

February 21, 2012

Commissioners met on this day with the following members present: John Richwine and Jeff Hardin. Steffanie Owens was absent due to vacation. Also present were Patty Mauck, Chief Deputy Auditor, Commissioners Office Manager Linda Smith and County Attorney Jerry Shine.

IN THE MATTER OF APPROVAL OF CLAIMS

Commissioners approved the February 15, 2012 claims. Motion to approve made by Jeff Hardin and seconded by John Richwine. Motion carried unanimously.

IN THE MATTER OF ANDERSON PUBLIC LIBRARY APPOINTMENT

Commissioners approved the appointment of Lynn Rally to finish the term of Jessica Stalmaker who is now on that Board but is moving out of the County so she can no longer serve. Her term ends January 13, 2013. Motion to approve made by John Richwine and seconded by Jeff Hardin. Motion carried unanimously.

IN THE MATTER OF REQUEST FOR APPROVAL TO REMODEL THE COUNTY RECORDERS OFFICE

County Recorder, Angela Shelton, came before the Board of Commissioners with a request to remodel her office. She gave a presentation of how she wanted to remodel the office. She gave the Commissioners her floor plan. She has a proposal of \$6,410.00 from Tom Maines. She said she would pay this out of the Records Perpetuation Fund. After her presentation Commissioner Richwine told Ms. Shelton that he was under the impression that she could not use the Records Perpetuation money for remodeling. She stated that the President of the Records Association assured her that she could use this money for her office needs. He also stated that she needs to go to Property Manager, Denny Williamson before getting any estimates for work that she wants done concerning wiring and remodeling, then through the Commissioners. Commissioner Richwine said he would talk to Denny when he got back from vacation concerning her proposals and any handicap problems in her office and other offices in the courthouse.

IN THE MATTER OF APPROVAL OF 2012 JAIBG GRANT

Katherine Holtzleiter, Chief Juvenile Probation Officer, came before the Commissioners asking for approval of the 2012 JAIBG Grant. Motion to approve grant made by Jeff Hardin and seconded by John Richwine. Motion carried unanimously.

February 21, 2012

IN THE MATTER OF APPROVAL OF ORDINANCE NO. 2012-BC-O-01, RETAIL FOOD ESTABLISHMENT ORDINANCE AMENDING ORDINANCE NO. 1983-BC-0-02

Commissioners approved Ordinance No. 2012-BC-O-01, Retail Food Establishment Ordinance Amending Ordinance No. 1983-BC-O-02. The amendment is defining the definition of Food Establishment and the definition of Bed and Breakfast. Motion to approve Ordinance 2012-BC-O-01 made by John Richwine and seconded by Jeff Hardin. Motion carried unanimously.

ORDINANCE NO. 2012-BC-01

**RETAIL FOOD ESTABLISHMENT ORDINANCE
AMENDING ORDINANCE NO. 1983-BC-0-2**

WHEREAS, the Board of Commissioners of Madison County, Indiana approved Ordinance No. 1983-BC-0-2 on _____, 1983; and

WHEREAS, recent legislation has amended the applicable Indiana Code; and

WHEREAS, it is in the best interest of Madison County, Indiana to amend this Ordinance to safeguard the public health; and

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, and equipment and facilities; and provides for Food Establishment and/or Bed and Breakfast Establishment plan reviews, permits, inspections, and employee restrictions.

This ordinance defines Bed and Breakfast Establishment, Conflict of Interest, Madison County Health Department, Madison County Official, Hazard Analysis Critical Control Point, Health Officer, Hearing Officer, Imminent Health Hazard, Inspection Report, Operator, Order, Permit, Person, Food Establishment; requires construction and/or alteration plans; requires a Permit and payment of Permit fees for the operation of Bed and Breakfast Establishment and/or Food Establishment; prohibits sale of adulterated, unwholesome, or misbranded food; regulates inspection of such establishments; provides for compliance and the enforcement of this ordinance; provides penalties for violations of said ordinance; and incorporates by reference Indiana Code(s) (IC) 16-42-1, IC 16-42-2, IC 16-42-5, IC 16-41-31, IC 16-42-52 Indiana State Department of Health Rule(s) 410 Indiana Administrative Code (IAC) 7-15.5, 410 IAC 7-24, 410 IAC 7-21-47, 410 IAC 7-22, and 410 IAC 7-23.

