeling of a Bed and Breakfast Establishment and/or Food Establishment or a change of type of Bed and Breakfast Establishment and/or Food Establishment or food operation if the Sullivan County Health Department determines that plans and specifications are necessary to ensure compliance with this section.

(2) The plans and specifications for a Bed and Breakfast Establishment and/or Food Establishment shall include, the type of operation, type of food preparation (as specified in the published version of 410 IAC 7-26), and the menu.

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

(4) A pre-operational inspection shows that the Bed and Breakfast Establishment and/or Food Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this ordinance, 410 IAC 7-26 and/or 410 IAC 7-15.5.

Section C: Permits

(A) General:

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

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

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

A Permit issued under this ordinance is **not transferable**.

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

(B) Permit Period:

A Permit for a Bed and Breakfast Establishment and/or Food Establishment shall be issued for a term beginning January 1, and/or before commencement of operation, and expiring December 31, of the same year and shall be applied for by the Person and/or Operator annually.

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

(C) 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 name and 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 Sullivan County Health Officer.

(D) Application:

A Person desiring to operate a Bed and Breakfast Establishment and/or Food Establishment shall submit to the Sullivan County Health Department a written application for a Permit on the form provided by the Sullivan County Health Department.

(E) Content of the Application:

The application shall include:

- (1) The name, title, 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 and/or 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) The name, title, address, and telephone number of the Operator directly responsible for the Bed and Breakfast Establishment and/or Food Establishment.
- (4) The name, title, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (3) of this section, such as the zone, district, or regional supervisor;

- (5) The names, titles, addresses, and phone numbers 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;
- (6) 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:
 - (1) Comply with this ordinance, and
 - (2) Allow the Sullivan County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-26
- (7) Any other information required by the Sullivan County Health Department.

(F) Qualifications:

To qualify for a Permit, an applicant must:

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

(G) Permit Requirements for Temporary Food Establishments:

The owner or other authorized agent of a temporary food establishment shall submit a temporary food application, a copy of an approved certified food protection manager certificate as stated in 410 IAC 7-22, and appropriate fees, to the Sullivan County Health Department, for each specific festival in which the establishment intends to participate at least seven calendar (7) days **prior** to the beginning of the event.

If the temporary food application, a copy of an approved certified food protection manager certificate as stated in 410 IAC 7-22, and appropriate fees are not received by the Sullivan County Health Department within seven calendar (7) days prior to the beginning of the event, the temporary food establishment will be **denied** a license for operation.

(H) Change of Ownership:

The Sullivan 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 complies with this ordinance.

(I) Responsibilities of the Operator:

Upon acceptance of the Permit issued by the Sullivan 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 Sullivan County Health Department if an Imminent Health Hazard may exist;
- (3) Allow representatives of the Sullivan County Health Department access to the Bed and Breakfast Establishment and/or Food Establishment at all reasonable times;
- (4) Comply with directives of the Sullivan County Health Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Sullivan 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 Sullivan 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 Sullivan 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.

Section D: Permit Fees

(A) General

It shall be unlawful for any Person to operate a Bed and Breakfast Establishment and/or Food Establishment in Sullivan County, who has not paid the Permit fee required to be paid for the operation of such establishment.

The fee for the Bed and Breakfast Establishments and Food Establishments 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.

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

A receipt for the payment of such fees shall be provided by the Sullivan County Health Department.

The payment of such fees shall be required for each Bed and Breakfast Establishment and/or Food Establishment operated or to be operated by any Person.

(B) Pro Rating of Fees:

If a business applies for a Bed and Breakfast and/or Food Establishment permit (excluding a temporary or mobile retail food establishment) any time after June 30, they shall be required to pay one-half (1/2) of the annual fee.

(C) Exemption from Permit Fees:

An organization that is exempt under Indiana Code 16-18-2-137 will not be subject to permit fees. The Health Officer shall be provided, upon request, proof of an organization's tax exemption.

(D) Late Fees:

- (1) A fee shall be assessed as set by the Sullivan County Health Department for failure to **acquire** a license before the operation of a Bed and Breakfast Establishment and/or Food Establishment.
- (2) A late fee shall be assessed as set by the Sullivan County Health Department for failure to **renew** a permit within 14 days after the expiration of the permit to operate Bed and Breakfast Establishment and/or Food Establishment.

