

**WASECA COUNTY FOOD AND  
BEVERAGE ORDINANCE No. 136**

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An ordinance providing for the licensing and inspection of restaurants and places of refreshment and similar food service; regulating their design, construction, operation, and maintenance; and providing for the administration and enforcement of this ordinance and fixing of penalties throughout the entirety of Waseca County thereof be and thereby is established as follows:

### **SECTION I – PURPOSE**

The purpose of this ordinance is to establish standards for all food and beverage establishments and to protect the health, safety, and general welfare of the people of Waseca County, including the following general objectives:

1. Provide a minimum standard for the design, construction, operation, and maintenance of food and beverage establishments;
2. Correct and prevent conditions that may adversely affect persons utilizing food and beverage establishments; and
3. Meet consumer expectations for the quality and safety of food and beverage establishments.

### **SECTION II – SCOPE**

This ordinance shall provide for the licensing and inspection of all food and beverage establishments; regulation of the design, construction, operation, and maintenance of such establishments; and the enforcement of violations of this ordinance.

This ordinance shall be applicable to all food and beverage establishments such as restaurants, boarding establishments, and places of refreshment as defined in Minn. Stat. § 157, and shall include temporary and push cart commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, public buildings, and churches, except as exempted by Minn. Stat. § 157.22, and all other businesses and establishments where meals, lunches, or drinks are served.

### **SECTION III – AUTHORITY**

This ordinance is enacted pursuant to Minn. Stat. § 157, which establishes the authority for the State to license food and beverage establishments, and Minn. Stat. § 145A.05, which authorizes the Commissioner of Health to enter into an agreement with Counties or Cities organized under the provisions of Minn. Stat. § 145A.05 to perform all or part of the licensing, inspection, and enforcement duties authorized under the provisions of these sections.

## **SECTION IV – DEFINITIONS**

### **4.1 ADMINISTRATOR**

The Le Sueur – Waseca Community Health Services Administrator and any related staff acting under the Board's authority.

### **4.2 BOARD**

The Le Sueur – Waseca Community Health Board acting under the provisions of Minn. Stat. § 145A.07 as the Board of Health.

### **4.3 PUBLIC HEALTH DEPARTMENT**

The Le Sueur – Waseca Community Health Board and its Public Health Staff.

## **SECTION V – ADOPTION OF STANDARDS**

The standards for food and beverage establishments outlined in Minn. Stat. § 157 and Minnesota Rules, parts 4626.0010 to 4626.1855, except certification of food protection managers under Minn. Stat. § 157.16, Subd. 2(a), and Minnesota Rules, part 4626.0033, subpart G-O are hereby incorporated in and made part of this ordinance. Wherein Minnesota Rules, Chapter 4626 refers to the Commissioner, Commissioner shall mean the Le Sueur – Waseca Community Health Board and its designated agents.

## **SECTION VI – PLAN REVIEW OF FUTURE CONSTRUCTION**

When an establishment in Waseca County, licensed or to be licensed under the provisions of Minn. Stat. § 157, is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit to the Public Health Department all required plans, specifications, and materials, and comply with the requirements of Minnesota Rules, Chapter 4626. The Public Health Department shall establish policies regarding the circumstances in which a plan review is required. Plans and the fee specified by the Community Health Board shall be submitted at least 30 days before beginning construction, extensive remodeling, or conversion of a food and beverage establishment. The establishment shall be constructed and finished in conformance with the approved plans. The Public Health Department shall inspect the establishment as frequently as deemed necessary during construction to ensure the construction occurs in conformance with the approved plans. The Public Health Department shall conduct a final inspection prior to the start of the operations and issuance of an approved license.

## **SECTION VII – LICENSURE**

### **7.1 LICENSE NEEDED**

It shall be unlawful for any person to operate a food and beverage establishment within Waseca County who does not possess a valid license issued to them by the Public Health Department as required by this ordinance. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment, person, or location to another establishment, person, or location. A valid license shall be posted in every food and beverage service establishment. All licenses expire as of May 31 each year with the exception of food stand licenses, which expire according to dates of issuance not to exceed a time span of one calendar year.

### **7.2 APPLICATION FOR LICENSE**

Any person desiring to operate a food and beverage service establishment shall make written application for a license on forms provided by the Public Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership, or corporation, the location and type of proposed food service establishment, name of the certified food protection manager (if applicable), certification number and expiration, as well as the signature of the applicant or applicants, along with all State of Minnesota required information. If a partnership, the names of the partners, together with their addresses shall be included. Each application for a license, together with the appropriate license fee as described herein shall be submitted to the Community Health Board not later than June 1 each year, following expiration of the previous year's license, transfer of ownership, or in the case of a new business, ten (10) days prior to the opening date of such a business. In the case of a food stand, an application and appropriate license fees must be received prior to operation. Any person who operates a food and beverage service establishment without submitting a license application and appropriate fees shall be deemed to have violated this ordinance and shall be subject to prosecution as provided for in this ordinance.

### **7.3 LICENSE FEES**

Proprietors of any food and beverage establishment shall pay an annual license fee at a rate specified by resolution of the Le Sueur – Waseca Community Health Board. This annual license fee may be adjusted from time to time as the Board shall deem appropriate. A penalty fee at a rate specified by Community Health Board resolution shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Community Health Board by the dates specified above. The license fee for change of ownership of a previously licensed establishment under this chapter for the same license period is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for establishments opening on or after March 1 is one-half the appropriate annual license fee, plus any penalty that may be required.

