

WINONA COUNTY FOOD AND BEVERAGE ORDINANCE

Adopted August 27, 1996

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 Environmental Services Department means the Winona County Community Health Board and its Environmental Services staff.
- 1.3 Environmental Health Director means the Winona County Community Health Board's Environmental Health Director 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.

SECTION III - - EMBARGO, CONDEMNATION, AND TAGGING

- 3.1 General. The Environmental Health Director 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 Environmental Services Department 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 Environmental Health Director has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee, the Environmental Services 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 Environmental Health Director 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 Environmental Health Director, 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 Environmental Services 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 service establishment. All licenses expire as of December 31 each year.

- 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 Environmental Services 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, as well as the signature of the applicant or applicants. 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 Environmental Services Department not later than January 31 each year, 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. 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 at a 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. 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 Environmental Services Department office by the dates specified in section 6.2.

6.3 Inspection and correction.

- A. The Environmental Services 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 Environmental Services 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 Environmental Services 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.
- 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 Environmental Health Director 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 Environmental Health Director by the license holder.

- B. Notwithstanding the other provisions of this ordinance, whenever the Environmental Health Director finds unsanitary or other condition(s) in the operation of a food establishment which, in their judgment, 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 Environmental Health Director, 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 Environmental Health Director 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 Environmental Health Director 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 Chairperson of the Winona County Community Health Board or a designated appointee, Community Health Services Administrator or a designated agent and one Community Health Services Advisory Committee Chairperson or a designated agent.

- 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 Environmental Health Director, 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 Environmental Health Director 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 Environmental Health Director should be modified or withdrawn. The Environmental Health Director 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 Environmental Health Director shall be recorded and reduced to writing and entered as a public record in the office of the Environmental Health Director. 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 Environmental Health Director 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 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.
- 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.

7.2

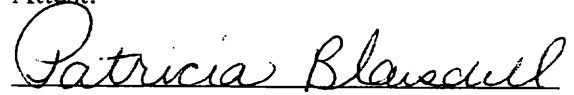
This ordinance hereby repeals and replaces in its entirety the Winona County Food and Beverage Ordinance February 25, 1992.

Adopted this 27th _____ day of August, 1996.



Chairperson, Board of Commissioners

Attest:



County Coordinator

Pub. Saturday, July 20, 1996
NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE WINONA COUNTY FOOD AND BEVERAGE ORDINANCE

PLEASE TAKE NOTICE that the Winona County Community Health Board will meet in public hearing on August 13, 1996, at 10:30 a.m. in the Commissioner's Room, Winona County Courthouse, Winona, Minnesota, to consider amendments to the Winona County Food and Beverage Ordinance.

Printed copies of the amended ordinance are on file in the Offices of the County Coordinator, County Auditor, and Environmental Services, and are available for public inspection during regular office hours.

Judy Gilow
Chairperson, Winona County Community Health Board
48322

STATE OF MINNESOTA)
COUNTY OF WINONA) SS.

Vicky Peterson, being duly sworn, on publisher of the newspaper known as stated below:

(A) The newspaper has complied with newspaper, as provided by Minnesota amended.

(B) The printed Food & Beverage Ordinance

is the authorized agent and employee of the , and has full knowledge of the facts which are

constituting qualification as a qualified 31A.07, and other applicable laws, as

which is attached was cut from the columns of said newspaper, and was printed and published Saturday the 20th day of July, 1996; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

BY: Vicky Peterson
Classified Supervisor

Subscribed and sworn to before me on this 22nd day of July, 1996

Karen Domine
Notary Public



RATE INFORMATION

- (1) Lowest Classified rate paid by commercial users for comparable space \$.810
Line Rate
- (2) Maximum rate allowed by law for the above matter \$.573
Line Rate
- (3) Rate actually charged for the above matter \$.283
Line rate

**WINONA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION
171 WEST THIRD STREET
WINONA MN 55987
Phone (507) 457-6405 Fax (507) 457-6469**

TO: Cindy Riska
Auditor's Office

FROM: Linda Mueller *LM*
Environmental Services

DATE: August 8, 1996

Enclosed you will find the original public notice/affidavit of publication from the Winona Daily News for the public hearing scheduled for August 13, 1996. The public hearing is to consider amendments to the Winona County Food and Beverage Ordinance.

If you should have any questions, please call me at ext. 466.

Enclosure

**NOTICE OF PUBLIC HEARING
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A handwritten signature in cursive script that reads "Judy Gilow Chair".

Judy Gilow
Chairperson, Winona County Community Health Board