

# AITKIN COUNTY FOOD PROTECTION ORDINANCE

## SECTION 1.00 PURPOSE AND INTENT.

- 1.01 Purpose.** The purpose of this ordinance is to establish standards for food and beverage service establishments and to protect the health, safety and general welfare of the people of Aitkin County.
- 1.02 Intent.** The intent of this ordinance is to prevent foodborne illnesses; to correct and prevent conditions that may adversely affect the health and safety of persons utilizing food and beverage service establishments; to provide minimum standards for the design, construction, operation, and maintenance of food and beverage service establishments; and to meet consumer expectations of the quality and safety of food and beverage service establishments.

## SECTION 2.00 SCOPE.

This ordinance shall provide for the Licensing and Inspection of all establishments providing food and beverage services; 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 houses and places of refreshments, as defined in Minn. Stat. Chapter 157 and this ordinance, and shall include temporary and push cart commissaries, taverns, bars, caterers, clubs, lodges, eating facilities at resorts and youth camps, bed and breakfasts, schools, public buildings, day care facilities and churches, except as exempted in Minn. Stat. Section 157.22 and all other businesses and establishments where food or beverages are served.

## SECTION 3.00 AUTHORITY

This ordinance is adopted by the Board pursuant to Minnesota Statutes Chapter 157A.05 and Section 145A.07 which authorizes the Commissioner of Health to enter into a delegation agreement with counties or cities organized under the provisions of to perform all or part of the licensing, inspection and enforcement duties.

## SECTION 4.00 DEFINITIONS.

For the purpose of this ordinance, the following words shall have the following meanings:

- 4.01 County Board.** "County Board" shall mean the Aitkin County Board of Commissioners and its authorized representatives.
- 4.02 Certified food manager.** "Certified food manager" means an individual who has a valid Minnesota food manager's certification under Part 6.05.
- 4.03 Department.** "Department" shall mean the Aitkin County Environmental Services Department and its authorized representatives.
- 4.04 Food and Beverage Service Establishment.** "Food and Beverage Service Establishment" shall mean those establishments as defined in Minnesota Statutes Chapter 157 and shall include drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, group day care facilities, children's camps, fairs, circuses, carnivals, churches, and public buildings, except as exempted by Minnesota Statutes Section 157.22, and all other businesses and establishments where meals, lunches or beverages are served.
- 4.05 Mobile Food Unit.** "Mobile Food Unit" shall mean a vehicle-mounted food service establishment, or trailered, designed to be readily movable.

- 4.06 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.
- 4.07 Push (FOOD) Cart.** "Push Cart" shall mean a non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.
- 4.08 Seasonal Food Stand.** "Seasonal Food Stand" shall mean a food and beverage service establishment that is either permanent or temporary of a "knock-down" nature and moved around with both operating no more than 14 consecutive days at a time.
- 4.09 Temporary Food Service Establishment.** "Temporary Food Service Establishment" shall mean a mobile food unit or seasonal food stand that operates at a fixed location for a temporary period of time of not more than 10 consecutive days in conjunction for 3 times a year maximum with a fair, carnival, circus, public exhibition, special event or celebration or similar transitory gathering.

#### **SECTION 5.00 ADOPTION OF FOOD AND BEVERAGE ESTABLISHMENT STANDARDS.**

The standards for Food & Beverage Establishments as defined in Minnesota Rules Chapter 4626.0010 to 4626.1870 are hereby incorporated in and made part of this ordinance whose authority is the Minnesota Department of Health, and those authorities which are the responsibility of the Minnesota Department of Agriculture. The standards for Certified Food Manager requirements outlined in Minnesota Rules Chapter 4626.2000 to 4626.2010 are hereby incorporated in and made part by adoption of this ordinance. Where Minnesota Rules Chapter 4626 refer to the Commissioner, Commissioner shall mean the Aitkin County Board and its designated agents.

#### **SECTION 6.00 LICENSING**

- 6.01 License Required.** No person shall operate a food establishment within Aitkin County unless a license for the current year has been obtained pursuant to this ordinance.
- 6.02 Application.** License application shall be made on forms furnished by the Department and shall set forth the general nature of the business, the location, and other information as the County Board may require. The issuance, maintenance, termination and administration of such licenses shall be in accordance with and subject to all conditions of the Aitkin County Administrative Ordinance relative to the general requirements for licenses in Aitkin County.
- 6.03 License Fees.** Fees for licenses issued hereunder shall be those established by resolution of the County Board.
- 6.04 Transfer and Display of License.** Only a person who complies with the requirements of this ordinance shall be entitled to receive a license. Licenses shall not be transferable as to person or place. All licenses obtained for a food or beverage service establishment shall be conspicuously displayed in public areas of said establishment.
- 6.05 CERTIFIED FOOD MANAGER REQUIREMENTS FOR FOOD ESTABLISHMENTS.** An owner or operator of a food establishment must either possess or employ a certified food manager for each food establishment except for a satellite or catered feeding location. Exemption from needing a CFM shall be:
- 6.051.** Where a food establishment's preparation activities are solely limited to one or more of the following:
- (1) heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza;
  - (2) preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;

