WADENA COUNTY

ORDINANCE REGULATING FOOD AND BEVERAGE ESTABLISHMENTS IN WADENA COUNTY

ORDINANCE #9

by and through

Wadena County Public Health Department

Revised 7-1-2010

Ordinance Regulating Food and Beverage Establishments in Wadena County

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Ordinance Regulating Food and Beverage Establishments in Wadena County

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 Wadena County Thereof be and thereby is established as follows:

This ordinance shall be applicable to all food and beverage service establishments such as restaurants, boarding houses, and as defined in Minnesota Statutes Chapter 157, Rule 4626 and shall include temporary and push cart commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, public buildings, daycare, and churches, except as exempted by Minn. Stat. 157.22 and all other businesses and establishments where meals, lunches or drinks are served. In addition, this ordinance shall serve as criteria for evaluation of food and beverage service facilities in youth camps as defined in Minnesota Statute. 144.7 1, Subd. 2.
The Wadena County Board pursuant to Minn. Stat. 145A, Subd. 8 adopts:

SECTION 1 – PURPOSE

1.1 **Purpose** The purpose of this ordinance is to establish standards for food and beverage service establishments to protect the health, safety, and the general welfare of the people of Wadena County pursuant to powers granted under Minnesota Statutes Chapters 145A and 157.

1.2 **General objectives** The general objectives of the Food and Beverage Ordinance are:

A. Prevent food-borne illness.
B. Correct and prevent conditions that may adversely affect person utilizing food and beverage service establishments.
C. Provide minimum standards for the design, construction, operation, and maintenance of food and beverage service establishments
D. Meet consumer expectations of the quality and safety of food and beverage service establishments.

SECTION 2 - LEGAL AUTHORITY

This ordinance is enacted pursuant to Minnesota Statute Chapter 157 which establishes the authority for the State to license food and beverage establishments and Chapter 145A with counties or cities organized under the provisions of Section 145A.05 to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.

SECTIONS 3 - JURISDICTION

This ordinance shall be applicable to all food and beverage establishments within the legal boundaries of Wadena County as defined in Minnesota Statute Chapter 157, except as exempted by Sections 157.22. Private school food services located in any building constructed and primarily used for religious worship shall be included in this regulation. In addition, these regulations shall serve as the criteria for food and beverage facilities located in children's camps as defined in Section 144.71.

SECTION 4 - DEFINITIONS

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

4.1 **Board** means the Wadena County Board of Commissioners.

4.2 **Public Health Department** means the Public Health Director and any related staff acting under the Board's authority.

4.3 **Appeals Board** shall be appointed by the Board. The members will consist of: two County Commissioners, the Public Health Department Medical Director, a member of the County Public Health Advisory Committee and an owner or operator of a licensed establishment recruited by the Public Health Department. The Appeals Board shall elect its own chair.

SECTION 5 - ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

The standards for Food & Beverage Establishments outlined in Minnesota Rules Chapter 4626.0010 to 4626.2010 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 and 4626.1820 Minnesota Clean Indoor Air Act. Wherein Minnesota Rules Chapter 4626 and Minnesota Rules refer to the Commissioner, Commissioner shall mean the Wadena County Board and its designated agents.

SECTION 6 - EMBARGO, CONDEMNATION, AND TAGGING

The Public Health Department may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of Minnesota Rules Chapter 4626 in accordance with Section 4626.1805 through 4626.1815.

SECTION 7 - PLAN REVIEW OF FUTURE CONSTRUCTION

7.1 **General** When an establishment, in Wadena 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 4626. Plans and the fee specified by the Board shall be submitted at least 30 days before beginning construction, extensive remodeling or conversion of a food establishment.

7.2 **Plumbing Plans** Plumbing specifications shall be submitted directly to the Minnesota Department of Labor and Industry for approval.

7.3 **Construction Plans** The Public Health Department shall approve the plans and shall inspect the food or beverage service establishment prior to the start of the operation, to determine compliance with the approved plans and specification.

SECTION 8 - ESTABLISHMENTS

8.1 **General** All establishments shall report to the Public Health Department within 12 hours, all incidences of employee gastrointestinal illness, to include vomiting, diarrhea, infected cuts or burns, and confirmed cases of Salmonella, Shigellosis, E Coli 0157:H7, and Hepatitis A.