## **SECTION VIII – COMPLIANCE PROCEDURES**

### **8.1 INSPECTION AND CORRECTION**

- A. The Public Health Department shall inspect food and beverage establishments at least as frequently as required by Minn. Stat. § 157.20 and rules adopted under Minn. Stat. § 157.
- B. The person operating a food and beverage establishment shall, upon request of the Public Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for purpose of inspection. No persons shall interfere with or hinder the Public Health Department in the performance of its duties or refuse to permit the Public Health Department to make such inspections.
- C. The person operating a food and beverage establishment shall exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with the provisions of this ordinance.
- D. Every person engaged in the operation of a food and beverage establishment, as herein defined, shall upon request; furnish reasonable samples free of charge to the Public Health Department for laboratory analysis.
- E. Whenever an inspection of a food and beverage service establishment is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending litigations.
- F. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

### **8.2 EMBARGO, CONDEMNATION, AND TAGGING**

The Administrator may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of Minnesota Rules, parts 4626.1805 through 4626.1815.

### 8.3 PROCEDURE WHEN INFECTION IS SUSPECTED

When the Administrator has reasonable cause to suspect the possibility of disease transmission from a food and beverage service establishment employee, the Public Health Department shall secure an illness or morbidity history of the suspected employee, and/or make other investigations as may be required, and take appropriate action. The Administrator may require any or all of the following measures:

1. The immediate exclusion of the employee from all food service establishments;
2. The immediate closure of the food service establishment concerned until, in the opinion of the Administrator, no further danger of disease outbreak exists;
3. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;
4. Adequate medical and laboratory examinations of the employee, or other employees, and their body discharges.

### 8.4 VARIANCES

The party requesting the variance must submit the variance request in writing on forms provided by the Public Health Department to the Public Health Department along with any applicable fee in accordance with Minnesota Rules, parts 4626.1690 through 4626.1715.

### 8.5 SUSPENSION OF LICENSE

- A. Licenses may be suspended temporarily by the Administrator at any time for failure by the holder to comply with the requirements of this ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within five (5) days with the Administrator by the license holder.
- B. Notwithstanding the other provisions of this ordinance, whenever the Administrator finds unsanitary or other condition(s) in the operation of a food and beverage establishment which, in their judgment, may constitute a substantial hazard to public health, they can without warning, notice, or hearing, issue a written notice to the license holder or operator citing such condition(s), specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all operations are to be immediately discontinued. Any person to whom such an order is issued shall comply

immediately therewith, but upon written petition to the Administrator, shall be afforded an appeal before the Appeals Board as soon as the Appeals Board may be convened.

- C. Any person whose license or permit has been suspended may at any time make application for a re-inspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Administrator shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and Minnesota Rules, Chapter 4626, the license shall be reinstated.

#### 8.6 REVOCACTION OF LICENSE

For serious or repeated violations of any of the requirements of this ordinance or Minnesota Rules, Chapter 4626, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Administrator shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

#### 8.7 APPEALS BOARD

The Appeals Board shall consist of the Chairperson and Vice Chairperson of the Le Sueur – Waseca Community Health Board or their designated appointee, and the Administrator or a designated agent. The Vice Chairperson of the Le Sueur – Waseca Community Health Board shall serve as Chairperson of the appeals board.

- A. **REQUEST FOR HEARING.** Any person affected by a notice of embargo, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Administrator, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served.
- B. **DATE OF HEARING.** The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment a good and sufficient reason exists for such postponement.
- C. **NOTICE OF HEARING.** The Administrator shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner or petitioner's last known address.

- D. PROCEEDINGS. At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of embargo, suspension, or revocation issued by the Administrator should be modified or withdrawn. The Administrator shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
- E. DECISIONS OF THE APPEALS BOARD. The Appeals Board, within three (3) days after such hearing, shall sustain, modify, or withdraw the notice of embargo, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.
- F. RECORD OF PROCEEDINGS. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Administrator, shall be recorded and reduced to writing and entered as a public record in the office of the Administrator. Such record shall include a copy of every notice or order or writing issued in connection with the matter.
- G. NOTICES NOT APPEALED. Any notice served pursuant to the provisions of this ordinance shall automatically become final if a written petition for a hearing is not filed with the Administrator within ten (10) days after the notice is served.

#### 8.8 SEVERABILITY

The provisions of this ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase, or portion of this ordinance be declared invalid for any reason the remainder of said ordinance shall not be affected thereby.

#### 8.9 MINNESOTA DEPARTMENT OF HEALTH

The requirements contained in this ordinance are intended to be comparable to the Minnesota Department of Health Rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting more restrictive sanitary standards than the ones established in this ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this ordinance.

8.10 PENALTIES

Any person, firm, or corporation who shall violate, fail to comply with, or make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided by law. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

8.11 VIOLATION

In the event of a violation or a threat of a violation of this ordinance, the County Attorney also may take other appropriate action to enforce this ordinance, including but not limited to application of injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.

8.12 EFFECTIVE DATE

This ordinance shall be in full force and effect upon publication and adoption pursuant to law.

**SECTION IX – REPEAL OF PREVIOUS ORDINANCE**

This ordinance hereby repeals and replaces in its entirety the Waseca County Food and Beverage Ordinance of June 6, 1978, as amended May 18, 2010.

Adopted this 18 day of June, 2019.

COUNTY BOARD OF COMMISSIONERS

  
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Chairperson, Commissioner Brian Harguth

ATTEST:

  
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County Auditor/Treasurer, Tammy Spooner