

WINONA COUNTY FOOD AND BEVERAGE ORDINANCE

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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 Enforcement of this Ordinance and the Fixing of Penalties Throughout the Entirety of Winona County Thereof be and thereby is established as follows:

This ordinance shall be applicable to all food and beverage establishments such as restaurants, boarding houses, and places of refreshment as defined in Minnesota Statutes Chapter 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. 157.14 and all other businesses and establishments where meals, lunches, or drinks are served. In addition, this ordinance shall serve as the criteria for evaluation of food and beverage service facilities in children's camps as defined in Minn. Stat. 144.71, Subdivision 2.

The County Board of Winona County pursuant to Minn. Stat. 145A.05, Subd. 8 ordains:

#### SECTION I - - DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this ordinance.

- 1.1 Board means the Winona County Community Health Board acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 1.2 Health Department means the Winona County Community Health Board and its Community Health Services staff.
- 1.3 Supervisor means the Winona County Community Health Board's Environmental Health Supervisor and any related staff acting under the Board's authority.

#### SECTION II - - ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

- 2.1 The standards for Food & Beverage Establishments outlined in Minnesota Rules Chapter 4625 (1989) are hereby incorporated in and made part of this ordinance excepting Section 4625.5000. Wherein Minnesota Rules Chapter 4625 (1989) refers to the Commissioner, Commissioner shall mean the Winona County Community Health Board and its designated agents.

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SECTION III - - EMBARGO, CONDEMNATION, AND TAGGING

- 3.1 General. The Supervisor may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of Minnesota Rules Chapter 4625 in accordance with Section 4625.2601.

SECTION IV - - PLAN REVIEW OF FUTURE CONSTRUCTION

- 4.1 General. When an establishment, in Winona County licensed or to be licensed under the provisions of Minn. Stat. 157.03 is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit to the Supervisor all required plans, specifications and materials, and comply with the requirements of Minnesota Rules 4625.2701.

SECTION V - - PROCEDURE WHEN INFECTION IS SUSPECTED

- 5.1 General. When the Supervisor has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee, the Supervisor 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 Supervisor 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 Supervisor, 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.

SECTION VI - - COMPLIANCE PROCEDURES

- 6.1 Licenses needed. It shall be unlawful for any person to operate a food and/or beverage service establishment within Winona County who does not possess a valid license issued to them by the 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,

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person or location. A valid license shall be posted in every food service establishment. The license year shall be from January 1 to December 31 next year succeeding.

6.2 Application for License.

- A. Any person desiring to operate a food service establishment shall make written application for a license on forms provided by the Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation. If a partnership, the names of the partners, together with their addresses shall be included, in addition to the location and type of proposed food service establishment, as well as the signature of the applicant or applicants. Each application for a license, together with the appropriate license fee as described herein shall be submitted to the Health Department not later than January 31, following expiration of the previous years license, or in the case of a new business, 10 days prior to the opening date of such a business. A penalty of \$10.00 shall be added to the amount of the license fee and paid by the proprietor if the application has not reached the Health Department Office by the dates described above. Any person who operates a food service establishment without submitting a license application and appropriate fee shall be deemed to have violated this ordinance and shall be subject to prosecution as provided for in this ordinance.
- B. Proprietors of any food and/or beverage establishment shall pay an annual license fee based on the number of employees at a per-employee rate specified by resolution of the Winona County Community Health Board. This annual license fee may be adjusted from time to time as the Board shall deem appropriate.

6.3 Inspection and correction.

- A. The Health Department shall inspect food, beverage, and lodging establishments according to Minn. Stat. 157.01, Subdivision 2, and Minn. Stat. 157.04
- B. The person operating a food establishment shall, upon request of the Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with the provisions of this ordinance.
- C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request, furnish reasonable samples free of charge to the Health Department for laboratory analysis.

- D. Whenever an inspection of a food 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 of the establishment. 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. The inspection report form shall summarize the requirements for compliance of this part and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the sum total of the violations weighted point value, subtracted from 100.
- E. 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.

6.4 Suspension of license.

- A. Licenses may be suspended temporarily by the Supervisor or the Community Health Services 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 Supervisor by the license holder.
- B. Notwithstanding the other provisions of this ordinance, whenever the Supervisor finds insanitary or other condition(s) in the operation of a food establishment which, in their judgement, may constitute a substantial hazard to the 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 food and/or beverage 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 Supervisor, 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 reinspection 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 Supervisor shall make a reinspection. If the applicant is in compliance with the requirements of this ordinance and MN Rules Chapter 4625 (1989), the license shall be reinstated.