8.2 **General** All establishments shall report to the regulatory authority, within one (1) hour, all complaints of customer illness.

8.3 **General** All establishments shall be required to keep posted and current all food safety systems materials, logs, charts as directed by the Public Health Department.

SECTION 9 - COMPLIANCE PROCEDURES

9.1 **Licenses needed** It shall be unlawful for any person to operate a food and/or beverage service establishment within Wadena 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 service establishment. All licenses expire as of December 31 each year, with the exception of licenses for temporary food stands at special events, which expire according to date of issuance.

9.2 **Application for license** Any person desiring to operate a food 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, the name of the establishment's Certified Food Manager, other information required by the State of Minnesota, and 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

determined by the Board, shall be submitted to the Public Health Department not later than December 31 each year, following expiration of the previous year's license, or in the case of a new business, 10 days prior to the opening date of such a business. All outstanding fines and fees resulting from actions in the previous year must be paid in full prior to the issuance of the new license. 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 a provided for in this ordinance.

9.3 **License Fees** Proprietors of any food and/or beverage establishment shall pay an annual license fee at a rate specified by resolution of the Board. This annual license fee may be adjusted, as the Board shall deem appropriate. A penalty fee at a rate specified by the 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 Public Health Department office by the dates specified in section 10.2.

9.4. **Taxes** All taxes on the property, which is the subject of the license, shall be paid in full to the amount then due and owing.

9.5 **Inspection** The Public Health Department shall inspect food, beverage, and lodging establishments according to Minn. Stat. 157.20 and rules adopted under Minnesota Statutes 157. The person operating a food establishment shall, upon request of the Public Health Department, 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 other compliance with the provisions of this ordinance.

9.6 **Certified Food Manager** The Certified Food Manger, or his/her designated Person In Charge, as defined in Minn. Stat. 4646, shall be available for discussion.

9.7 **Samples** Every person engaged in the operation of a food establishment, as herein defined, should upon request; furnish reasonable food samples free of charge to the Public Health Department for laboratory analysis.

9.8 **Corrections** Whenever an inspection and review of a food service establishment is made, the findings shall be recorded on an inspection/review form. Correction orders shall be issued, with one copy of the correction orders 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 part of on-going investigations or pending litigations. The correction orders shall specify a specific, appropriate, and reasonable period of time for correction of the violations. Correction of the violations shall be accomplished within the period specified. Failure to make corrections within the time period specified shall result in following enforcement options being taken by the Public Health Department.

9.9 **Administrative Hearing** An administrative hearing may be held to discuss violations, correction orders, and other compliance requirements. Location, time, and participants shall be determined by the Public Health Department.

9.10 **Suspension of license**

A. 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 Public Health Department by the license holder.

B. Not-with-standing the other provisions of this ordinance, whenever the Public Health Department finds unsanitary or other condition(s) in the operation of a food establishment which, in his/her 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 discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Public Health Department, 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 his/her opinion the condition(s) causing suspension of the license has/have been corrected, the Public Health Department shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and MN Rules Chapter 4626, the license shall be reinstated.

9.11 **Revocation of license** For serious or repeated violations of any of the requirements of this ordinance of MN 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 Public Health Department shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

SECTION 10 - SEVERABILITY

10.1 **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.

10.2 **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.

SECTION 11 - PENALTIES

11.1 **Administrative Penalties** Administrative penalties are used as a tool for orders compliance enforcement. See Administrative Penalties Policy and Fees.

11.2 **Criminal 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 of up to one thousand dollars ($1,000.) and/or by imprisonment of ninety (90) days in jail. Each day that a violation continues shall constitutes a separate offense. Such persons may be enjoined from continuing such violations.

SECTION 12 - REPEAL OF PREVIOUS ORDINANCE

12.1 **Repeal** This ordinance, effective July 1, 2010, hereby repeals and replaces in its entirety the Wadena County Food and Beverage Ordinance of 1-1-2001.

12.2 **Effective date** This ordinance shall be in full force and effect effective 1-1-2010.