PENALTY FEE SCHEDULE	
Operating without a license	\$ 500.00
Failure to renew within the 14-day grace period	\$ 100.00

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

Section E: Inspection

(A) General:

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

The Sullivan 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 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 phone or other means by the Health Department to ensure that the establishment manager and the nature of the food operation are not changed.
- (3) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is Non-TCS such as carbonated beverages and snack food, such as chips, nuts, popcorn, and pretzels.

(B) Temporary Food Establishment:

The Sullivan County Health Department shall periodically inspect throughout the Permit period of a Temporary Food Establishment that prepares, sells, or serves unpackaged TCS food and may inspect Temporary Food Establishments that prepares, sells, or serves unpackaged, Non-TCS food that:

- (1) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- (2) Has food employees who have not demonstrated knowledge, as per 410 IAC 7-26, of food operations.

(C) Performance and Risk Based Inspections:

Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Sullivan County Health Department may 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; (See Table 1)
- (6) The number of people served; and
- (7) Whether the population served is a highly susceptible population as defined by Indiana law.

Table 1: Menu Type

1 - Pre-packaged TCS foods only. Limited preparation of non-TCS foods only.	At least once a year.
2 - Limited menu (1 or 2 main items). Pre-packaged raw ingredients are cooked or prepared to order. Retail food operations exclude deli or seafood department. Raw ingredients require minimal assembly. Most products are cooked/prepared and served immediately. Hot and cold holding of TCS foods is restricted to single meal service. Preparation processes requiring cooking, cooling, and reheating are limited to 1 or 2 TCS foods.	At least once every 6 months.
3 - Extensively handling of raw ingredients. Preparation process includes the cooking, cooling, and reheating of TCS foods. A variety of processes require hot and cold holding of TCS food. Advance preparation for next day-service is limited to 2 or 3 items. Retail food operations include deli and seafood departments.	At least once every 4 months.
4 - Extensive handling of raw ingredients. Preparation processes include the cooking, cooling, and reheating of TCS foods. A variety of processes require hot and cold holding of TCS foods. Food processes include advanced preparation for next-day service. Category would also include those facilities whose service population is highly susceptible.	At least once every 3 months.
5 - Extensive handling of raw ingredients. Food processing at the retail level, e.g., smoking and curing; reduced oxygen packaging for extended shelf-life.	At least once every 3 months.

(E) Access Allowed at Reasonable Times After Due Notice:

After the Sullivan 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 Sullivan 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 Sullivan County Health Department is entitled to 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 Food Establishment's hours of operation and other reasonable times.

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

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

(F) Inspection Reports:

The Sullivan County Health Department shall provide a copy of the completed Inspection Report and the notice to correct violations to the Operator or the the Person-in-charge, as required under IC 16-20-8.

(G) Timely Correction for Priority or Priority Foundation Items:

Except as specified in the next paragraph, the owner or operator shall at the time of the inspection, correct a violation of a Priority (P) or Priority foundation (Pf) item 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 Sullivan County Health Department may agree to or specify a longer time frame, not to exceed:

- 1) 72 hours after the inspection, for the owner or operator to correct violations of a priority item; or
- 2) 15 calendar days after the inspection, for the owner or operator to correct violations of a priority foundation item or HACCP plan deviation.

(H) Timely Correction for Core Items:

Except as specified in the next paragraph, the owner or operator shall correct core items by a date and time agreed to or specified by the department, but no later than 90 calendar days after the inspection.

The Sullivan County Health Department may approve a compliance schedule that extends beyond the time limits specified above if the permit holder submits a written schedule of compliance and no health hazard exists or will result from allowing an extended schedule for compliance.

(I) Public Information:

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

Section F: Compliance and Enforcement

(A) Application Denial:

If an application for a plan review and/or Permit to operate a Bed and Breakfast and/or Food Establishment is denied, the Sullivan 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.

(B) Permit Revocation:

The Sullivan County Health Department may revoke a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment for a 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.

(C) Permit Suspension:

The Sullivan County Health Department may suspend a Permit to operate a Bed and Breakfast Establishment and/or Food Establishment if it determines through inspection, or examination of employee, food, records, or other means as specified in this ordinance, that an Imminent Health Hazard exists. 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.

(D) Ceasing Operation /Contacting the Sullivan County Health Department:

An Operator of a Bed and Breakfast Establishment and/or Food Establishment shall immediately discontinue operations and notify the Sullivan 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.