The Madison 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 MADISON COUNTY, STATE OF INDIANA,
THAT:

Section I: Definitions

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

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

Conflict of Interest (derived from 68 IAC 9-1-1 (b)(2)) means situation in which the private financial interest of Madison County Official, Madison County Official's spouse, ex-spouse, siblings, in-laws, children and/or unemancipated child, may influence the Madison County Official's judgment in the performance of a public duty. (Note: The Madison County Officials should follow the code of ethics if a code of ethics was established for Madison County Officials.

Food Establishment (as defined in IC 16-18-2-137) for purposes of IC 16-42-5 and IC 16-42-5.2, 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, and 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) An individual vendor of a farmers' market or roadside stand if the individual meets the requirements of IC 16-42-5-29.

This definition also includes a Retail *Food Establishment* as defined in 410 IAC 7-24; however it does not include a Bed and Breakfast.

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

Official means any Official of Madison County, Indiana.

Hazard Analysis Critical Control Point (HACCP) Plan (as defined in 410 IAC 7-24) means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

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

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

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

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

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

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

Section B: Plan Review

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

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

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

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

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

Permit Period: A Permit for a Retail Food Establishment and/or Bed and Breakfast 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.

Permit Content: Any Permit issued by the Health Officer shall contain:

A. the name and address of the Person and/or owner to whom the Permit is granted;

- B. the location of the establishment for which the Permit is issued;
- C. the issuance and expiration date(s); and
- D. other such pertinent data as may be required by the Madison County Health Officer.

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

Content of the Application: The application shall include:

- A. The name, mailing address, telephone number, and original signature of the Person and/or Operator applying for the Permit and the name, mailing address, and location of the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment;
- B. Information specifying whether the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- C. A statement specifying whether the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment:
 - 1. If not permanent, is mobile and/or temporary, and
 - 2. The operation includes one (1) or more of the following:
 - (a) Prepares, offers for sale, or serves potentially hazardous food:
 - (i) Only to order upon a consumer's request;
 - (ii) In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or
 - (iii) Using time, rather than temperature, as the public health control as specified under 410 IAC 7-24.
 - (iv) Prepares acidified foods as defined in 410 IAC 7-21-3.
 - (b) Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;
 - (c) Prepares food as specified under item (3)(B)(2) of this section for delivery to and consumption at a location off the premises of the Retail Food Establishment and/or Bed and Breakfast Establishment where it is prepared;
 - (d) Prepares food as specified under item (3)(B)(2) of this section for service to a highly susceptible population, as defined in 410 IAC 7-24;
 - (e) Prepares only food that is not potentially hazardous; or
 - (f) Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous.
 - 3. The name, title, address, and telephone number of the Operator directly responsible for the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment.
 - 4. The name, title, address, and telephone number of the Person who functions as the immediate supervisor of the Person specified under subdivision (4) of this section such as the zone, district, or regional supervisor;
 - 5. The names, titles, and addresses of:

- (a) The Persons comprising the legal ownership as specified under subdivision 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:
 - (c) Comply with this ordinance, and
 - (d) Allow the Madison County Health Department access to the Retail Food Establishment, Bed and Breakfast Establishment, and/ or Temporary Food Establishment and records as specified in 410 IAC 7-15.5 and 410 IAC 7-24
- 7. Other information required by the Madison County Health Department.

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

- A. Be an owner and/or Operator of the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment;
- B. Comply with the requirements of this ordinance;
- C. Agree to allow access to the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment and provide required information; and
- D. Pay the applicable Permit fees at the time the application is submitted.