- (3) preparing or serving nonalcoholic or alcoholic beverages or ice;
- (4) grinding coffee beans;
- (5) packaging foods that are not potentially hazardous foods;
- (6) serving bulk food as defined in Minnesota Statutes, section 31.80, subdivision 2;
- (7) processing raw meat, poultry, fish, or wild game intended for cooking after sale;
- (8) heating as the only preparation step for a bakery product;
- 9) providing prepackaged food in its original package; or
- (10) cleaning or sanitizing eating, drinking, or cooking utensils, when the only food served is prepared off site;

**6.052** The following establishments if food is prepared for 18 or fewer persons per mealtime: a boarding establishment as defined in Minnesota Statutes, section 157.15, subdivision 4, a bed and breakfast, a child care facility, or an adult day care center;

**6.053** A food cart, mobile food unit, seasonal permanent food stand, seasonal temporary food stand, or special event food stand, as defined in Minnesota Statutes, section 157.15, subdivisions 6, 9, 12a, 13, and 14, respectively;

**6.054** A retail food vehicle, portable structure, cart, or vending machine; and

**6.055** A food establishment that provides meals no more than one day in a seven-day period and that is owned and operated by a business or a nonprofit organization whose primary activity is not food service.

## **SECTION 7.00 INSPECTIONS**

**7.01 Access to premises.** The person operating the food or beverage service establishment shall, upon request of the Department and after proper identification, permit access to all parts of the establishment at any reasonable time for the purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain sources of foods or beverages. No persons shall interfere with or hinder the Department in the performance of their duties, or refuse to permit the Department to make such inspections.

**7.02 Inspection Prior to Approval of Application.** Prior to approval of an application for a license for a new food or beverage establishment or an establishment that has not previously been licensed by Aitkin County or the Minnesota Department of Health, the Department shall inspect the proposed establishment to determine compliance with the requirements of this ordinance.

**7.03 Inspection Frequency.** The Department shall inspect every high-risk establishment at least every 12 months; every medium-risk establishment at least once every 18 months; and all low-risk establishments at least once every 2 years.

High-risk, medium-risk and low-risk have the meaning given to them in Minn. Stat. Section 157.20.

**7.04 Notification of Inspection results.** The Department shall notify the licensee in writing regarding the results of each inspection. The inspection report shall be delivered to the licensee or his authorized agent in person or by certified or registered mail. A copy of the inspection report shall be filed with the records of the Department and the Licensee shall maintain a copy for at least three (3) years of the date of the last inspection.

- 7.05 Removal and Correction of Violations.** All licensees, owners, or operators of establishments having received a report giving notification of one or more violations of this ordinance shall correct or remove each violation in a reasonable length of time determined by the Department. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this ordinance.

#### **SECTION 8.00 CONSTRUCTION - PLAN REVIEW.**

- 8.01 Plan Review.** All persons who hereafter construct, remodel or convert buildings or facilities for use as a food or beverage service establishments, shall submit a complete set of plans and specifications to the Department for review and approval before construction, remodeling, or conversion begins. The plans and specifications shall show the layout; arrangement; mechanical, plumbing and electrical specifications; construction materials of work areas; and location, size and type of equipment and facilities. The plans must be drawn to scale and must be legible and complete in all details. Plumbing specifications must be submitted to the Minnesota Department of Health.
- 8.02 Building Permit.** A city or town shall not issue a building permit for a food or beverage service establishment or remodeling or alteration permit for such establishment until such plans have the approval of the Department.
- 8.03 Plan Review Fees.** The appropriate fee, as established by resolution of the County Board, shall be submitted at the time construction plans are submitted.
- 8.04 Plan Approval.** The Department shall review and approve or not approve the plans and specifications within 30 days of the time a complete set of plans and specifications are submitted. The Department shall notify the applicant, in writing, of the results of the review.
- 8.05 Construction Inspection.** The Department shall inspect the establishment as frequently as it may deem necessary during construction to ensure that construction occurs in conformance with this ordinance.
- 8.06 Final Inspection.** The Department shall conduct a final inspection prior to the start of operations and issuance of an approved license. The food or beverage service establishment shall be constructed and finished in conformance with the approved plans.

#### **SECTION 9.00 SEWAGE DISPOSAL**

All sewage and other water carried wastes shall be managed in accordance with the Aitkin County Individual Sewage Treatment System and Wastewater Ordinance No. 1.

