

2019-27

**THE HENDRICKS COUNTY  
LODGING ESTABLISHMENT  
ORDINANCE NO. 2019-27**

**WHEREAS**, the purpose of this ordinance is to safeguard public health, provide for the welfare and safety of citizens and visitors of Hendricks County, Indiana and assure that lodging establishments are free from rodent and insect infestation.

**WHEREAS**, the Ordinance establishes definitions; sets standards for all Lodging Establishment located in Hendricks County, Indiana; lodging establishment owners and operators; and provides penalties for violations of this ordinance;

**WHEREAS**, Indiana local health departments may conduct sanitary inspections and surveys of public and private property according to IC 16-20-1-22 and IC 16-20-1-23, and ensure that persons do not institute, permit, or maintain any conditions that may transmit, generate, or promote disease according to IC 16-20-1-25; and,

**WHEREAS**, the Hendricks County Health Department is hereby authorized to perform investigations, collect penalties for violations included within this ordinance, 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 Hendricks County, State of Indiana, as follows:

**SECTION 1: Definitions**

- A. Contiguous: Sharing a common wall, floor, or ceiling.
- B. Guest: Any Person renting, occupying, or having actual possession of a Guest Room in a Lodging Establishment.
- C. Guest Room: Any room established and maintained for use as a sleeping area for temporary or long-term occupancy in a Lodging Establishment.
- D. Habitual Non-compliance: Three or more Investigations of a Lodging Establishment with Investigation Reports within the last two years demonstrating:
  - 1) Three (3) consecutive Investigations documenting the same Violation without significant progress or actions to remediate the Violation, or
  - 2) Four (4) non-consecutive Investigations documenting the same Violation without significant progress or actions to remediate the Violation.
- E. Harborage: Any place where Pests can live, nest, seek shelter, or reproduce. This includes, but is not limited to, cardboard boxes, trash, unused tires, unused appliances, and building materials.

- F. Health Officer: The Hendricks County Health Officer having jurisdiction in Hendricks County, Indiana or the duly authorized representative.
- G. Infestation: The presence of any Pest in the Lodging Establishment which is deemed likely to pose a hazard to public health through disease, injury, or sickness.
- H. Investigation: An inspection of the Lodging Establishment during normal business hours to ensure the minimum standards set forth by this Ordinance are met. The Investigation is initiated by a complaint received from an agency or a member of the public.
- I. Investigation Report: The document prepared by the Hendricks County Health Department that is completed as a result of the Investigation and provided to the Owner of the Lodging Establishment.
- J. Lodging Establishment: A hotel, motel, or inn located in Hendricks County, Indiana where space is leased, rented, or otherwise occupied in which sleeping accommodations are provided for a Guest for either short or long-term stays. This definition does not include apartments, private homes, bed and breakfast establishments, dormitories, or boarding houses.
- K. Owner: Any Person who, alone, jointly, or severally with others:
  - 1) Has legal title to any Lodging Establishment, with or without accompanying actual possession thereof; or
  - 2) Has charge, care or control of the Lodging Establishment as Owner or agent of the Owner or an executor, administrator, trustee or guardian of the estate of the Owner. Any such Person thus representing the actual Owner shall be bound to comply with the provisions of this Ordinance and of the rules and regulations adopted pursuant thereto to the same extent as if this Person were the Owner.
- L. Person: Includes, but not be limited to, an individual, corporation, firm, partnership, proprietorship, association, business organization, municipality or any other group acting as a unit, as well as an individual, trust or estate, or the agent or legal representative thereof.
- M. Pest: An insect, rodent, or other animal that creates a public health risk or nuisance, including but not limited to, a bed bug, rodent, cockroach, flea, or ant.
- N. Unsanitary or Unlawful Condition: Any condition that may transmit, generate, or promote disease, injury, or sickness. This would include the existence on the premises of an unsanitary condition that is likely to cause sickness to a Guest due to an Infestation or gross unsanitary condition. Examples would include, but are not limited to, Harborage or Infestation conditions.
- O. Violation: The lack of compliance this Ordinance, including the existence of an Unsanitary or Unlawful Condition.

## **SECTION 2: Applicability and General Provisions**

- A. This Ordinance shall be in full force and effect upon its adoption and publication as provided by law.
- B. The Hendricks County Health Department shall have the authority to enforce the provisions of this ordinance.
- C. The Hendricks County Health Officer may enter to inspect the Lodging Establishment or individual Guest Rooms under the procedure set forth in Indiana Code sections 16-20-1-22 and 16-20-1-23, as amended from time to time, to ensure compliance with this ordinance, including taking any necessary measurements, observations, sampling or testing.
- D. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

## **SECTION 3: Minimum Requirements of a Lodging Establishment**

- A. The Lodging Establishment is free of any Unsanitary or Unlawful Condition, including, but not limited to, Harborage conditions, the presence of Pests, or Infestations.
- B. The Owner shall have a written policy in place for personnel, including reception and housekeeping, to handle complaints regarding Pests.
- C. The Owner maintains pest complaint logs and pest control invoices on the premises for at least one year. These logs and invoices may be inspected by the Health Officer.