Plans Requirements:

- A. The owner or other authorized agent of an existing or proposed Retail Food Establishment and/or Bed and Breakfast Establishment shall submit to the Madison County Health Department properly prepared plans and specifications for review and approval before:
 - 1. the construction of a Retail Food Establishment and/or Bed and Breakfast Establishment;
 - 2. the conversion of an existing structure for use as a Retail Food Establishment and/or Bed and Breakfast Establishment; or
 - 3. the remodeling of a Retail Food Establishment and/or Bed and Breakfast Establishment or a change of type of Retail Food Establishment and/or Bed and Breakfast Establishment or food operation if the Madison County Health Department determines that plans and specifications are necessary to ensure compliance with this section.
- B. The plans and specifications for a Retail Food Establishment and/or Bed and Breakfast Establishment shall include, the type of operation, type of food preparation (as specified in Appendix B of the published version of 410 IAC 7-24), and the menu.
- C. The plans and specifications shall be deemed satisfactory and approved by Madison County Health Department before a Permit can be issued.
- D. A pre-operational inspection shows that the Retail Food Establishment and/or Bed and Breakfast Establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this ordinance, 410 IAC 7-24 and/or 410 IAC 7-15.5.
- E. Written verification of consultation with local land planning jurisdiction.

Change of Ownership: Upon change of ownership, the new owner shall apply for and submit a properly completed application for a Retail Food Establishment Permit. After a completed

application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this ordinance; the Madison County Health Department shall issue a permit to the new owner.

Responsibilities of the Operator: Upon acceptance of the Permit issued by the Madison County Health Department, the Operator in order to retain the Permit shall:

- A. Comply with the provisions of this ordinance and all laws and rules adopted by reference herein and the conditions of any variances granted by the Indiana State Department of Health;
- B. Immediately discontinue affected operations and notify the Madison County Health Department if an Imminent Health Hazard may exist;
- C. Allow representatives of the Madison County Health Department access to the Retail Food Establishment and/or Bed and Breakfast Establishment at all reasonable times;
- D. Comply with directives of the Madison County Health Department including time frames for corrective actions specified in Inspection Reports, notices, Orders, warnings, and other directives issued by the Madison County Health Department in regard to the Operator's Retail Food Establishment and/or Bed and Breakfast Establishment or in response to community emergencies;
- E. Accept notices issued and served by the Madison County Health Department; and
- F. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this ordinance or a directive of the Madison County Health Department.
- G. Post the Permit in a location in the Retail Food Establishment and/or Bed and Breakfast Establishment that is conspicuous to consumers;

Section III: Permit Fees

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

The fee shall be paid for a term beginning January 1 and/or before commencement of operation and expiring December 31, of the same year and shall be applied for by the Person and/or Operator annually.

Permit fees for the issuance of a Permit under this Ordinance to a Retail Food Establishment, a Bed And Breakfast Establishment, and/or a Temporary Food Establishment shall be set by the Madison 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 fee shall be provided by the Madison County Health Department.

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

Exemption from Permit Fees: An organization that is exempt from the Indiana Gross Income Tax under Indiana Code 6-2.1-3-20 through 6-2.1-3-22 and offers food for sale to the final consumer at an event held for the benefit of the organization is exempt from the payment of fees. This exemption only applies to organization(s) that meet the criteria addressed in Indiana Code 16-42-5-4. The Health Officer shall be provided, upon request, proof of an organization's tax exemption.

Late Fees: A late fee for failure to pay the permit fee prior to the operation of the Retail Food Establishment and/or Bed and Breakfast Establishment or the late fee for failure to renew a permit after the expiration of the permit to operate Retail Food Establishment and/or Bed and Breakfast Establishment shall be set by the Madison County Health Department, in addition to the ordinary fee as set by the Madison County Health Board.

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

Section IV: Inspection

General: The Madison County Health Department shall inspect a Retail Food Establishment and/or Bed and Breakfast Establishment at least once every 6 months. The Madison County Health Department may increase the interval between inspections beyond 6 months if:

- A. The Retail Food Establishment and/or Bed and Breakfast Establishment is fully operating under an approved and validated Hazard Analysis Critical Control Point (HACCP) plan(s);
- B. The Retail Food Establishment and/or Bed and Breakfast Establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule.
- C. The Madison County Health Department may contact the Operator to determine that the nature of the food operation has not changed.

Temporary Food Establishment: The Madison 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, nonpotentially hazardous food that:

- A. Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or
- B. Has untrained food employees.