- 6.5 Revocation of license. For serious or repeated violations of any of the requirements of this ordinance or MN Rules Chapter 4625 (1989), the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Supervisor shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.
  
- 6.6 Appeals Board. The Appeals Board shall consist of the Chairman of the Winona County Community Health Board or a designated appointee, one Public Health Nursing Supervisor and one Community Health Services Advisory Committee Chairperson.
  - 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 Supervisor, 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 Chairman of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten day period, if in the judgment a good and sufficient reason exists for such postponement.
  
  - C. Notice of Hearing. The Supervisor 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 Supervisor should be modified or withdrawn. The Supervisor 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 Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Supervisor shall be recorded and reduced to writing and entered as a public record in the office of the Supervisor. 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 Supervisor within ten (10) days after the notice is served.
- 6.7 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.
- 6.8 Minnesota Department of Health. The requirements contained in the 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.
- 6.9 Penalties. Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall 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 by a fine not to exceed seven hundred dollars (\$700) or by imprisonment not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

6.10 Effective date. This ordinance shall be in full force and effect upon publication.

SECTION VII - - REPEAL OF PREVIOUS ORDINANCE

7.1 This ordinance hereby repeals and replaces in its entirety the Winona County Food and Beverage Ordinance adopted in 1981, and amended in 1986.

Adopted this 25th day of February, 1992.

  
Chairperson, Board of Commissioners

Attest:  
  
County Coordinator

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Pub. Tu., Jan. 21, 1992  
**NOTICE OF PUBLIC HEARING AND INTENT TO ENACT THE WINONA COUNTY FOOD AND BEVERAGE ORDINANCE**

PLEASE TAKE NOTICE that the Winona County Community Health Board will meet in public hearing on the 11th day of February, 1992, at 11:05 A.M. in the Commissioners' Room, Second Floor, Winona County Courthouse, Winona, Minnesota to consider a recommendation to the Winona County Board of Commissioners for the enactment of the winona County Food and Beverage Ordinance.

In summary, the Ordinance is proposed for the purpose of establishing standards to protect and provide for the public health, safety and welfare of winona County residents pursuant to powers delegated under Minn. Stat. 145A.07. The Ordinance establishes standards for the operation of food and beverage establishments; provides for the issuing, suspension and revocation of licenses for the operation of food and beverage establishments; creates an Appeals Board; and provides for periodic inspection of food and beverage establishments located in Winona County. Penalties are provided for violations of the Ordinance.

Printed copies of the proposed ordinance are on file and available for inspection during regular business hours at the offices of the County Auditor, County Coordinator, and Community Health Services Department, Winona County Courthouse, Winona, Minnesota.  
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WINONA DAILY NEWS  
 PUBLIC NOTICE  
 AFFIDAVIT OF PUBLICATION

being duly sworn, on oath says that he is the authorized agent and employee of the newspaper known as Winona Daily News, and has full knowledge of the facts stated below:

\_\_\_\_\_ has complied with all of the requirements constituting qualification as a qualified advertiser as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as follows:

Notice of Hearing - Intent to Enact Winona Co. Food and Beverage Ordinance

\_\_\_\_\_ was cut from the columns of said newspaper, and was printed and published on the 21st day of January, 1992; \_\_\_\_\_ is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby being the size and kind of type used in the composition and publication of the

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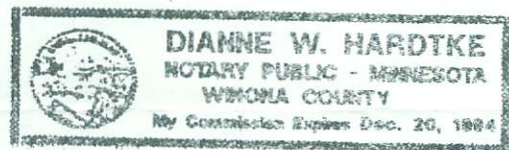
BY: *Scott R. Bayl*  
 Advertising Manager

Subscribed and sworn to before me on this 21st day of January,

1992.

*Dianne W. Hardtke*

Notary Public



RATE INFORMATION

- |  |                             |
|--|-----------------------------|
| (1) Lowest Classified rate paid by commercial users for comparable space | \$ <u>.810</u><br>Line rate |
| ((2) Maximum rate allowed by law for the above matter                    | \$ <u>.466</u><br>Line rate |
| (3) Rate actually charged for the above matter                           | \$ <u>.233</u><br>Line rate |