## **SECTION 4: Compliance and Enforcement**

- A. The representative of the Health Officer will complete and provide to the Owner an Investigation Report at the time of the onsite Investigation.
- B. A date for correction shall be noted for each Violation documented on the Investigation Report.
- C. Refusal to sign an acknowledgement of receipt of the Investigation Report will not affect the Owner's obligation to correct the Violations noted in the Investigation Report within the date by which the Violation shall be corrected.
- D. If upon Investigation by the Hendricks County Health Department, an Unsanitary or Unlawful Condition is found within the Lodging Establishment, the Owner shall provide educational materials and training to all applicable Lodging Establishment employees on Pest identification and indications of Pest activity.
- E. If any Guest Room is deemed dangerous or detrimental to life or health because of the

existence on the premises of an Unsanitary or Unlawful Condition, the Guest Room and any Contiguous room shall not be occupied until the conditions causing it to be unfit are remediated. Items shall not be moved into or out of the Guest Room until it can be inspected by a licensed pest control professional and approval is provided by the Health Officer.

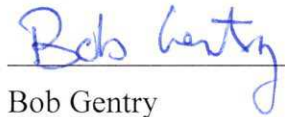
- F. If bed bugs are found in a Guest Room, all Contiguous rooms must also be inspected by a licensed pest control professional and treated as necessary. Guest Rooms and Contiguous rooms may not be used until approved by the Health Officer.
- G. The Health Officer may order the immediate closure of a Lodging Establishment for the following reasons:
  - 1) Interference with the Health Officer in the performance of duties. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Officer in the performance of duties.
  - 2) As a result of continuous Violation of any provision of this Ordinance following an administrative hearing as set forth in this ordinance.
- H. Whenever the Health Officer finds an Infestation in a Guest Room, the Health Officer may, without notice or hearing, issue and serve a written order upon the Owner requiring the immediate closure of its operations of designated Guest Rooms and any Contiguous rooms. If the Infestation includes more than twenty-five percent (25%) of the Guest Rooms, the entire Lodging Establishment may be required to close. The Health Officer shall cite in the written order the existence of said Infestation and shall specify the corrective action(s) to be taken.
- I. Follow-up Investigations to ensure compliance will be conducted by the Hendricks County Health Department. If upon follow-up the Lodging Establishment is found to be in Habitual Non-compliance, the Health Officer may order civil penalties and request an administrative hearing.
- J. A civil penalty of two hundred fifty dollars (\$250.00), not to exceed a total of five thousand dollars (\$5,000.00), may be sought for each Violation. Each individual penalty will be multiplied by the number of days the particular Violation has been documented by the Hendricks County Health Department. Penalties for Violations documented in two (2) consecutive Investigations shall be assessed on the basis that the Violation has remained uncorrected over the period of time between the two (2) Investigations.
- K. The Health Officer may promptly issue a written order for an administrative hearing to the Owner to appear at a certain time and place in the County, in order to show cause why the Lodging Establishment shall continue operation. Hearings required or requested under this Ordinance shall be held upon at least ten (10) days written notice to the Owner of time, place and nature thereof unless a hearing is requested by the establishment Owner pursuant to an immediate closure.
- L. In addition to the foregoing, civil penalties, which may include injunctive relief, may be imposed under Indiana law on any Person who violates any provision of this Ordinance.
- M. In the event a lawsuit is necessary to collect the cost of fees, penalties, or services for this Ordinance, the individual or business entity found to be liable shall also pay for reasonable attorney fees and cost of litigation to the county.


## SECTION 5: Appeal

- A. Any Owner aggrieved by any order of the Health Officer shall be entitled to a review of the order before the Hendricks County Health Board by filing a written request with the Health Officer within fifteen (15) days after such order is issued.
- B. Upon the Health Officer's receipt of such request, the Hendricks County Health Board shall hear the matter in an open hearing after at least five (5) days written notice of the time, place and nature thereof. (The Health Officer and Owner may agree to a shorter time period, if requested by either party.) The notice shall be issued by Health Officer to the Owner filing the request.
- C. The Board shall make written findings of facts and shall enter its final order or determination of the matter in writing.

Passed and adopted by the Board of Commissioners of Hendricks County, State of Indiana, on this 23<sup>rd</sup> day of July, 2019.


### BOARD OF COMMISSIONERS OF HENDRICKS COUNTY

  
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Bob Gentry

  
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Phyllis A. Palmer

  
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Matthew D. Whetstone

Attested by:

  
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Nancy Marsh  
Hendricks County Auditor