Performance and Risk Based Inspections: Within the parameters specified in the above Inspection Subsection(s) of this Ordinance, the Madison County Health Department shall prioritize, and conduct more frequent inspections based upon its assessment of a Retail Food Establishment and/or Bed and Breakfast Establishment's history of compliance with this ordinance and the Retail Food Establishment and/or Bed and Breakfast Establishment's potential as a vector of foodborne illness by evaluating:

- A. Past performance, for violations of 410 IAC 7-15.5, 410 IAC 7-20, 410 IAC 7-22, 410 IAC 7-24, and/or HACCP plan requirements that are critical or non-critical;
- B. Past performance, for numerous or repeat violations of 410 IAC 7-15.5, 410 IAC 7-20, 410 7-24, and/or HACCP plan requirements that are noncritical;
- C. Past performance, for complaints investigated and found to be valid;
- D. The hazards associated with the particular foods that are prepared, stored, or served;
- E. The type of operation including the methods and extent of food storage, preparation, and service;
- F. The number of people served; and

G. Whether the population served is a highly susceptible population.

Access Allowed at Reasonable Times After Due Notice: After the Madison 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 Madison County Health Department to determine if the Retail Food Establishment, Bed and Breakfast Establishment, 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 Madison County Health Department is entitled the information and records according to IC 16-42-1-13 and IC 16-42-5-23, during the Retail Food Establishment and/or Bed and Breakfast 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)

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

Timely Correction of Critical Violations: Except as specified in the next paragraph, an Operator shall at the time of inspection correct a critical violation of 410 IAC 7-15.5, 410 IAC 7-20, 410 IAC 7-22, and/or 410 IAC 7-24 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 Madison County Health Department may agree to or specify a longer time frame after the inspection, for the Operator to correct critical code violations or HACCP plan deviations.

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

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

A refusal to sign an acknowledgment of receipt is noted in the Inspection Report and conveyed to the Madison County Health Department historical record for the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment.

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

Public Information: Except as specified in section 176 (Trade Secrets) of 410 IAC 7-24, the Madison County Health Department shall treat the Inspection Report as a public document and shall make it available for disclosure to a Person who requests it as provided in law. (See IC 16-20-8-6)

Section V: Compliance and Enforcement

Application Denial: If an application for a plan review and/or Permit to operate a Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment is denied, the Madison County Health Department shall provide the applicant with a notice that includes:

- A. The specific reasons and rule citations for the application and/or Permit denial;
- B. The actions, if any, that the applicant must take to qualify for the application and/or Permit; and
- C. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

Permit Suspension: The Madison County Health Department may suspend a Permit to operate a Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary 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.

Ceasing Operation and Contacting the Health Department: An Operator of a Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment shall immediately discontinue operations and notify the Madison 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 unsanitary occurrence or condition, or other circumstance that may endanger public health.

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

Resuming Operation: If a Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment have discontinued operations for the reasons stated above or otherwise according to law, the Operator must obtain approval from the Madison County Health Department before resuming operations.

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

Enforcement Options: (See IC 16-42-5-28(g)) The following are options available to Madison County Health Department for consideration:

- A. Establish a process for the issuing of tickets based on violation of the Retail Food Establishment and/or Bed and Breakfast Establishment requirements. (See IC 16-42-5-28 (g) and IC 33-6-3-1 for guidance) (See also the Appeals Section of this Ordinance to ensure that due process is followed.)
- B. Conduct administrative proceeding for suspension and/or revocation of the Retail Food Establishment, Bed and Breakfast Establishment, and/or Temporary Food Establishment Permit in front of a Hearing Officer. (See the Appeals Section of this Ordinance to ensure that due process is followed.)

- C. The Madison 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 IC 16-20-1-25; See also the Appeals Section of this Ordinance to ensure that due process is followed.)
- D. If the action concerning public health is an ordinance violation, request the county attorney to institute a proceeding in the courts for the enforcement of the ordinance violation. (See IC 34-28-5-1)
- E. If the action concerning public health is a criminal offense, request the county prosecuting attorney to institute a proceeding in the courts for enforcement. (See IC 16-20-1-25 (c)).
- F. Schedule of civil penalties for violations may be imposed pursuant to 410 IAC 7-23.

