

# AITKIN COUNTY ADMINISTRATIVE ORDINANCE

## “The County Board of Aitkin County Ordains:”

### SECTION 1.00 APPLICATION OF ORDINANCE

- 1.01 Application.** Where a provision of an Aitkin County ordinance requiring a permit or license contains no procedure for the issuance, denial, revocation, suspension, renewal or fee, the provisions of this ordinance shall apply.
- 1.02 Other Provisions.** Where provisions of an Aitkin County ordinance requiring a permit or license contain procedures for its issuance, denial, revocation, suspension, renewal or fee, such provisions prevail over this ordinance, and this ordinance shall be effective to the extent, and only to the extent, that it does not conflict with such provisions.

### SECTION 2.00 DEFINITIONS

- 2.01 “County”.** County shall mean the County of Aitkin.
- 2.02 “County Board”.** County Board shall mean the Aitkin County Board of Commissioners and its authorized representatives.
- 2.03 “Department”.** Department shall mean the Aitkin County Environmental Services and its authorized representatives.
- 2.04 “License”.** License includes the whole or part of any permit, certificate, approval, registration, or similar form of permission or renewal required by County ordinance or State law administered by the County for the operation of any business, service, or facility.
- 2.05 “Licensee”.** Licensee shall mean the person who has been given the authority by the issuance of a license by the County to establish, operate, and/or maintain a facility or activity regulated by County ordinances.
- 2.06 “Person”.** Person shall mean any individual, firm, partnership, public or private corporation, municipality or other organization, receiver, trustee, assignee or agent, and with respect to acts prohibited or required herein, shall include employees or licensees.

### SECTION 3.00 UNLAWFUL ACTIVITIES

It is unlawful for any person:

- 3.01** To engage in any activity, trade, profession, business, or privilege or to operate any site, facility or establishment for which a license is required by any provision of a County ordinance unless such person has first obtained such license.
- 3.02** To engage in any activity, trade, profession, business or privilege or to operate any site, facility, or establishment in the County for which a license is required by any provision of a County ordinance when any license granted for the conduct of such activity, trade, profession, business or privilege or operation of such site, facility or establishment has been revoked or suspended.
- 3.03** Who possesses a valid license issued pursuant to County ordinance, to engage in any activity, or operate any such licensed facility, establishment, profession, business or privilege in such a way as to knowingly violate any requirement of any County ordinance applicable to such activity, trade, profession, business, privilege, site, facility or establishment.
- 3.04** To fail or refuse to correct any condition or method of operation which violates any County ordinance applicable to the conduct of any licensed activity, trade, profession, business, privilege, site, facility or establishment after being ordered to do so by the County.

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### SECTION 4.00 ENFORCEMENT

- 4.01 Misdemeanor.** Any person who violates the provision of this County ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefor as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- 4.02 Equitable Relief.** In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including, but not limited to, an application for injunctive relief, an action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

### SECTION 5.00 LICENSING PROCEDURES

Unless provided for by other County ordinance, the procedure for application for, issuance, denial, suspension or revocation of any license required by the ordinance of the County shall be set forth herein.

- 5.01 Application.** Application for a license or license renewal shall be made to the Department and shall be on forms furnished by the Department. The applicant shall state the location of the proposed activity and such other facts as are required by the County Board for the granting of the license. Failure to submit a license application and appropriate fee is a violation of this ordinance.
- 5.01A Fee Schedule.** Initial and renewal license applications shall be accompanied by the applicable fee (including penalty fee if applicable) as established by resolution of the County Board. Fee required for a license shall be paid at the office of the Department. No license shall be issued until the fees have been paid in full.
- 5.01B Expiration Date.** Initial and renewal licenses shall be issued for the year for which application is made and shall expire March 31 of each year, or on the expiration date stated on the license, whichever applies.
- 5.01C License Renewals.** Licenses shall be renewed on an annual basis. License renewal applications shall be submitted to the Department no later than April 1 of each year, for which application is made for year-round establishments, or on or before the date of opening for all others.
- 5.01D Penalty Fee.** If fees are not received by April 1st for year-round establishments and on or before the day of opening for seasonal establishments then a penalty fee shall be imposed. A penalty fees shall be one half the annual license for non-payment for the first 30 days of not being paid; double the annual license fee for late payment of 31 through 60 days past due; and suspension/revocation for greater than 60 days late.
- 5.01E Correction of Orders.** Failure to correct written orders by the due date documented on any and all inspection reports shall cause an Administrative Meeting to be held between the Director of Environmental Services, Environmental Health Specialist, and Owner/Representative of the establishment.
- 5.01F Letter of Suspension.** If corrections are not completed as agreed upon at the Administrative Meeting then the license shall be suspended as outlined in 5.02.
- 5.01G Operating without a license.** Initial and renewal licenses, along with penalty fee, that are unpaid by June 1 for annual licenses (on or before opening day for seasonal establishments), shall cause a Letter of Suspension to be issued to the