(E) 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 Sullivan County Health Department before resuming operations.

(F) Outstanding Fees:

Any outstanding fees and civil penalties owed to the Sullivan County Health Department shall be paid before the issuance of a permit.

(G) Enforcement Procedures: (See IC 16-42-5-28(g))

The Sullivan County Health Department shall utilize progressive enforcement measures for repeat violations documented during inspections of retail food establishments.

Retail food establishments shall be afforded a reasonable opportunity to correct violations prior to civil penalty assessment. However, repeated noncompliance demonstrates a failure to maintain compliance with applicable food safety regulations and may result in civil penalties.

(1) First Inspection

(A) If a violation occurs during the first inspection:

- (1) The violation shall be recorded on the inspection report.
- (2) The establishment shall be informed of corrective actions required.
- (3) A compliance timeline will be established.
- (4) No civil penalty shall be issued for the initial occurrence unless otherwise authorized by law due to an imminent health hazard or severe public health risk.

(2) Second Inspection – Repeat Violation Documented

(A) If the same violation is documented during a second consecutive inspection:

- (1) The violation shall be classified as a repeat violation.
- (2) The repeat violation shall be documented on the inspection report.
- (3) The establishment shall receive written notice that further repeat violations may result in civil penalties under 410 IAC 7-23-1.
- (4) SCHD staff shall provide education and corrective guidance as appropriate.
- (5) No civil penalty shall be issued at the second inspection unless otherwise authorized by law.

(3) Third Inspection – Civil Penalty Assessment

(A) If the same violation is documented during a third consecutive inspection:

- (1) SCHD may issue a civil penalty.
- (2) The civil penalty shall be assessed at the maximum amount authorized under 410 IAC 7-23-1 for the applicable violation category.
- (3) The civil penalty shall be documented in writing and served by first-class mail to the permit holder or operator on record.
- (4) The notice shall include:
 - (a) The violation cited;

- (b) The inspection dates documenting the repeat violation;
- (c) The applicable code section;
- (d) The amount of the civil penalty;
- (e) Payment instructions;
- (f) The deadline for payment, and
- (g) Notice of additional enforcement actions for continued noncompliance.

(4) Fourth Inspection – Daily Civil Penalties

(A) If the same violation is documented during a fourth consecutive inspection:

- (1) SCHD may initiate daily civil penalties.
- (2) Daily civil penalties may be assessed beginning on the date of the fourth inspection.
- (3) Daily civil penalties shall continue to accrue each calendar day until the violation has been verified as corrected by SCHD.
- (4) The amount of each daily penalty shall not exceed the maximum amount authorized under 410 IAC 7-23-1.
- (5) SCHD may conduct follow-up inspections as necessary to verify correction.
- (6) Failure to correct the violation may result in additional enforcement actions, including permit suspension, permit revocation, closure orders, or referral to the county attorney.

(5) Payment Requirements

- (A) All civil penalties shall be paid within thirty (30) calendar days from the date the notice is mailed by first-class mail.
- (B) Payment shall be made payable to the Sullivan County Health Department or other designated county office.
- (C) Failure to pay the civil penalty within thirty (30) days may result in referral of the matter to the Sullivan County Attorney for prosecution or further legal action.
- (D) SCHD may seek recovery of all applicable penalties, court costs, and associated enforcement expenses as permitted by law.

(H) Order to Abate:

The Sullivan County Health Officer may issue an “Order to Abate” based on a condition that may transmit, generate, or promote disease. 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. (See 16-20-1-25; See also the Appeals Section of this Ordinance to ensure that due process is followed.)

(I) Ordinance Violation:

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

Section G: Appeals Section

- 1) Any Person(s) aggrieved by Orders issued under the Enforcement Options of Section F above shall be entitled to a review of the final Order before a Hearing Officer by filing a written request thereof with the Health Officer (Secretary of the Sullivan 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 Health Officer's receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place, and nature thereof. The time shall be measured pursuant to the rules of court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)
- 3) The notice of 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 H: Conflict of Interest

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

Section I: Unconstitutional 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 J: 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.

Passed and adopted by the Commissioners of Sullivan County, State of
Indiana, on this _____ day of _____ 2026.

Signed:

Robert A. Davis

Brant Ford

John Waterman

Sullivan County Board of Commissioners

Sullivan, Indiana

Attest:

Amy Scarbrough, Auditor