Section VI: Appeals Section

- A. Any Person(s) aggrieved by Orders issued under the Enforcement Options 1-3 of Section E above shall be entitled to a review of the final Order before a Hearing Officer by filing a written request therefore with the Health Officer (*Secretary of the Madison County Board of Health See IC 16-20-1-10*). The written request must be mailed or hand delivered to Health Officer, (206 East 9th Street, Suite 200, Anderson, Indiana 46016) and must be received within fifteen (15) days after such final Order is issued.
- B. Upon the Health Officer receipt of such request, the Hearing Officer shall hear the matter again in an open hearing after at least five (5) days written notice of the time, place and nature thereof. The time shall be measured pursuant to the rules of court of the jurisdiction. (A shorter period of time may be granted, if requested by either party and agreed upon.)
- C. 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.
- D. The Hearing Officer establishes the Rules of Procedure and advises the parties prior to the start of the proceedings.
- E. The Hearing Officer shall make written findings of facts and shall enter its final Order or determination of this matter in writing.
- F. The Order completes the Administrative Appeals procedure.

Section VII: Conflict of Interest

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

Section VIII: Unconstitutionally 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 IX: 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 ENACTED by the Board of Commissioners of Madison County, Indiana, this 21st day of February, 2012.

MADISON COUNTY BOARD OF COMMISSIONERS

BY: S/John Richwine

JOHN RICHWINE, *President*

S/Jeff Hardin

JEFF HARDIN, *Member*

S/Steffanie Owens

STEFFANIE OWENS, *Member*

ATTEST:

S/Kathy Stoops-Wright
KATHY STOOPS-WRIGHT, *County Auditor*

*Publish:
Anderson Herald-Bulletin
Elwood Call-Leader*

PREPARED BY:
Gerald P. Shine, Jr. (#297-48)
Madison County Attorney

IN THE MATTER OF APPROVAL FOR THE REMOVAL AND DISPOSAL OF PBX PHONE EQUIPMENT

Jerry Branson, ITS Director, reported that they have had three bids submitted for the disposal of the old PBX phone equipment. Jerry also stated that the equipment could be sold separately but the problem is storage of the equipment until it is sold. Also they could go to a State webpage as surplus property but it would have to be of certain value to use the State. Commissioner Richwine made a motion to accept as the highest bidder to get rid of the equipment as soon as possible. Motion seconded by Jeff Hardin. Motion carried unanimously.

February 21, 2012

IN THE MATTER OF APPROVAL OF VERIZON WIRELESS FEDERAL SUPPLY SCHEDULE

Captain Jim Cleaver, Sheriff's Department, asked for this to be tabled once more pending more information. Motion to table made by John Richwine and seconded by Jeff Hardin. Motion carried unanimously.

IN THE MATTER OF FIRE AND DISPATCH CONTRACTS FOR 2012

Captain Cleaver brought the four contracts below for the Sheriff Fire Dispatch for 2012 from Cities and Towns in Madison County. He stated that he is waiting on the other 10 contracts. Commissioner Richwine made a motion to approve the contracts they have now and approve the others when they get them in. Motion seconded by Jeff Hardin. Motion carried unanimously.

- Lafayette Township – \$22,351.00
- Richland Township – \$29,790.00
- Summitville Fire Territory – \$15,951.00
- Town of Frankton - \$5,004.00

IN THE MATTER OF E911 FUNDS FOR SHERIFF DEPARTMENT

Major Brian Bell came back to the Commissioners for the approval of E911 funds to pay for 2 new chairs for the Dispatch Center in the amount of \$2,718.00 and for 4 refurbished chairs in the amount of \$1, 600.00. Motion to approve request made by John Richwine and seconded by Jeff Hardin. Motion carried unanimously.

The next Commissioners meeting is scheduled for Tuesday, March 6, 2012 but due to all three Commissioners being at Road School on that week motion was made by John Richwine and seconded by Jeff Hardin to cancel the meeting. Motion carried unanimously.

The next scheduled meeting will be on March 20, 2012 at 10:00 a.m.

There being no further business the meeting was adjourned.

BOARD OF COMMISSIONERS