#### **SECTION 10.00 SOLID WASTE.**

- 10.01** The storage, collection and disposal of refuse and garbage in the manufactured home parks and recreational camping areas shall be so conducted as to create no health hazards, rodent harborage, insect-breeding areas, accident or fire hazards or air pollution. All refuse and garbage shall be stored in fly-tight, water-tight rodent-proof containers which shall be located convenient to any manufactured home site, provided that, on days of collection plastic garbage and refuse bags may be used for outside storage as long as no nuisance conditions are created. In recreational camping areas, garbage and refuse containers shall be provided on the ratio of at least one for every four sites or centrally located facilities may be provided. Refuse and garbage collection shall be made as often as necessary, but not less frequently than once per week, to prevent nuisance conditions. Final disposal of refuse and garbage shall be accomplished in accordance with the criteria and standards established by the Aitkin County Solid Waste Ordinance.
- 10.02 Open Burning.** Open burning of solid waste is prohibited.

## **SECTION 11.00 PROCEDURE WHEN INFECTION IS SUSPECTED.**

When the Department has reasonable basis to suspect the possibility of disease transmission from a food or beverage service establishment employee, the 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 Department may require any or all of the following measures:

- 11.01** The immediate exclusion of the food employee from all food service establishments;
- 11.02** The immediate closure of the food service establishment concerned until, with the facts provided to the Environmental Service Director, no further danger of disease outbreak exists;
- 11.03** Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;
- 11.04** Adequate medical and laboratory examinations of the employee, or other employees, and their bodily fluids and discharges.

## **SECTION 12.00 EMERGENCY CLOSURE**

- 12.01 EMERGENCY CLOSURE.** Notwithstanding the other provisions of this ordinance, whenever the Department finds an imminent health hazard to exist, such as, but not limited to, those listed below; the establishment shall immediately cease food service operations according to the procedures outlined in this section. Operations shall not be resumed until authorized in writing by the Department.
- 12.02 Imminent Health Hazard.** An imminent health hazard may include, but not necessarily be limited to, the following:
  - 12.021** Lack of any basic facilities such as water, electricity or sewer;
  - 12.022** Evidence of a sewer backup in the food preparation or food storage areas;
  - 12.023** The presence of a food service worker in a communicable disease or infected wound who refuses to comply with the orders of the Department;
  - 12.024** An infestation of rodents or insects; or
  - 12.025** Evidence of an on-going foodborne illness associated with the operation of the establishment.
- 12.03** If following an on-site inspection the Department determines that closure of a food establishment is required in order to protect public health, the Department shall order the immediate closure of the establishment in writing. The order shall identify the food establishment, describe the specific grounds upon which the closure is based, direct the immediate closure of the establishment and vacating of the premises by consumers, list the corrective actions necessary to re-open the establishment, and state that a hearing on the emergency closure may be requested by the licensee. The order shall be served in person to the owner, manager, or person in charge.
  - 12.031** The person receiving the order shall immediately close the establishment and require all persons to vacate. The establishment shall remain closed until the Department rescinds the order for emergency closure. Failure to close the establishment or keep the establishment closed is a misdemeanor.
  - 12.032** In the event the person receiving the order fails to close the establishment, the Department may order all persons to vacate the premises. Failure to leave upon said orders is a misdemeanor. If a person fails to vacate the premises as ordered by the Department, the Aitkin County Sheriff or local police may be summoned to assist in vacating the premises and issuing such citations or making such arrests as may be necessary to comply with this Ordinance.

**12.033** The licensee may request, in writing, a hearing on the emergency closure order, and the conditions for reopening the establishment. The hearing shall be held within two (2) business days following the request. The hearing shall be before The Environmental Services Director who shall render a written decision within two (2) business days after the conclusion of the hearing. The decision of the Department may be appealed to the County Board as provided in the Aitkin County Administrative Procedures Ordinance.

**12.034** Whenever a food service establishment is required under the provisions of this Ordinance to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operation no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

#### **SECTION 13.00 ENFORCEMENT.**

**13.01 Misdemeanor.** Any person who violates a provision of this County ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefore as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**13.02 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 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 violation.

#### **SECTION 14.00 SEVERABILITY.**

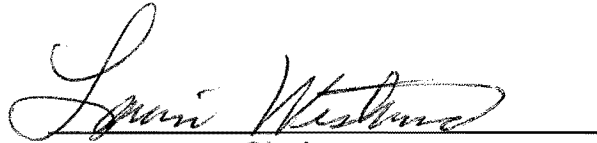
If any provision or application of any provision of this ordinance is held invalid, that invalidity shall not affect other provisions or applications of this ordinance.

#### **SECTION 15.00 EFFECTIVITY.**

This 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

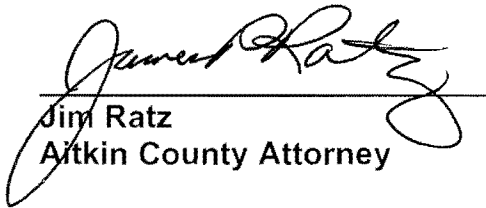
Aitkin County Board of Commissioners

Attest:



Kirk Peysar  
Aitkin County Auditor

Approved as to Form:



Jim Ratz  
Aitkin County Attorney