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licensee for operating without a license. Suspension of license will be enforced as outlined in 5.02 Suspension of License.

- 5.01H** Reduced License Fee. From and after October 1 of each year, the license fee for new establishments or businesses shall be one-half of the appropriate annual license fees.
- 5.01I** Late Payment of the License Fee with Penalty, No Bar to Prosecution for Operating without a License. The late payment of the license fee, along with the penalty set forth herein, shall not bar any prosecution by the County for the operation of any licensed activity, trade, profession, business, privilege, site, facility or establishment within the County without a license.
- 5.01J** License Non-Transferable. A license obtained pursuant to a County ordinance shall not be transferable.

#### 5.02 Suspension of License

- 5.02A** Any license required under a County ordinance may be suspended by the Department for violation of any provision of this ordinance or of the ordinance under which the license was issued. Upon written notice to the licensee, the Department may suspend said license for a period not longer than sixty (60) days or until the violation is corrected.
- 5.02B** Such suspension shall not occur earlier than ten (10) working days after written notice of suspension has been served on the licensee or, if a hearing is requested, until written notice of the County Board action has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of Department suspension shall contain the effective date of the suspension, the nature of the violation or violations constituting the basis for the suspension, the facts which support the conclusion that a violation or violations have occurred, and a statement that if the licensee desires to appeal, the licensee must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and be served personally or by registered or certified mail on the office of the Department by midnight of the tenth (10th) County working day following service. Following receipt of a request for a hearing, the County Board shall set a time and place for the hearing.
- 5.02C** If said suspension is upheld and the licensee has not demonstrated within the sixty (60) day period that the provisions of the ordinance have been complied with, the Department may serve notice of continued suspension for up to sixty (60) days or initiate revocation procedures.

#### 5.03 Summary Suspension

- 5.03** If the Department finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered by the Department upon notification of the County Attorney's office and the County Board. Written notice of such summary suspension shall be personally served on the licensee, or shall be served by registered or certified mail to said licensee at the address designated in the license application. In addition, the Department may post copies of the notice of summary suspension of the license on the licensed facility or property being used for the licensed activity. Said posting shall constitute the notice required under this section.

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- 5.03B** The written notice of such cases shall state the effective date of the suspension and the nature of the violation requiring emergency action, the facts which support the conclusion that a violation or violations have occurred and a statement that if the licensee desires to appeal, he must, within ten (10) County working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the office of the Department by midnight of the tenth (10th) County working day following service. Following receipt of a request for an appeal, the County Board shall set a time and a place for the hearing.
- 5.03C** The summary suspension shall not be stayed pending an appeal, but shall be subject to dismissal or re-inspection by the Department.
- 5.03D** Re-inspection. Upon written notification from the licensee that all the violations for which a suspension or summary suspension was invoked have been corrected, the Department shall reinspect the facility or activity within a reasonable length of time, but in no case more than ten (10) County working days after receipt of the notice from the licensee. If the Department finds upon such reinspection that the violations constituting the grounds for the suspension have been corrected, the Department shall immediately dismiss the suspension by written notice to the licensee, served personally or by registered or certified mail at the address designated in the license application.

#### **5.04 Revocation**

- 5.04A** Any license granted pursuant to County ordinance may be revoked by the Department for violation of any provision of said ordinance or this ordinance.
- 5.04B** Revocation shall not occur earlier than ten (10) County working days from the time that written notice of revocation is served on the licensee or, if a hearing is requested, until written notice of the County Board action has been served on the licensee. Notice to the licensee shall be served personally or by registered or certified mail at the address designated in the license application. Such written notice of Department revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the basis for the revocation, the facts which support the conclusion that a violation or violations have occurred and a statement that if the licensee desires to appeal, the licensee must, within ten (10) working days, exclusive of the day of service, file a request for a hearing. The hearing request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the office of the Department by midnight of the tenth (10th) County working day following service. Following the receipt of a request for a hearing, the County Board shall set a time and a place for the hearing.

