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Martin County Food and Beverage Ordinance

Adopted MARCH 4, 2014

Providing for the Regulation
of
Food and Beverage
Establishments

MARTIN COUNTY FOOD AND BEVERAGE ORDINANCE

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MARTIN COUNTY ORDINANCE NO. _____

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 Martin 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 all other businesses and establishments where meals, lunches or drinks are served, except those exempted by Minnesota Statute 157.22.

This Ordinance is enacted pursuant to Minnesota Statutes Chapter 145A, Section 145A.05, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under provisions of Section 145A.05 to perform all or part of the licensing, inspection, and enforcement duties authorized under the provisions of these sections.

The Martin County Board of Commissioners 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 Agency means Human Services of Faribault and Martin Counties acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 1.2 Health Department means Human Services of Faribault and Martin Counties and its community health personnel.
- 1.3 Staff means the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian and any related personnel acting under the Agency's authority.
- 1.4 Director means the Executive Director of Human Services of Faribault and Martin Counties.
- 1.5 Program Manager means the Community Health Services Program Manager of Human Services of Faribault and Martin Counties.
- 1.6 Sanitarian means the Public Health Sanitarian of Human Services of Faribault and Martin Counties.

SECTION II- ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

- 2.1 The standards for Food and Beverage Establishments outlined in the Minnesota Food Code Minnesota Rules Chapter 4626, including the Certified Food Manager Requirements for Food Establishments, Minnesota Rules 4626.2000 through 4626.2025 and any subsequent amendments thereto, are hereby incorporated in and made part of this Ordinance. Wherein Minnesota Rules Chapter 4626 refers to the Commissioner; Commissioner shall mean Human Services of Faribault and Martin Counties Community Health Board and its designated agents.

SECTION III- EMBARGO, CONDEMNATION AND TAGGING

- 3.1 General The Staff may condemn and cause to be removed, embargo, and/or tag any item deemed to be violation of Minnesota Rules 4626 in accordance with Section 4626.1805 through 4626.1815; or successor Rules.

SECTION IV - PLAN REVIEW OF FUTURE CONSTRUCTION

- 4.1 General When an establishment in Martin 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 Health Department all required plans, specifications and materials, and comply with the requirements of Minnesota Rules 4626. Plans and the fee specified by the Agency shall be submitted at least 30 days before beginning construction, extensive remodeling or conversion of a food establishment.
- 4.2 General The Sanitarian shall inspect the establishment prior to the start of operation, to determine compliance with the approved plans and specifications. The licensee shall not begin operations until the Sanitarian has conducted a final inspection and approved issuance of the food license.

SECTION V - PROCEDURE WHEN INFECTION IS SUSPECTED

- 5.1 General When the Staff has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee; he/she 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 Staff 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 Staff, 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 Martin 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, 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 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, 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 Health Department not later than January 31 each year, following expiration of the previous year's license, or in the case of a seasonal or new business, within 30 days of 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 Human Services of Faribault and Martin Counties. This annual license fee may be adjusted from time to time as the Agency shall deem appropriate. A penalty fee at a rate specified by Human Services of Faribault and Martin Counties shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Health Department office by the dates specified in section 6.2A.
- C. From and after October 1st of each year, the license fee for new food and beverage establishments, or new operators, shall be one-half of the appropriate annual license fees plus any penalties which may be required.
- 6.3 Inspection and Correction
- A. The Health Department shall inspect food, beverage and lodging establishments according to Minnesota Statute 157 and rules adopted under Minnesota Statutes 157. The frequency of inspection shall be based on the degree of health risk and shall be in compliance with the inspection frequency outlined in Minnesota Statutes, Section 157.20; or successor Statutes.

- 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. Any interference with the Health Department in performance of his/her duties shall be grounds for immediate suspension of the license.
- 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 investigations.
- 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 Staff 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) working days with the Staff by the license holder.
- B. Notwithstanding the other provisions of this Ordinance, whenever the Sanitarian finds insanitary 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 Staff, 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) working 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 Sanitarian shall make a reinspection. If the applicant is in compliance with the requirements of this Ordinance and Minnesota Rules Chapter 4626, the license shall be reinstated.

6.5 Revocation of License For serious or repeated violations of any of the requirements of this Ordinance or Minn. 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, Staff 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 six (6) members from the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from each county are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six members.

- 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 Staff, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) working days after the notice was served.
- B. Date of Hearing The hearing requested shall be held not more than ten (10) working days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment a good and sufficient reason exists for such postponement.
- C. Notice of Hearing The Staff shall cause five (5) working 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 Health Department should be modified or withdrawn. The Program Manager or County Attorney 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) working 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 Program Manager or County Attorney shall be recorded and reduced to writing and entered as a public record in the office of the 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 Health Department within ten (10) working 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 the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

6.10 In the event of a violation or a threat of violation of this Ordinance, the County Attorney may make 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 violations.

6.11 Effective Date This ordinance shall be in full force and effect upon publication.

SECTION VII - REPEAL OF PREVIOUS ORDINANCE

7.1 This Ordinance, adopted MARCH 4, 2014 hereby repeals and replaces in its entirety the Martin County Food and Beverage Ordinance adopted on July 20, 1999.

Adopted this 4th day of MARCH, 2014

Don Delmonico

Chairperson, Board of Commissioners

Attest:

Jeff Higgins

County Coordinator