#### **SECTION 6.00 HEARINGS**

- 6.01** If any applicant or licensee properly requests a hearing on a Department suspension or revocation of license, such hearing shall be held before the County Board of a hearing examiner as provided below, and shall be open to the public.
- 6.02** Unless an extension of time is requested by the appellant in writing directed to the Chair of the County Board and is granted, the hearing will be held no later than thirty (30) calendar days after the date of service. In any event, such hearing shall be held no later than sixty (60) days after the date of service of request for a hearing, exclusive of the date of such service.

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- 6.03** The County Board shall mail notice of the hearing to the appellant and to the Department at least ten (10) working days prior to the hearing. Such notice shall include:
- 6.03A** A statement of the time, place and nature of the hearing.
  - 6.03B** A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - 6.03C** A reference to the particular section of the ordinance and rules involved.
- 6.04** **Hearing Examiner.** The County Board may by resolution appoint an individual, to be known as the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the County Board. The hearing examiner shall submit the findings of fact, conclusions and recommendations to the County Board in written report, and the County Board may adopt, modify or reject the report.
- 6.05** **Conduct of the Hearing.** The licensee may be represented by counsel. The Department, the licensee, and additional parties, as determined by the County Board of hearing examiner, in that order, shall present evidence. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The County Board or hearing examiner may also examine witnesses.
- 6.06** The hearing shall be confined to matters raised in the Department’s written notice of suspension, summary suspension or revocation, or in the appellant’s written request for a hearing.
- 6.07** If the applicant or licensee fails to appear at the hearing, the licensee or applicant shall forfeit any right to a public hearing before the County Board hearing examiner.

#### **SECTION 7.00 INSPECTION**

- 7.01** Routine inspection and evaluation of activities, trades, professions, businesses, privileges, sites, facilities and establishments shall be made by the Department charged with enforcement of the particular ordinance in such frequency as to insure consistent compliance by the licensee with the provisions of the County ordinance. The licensee shall be provided with written and documented notice of any deficiencies, recommendations for their correction and the date when the corrections shall be accomplished. The licensee shall be required to allow free access to authorized representatives of any other governmental agency at any reasonable time for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this ordinance, or any other applicable statute, ordinance or regulation. Failure of applicant or licensee to permit such inspection shall be grounds for revocation, suspension or denial of license.
- 7.02** The County and Department shall have the right to inspect private property to determine if applicant or licensee is in compliance with the provisions of this ordinance.

#### **SECTION 8.00 SEVERABILITY**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of the ordinance are severable.

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### **SECTION 9.00 PROVISIONS ACCUMULATIVE**

The provisions of this ordinance are cumulative and are additional limitations upon all other laws and ordinances heretofore passed covering any subject matter.

### **SECTION 10.00 NO CONSENT**

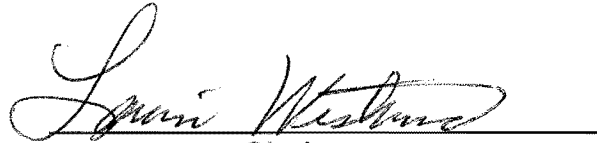
Nothing contained in this ordinance shall be deemed to be consent, a license, or a permit to locate, construct, or maintain any site, facility, or establishment, or to carry on any activity, trade, profession or privilege.

### **SECTION 11.00 EFFECTIVE DATE**

This ordinance shall be effective upon passage by the County Board and publication according to law.

Adopted by the Aitkin County Board of Commissioners this 5<sup>th</sup> Day of

April 2011.



Chairperson

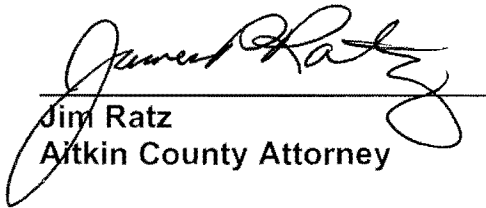
Aitkin County Board of Commissioners

Attest:



Kirk Peysar  
Aitkin County Auditor

Approved as to Form:



Jim Ratz  
Aitkin County Attorney