ROCK COUNTY

PUBLIC HEALTH
FOOD AND BEVERAGE ORDINANCE

ADOPTED 06/19/12

ROCK COUNTY – PUBLIC HEALTH
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ROCK COUNTY – PUBLIC HEALTH
FOOD AND BEVERAGE ORDINANCE

The County Board of Rock County ordains:

SECTION I - - PURPOSE

1.1 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 Rock County, thereof be and thereby is established as follows:

A. 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 Minnesota Statute 157.15 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 Youth Camps as defined in Minnesota Statute 144.71, Subdivision 2.

1.2 The purpose of this Ordinance is to establish standards for all food and beverage establishments, and to protect the health, safety, and general welfare of the residents of Rock County, including the following general objectives:

A. Prevent food borne illness.

B. Correct and prevent conditions that may adversely affect persons 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 establishments.

E. Establish inspection requirements and associated procedures involved with administering and enforcing this Ordinance.

F. Comply with the delegation agreement that Southwest Health and Human Services has entered into with the Minnesota Department of Health.

SECTION II - - AUTHORITY

2.1 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 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.

SECTION III - - DEFINITIONS

3.1 Unless specifically defined in this section, words or phrases used in this Ordinance shall have the meaning given in Minnesota Rules, Chapter 4626; or successor rules, and Minnesota Statutes, Section 157.15; or successor statutes.

A. COMMUNITY HEALTH BOARD: Means the Southwest Health and Human Services Community Health Board or designee authorized by the County Board to carry out or enforce any provision of a County Public Health Ordinance; acting under provisions of Minnesota Statute 145A.10, as the Board of Health.

B. COUNTY: Means the County of Rock.

C. COUNTY BOARD: Means the Rock County Board of Commissioners and their authorized representatives.

D. DEPARTMENT: Means Southwest Health and Human Services and its Environmental Health Services Staff.

E. ENVIRONMENTAL HEALTH SPECIALIST: Means Southwest Health and Human Services Community Health Board's Environmental Health Specialist and any related staff acting under the Community Health Board's authority.

F. FOOD AND BEVERAGE ESTABLISHMENT: Means any building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be an operation that prepares serves, or otherwise provides food or beverages, or both, for human consumption.

G. LICENSE: Includes the whole or part of any permit, certificate, approval, registration or similar form of permission or renewal required by County Public Health Ordinance or State law administered by the County for the operation of any business, service or facility.

H. LICENSEE: Means 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 Public Health Ordinances.

SECTION IV - - ADMINISTRATION

4.1 The Department shall administer and interpret the provisions of this Ordinance. In addition to the duties set forth herein, the Department shall maintain adequate files and records relating to all licenses or permits issued, inspections made, work approved, and other official actions.

4.2 The Department shall have all powers necessary to administer and enforce the provisions of this Ordinance. In addition to the other powers set forth herein, and without limitation, the Department shall be empowered to do the following:

A. Prepare reports and recommendations regarding any additional measures that he/she deems necessary to affect the purpose of this Ordinance.

B. Obtain assistance and cooperation from other State and local health, legal, and law enforcement officials in the administration and enforcement of this Ordinance.

C. Cooperate with local and State personnel in the enforcement of this Ordinance and State regulations, rules, and requirements relating to food and beverage establishments.

D. Arrange for the enforcement of any and all rules, orders, permits, and other requirements established herein or issued pursuant to this Ordinance.

E. Enter upon the premises of any food or beverage establishment at any reasonable time for the purpose of administrating and enforcing this Ordinance.

F. The Department may impose additional requirements to protect against health hazards related to the conduct of their operation, and may prohibit the sale or distribution of any or all foods.

G. Interpret the provisions and intent of this Ordinance as may be necessary from time to time.

SECTION V - - ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

5.1 The standards for Food & Beverage Establishments outlined in the Minnesota Food Code Minnesota Rules Chapter 4626 and the Certified Food Manager Requirements for Food Establishments Minnesota Rules 4626.2000 through 4626.2025, are hereby incorporated in and made part of this Ordinance. Wherein Minnesota Rules Chapter 4626 refers to the Commissioner, Commissioner shall mean Southwest Health and Human Services Community Health Board and its designated agents.

SECTION VI - - EMBARGO, CONDEMNATION, AND TAGGING

6.1 General. The Environmental Health Specialist 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 VII - - PLAN REVIEW OF FUTURE CONSTRUCTION

7.1 General. Whenever a food and/or beverage service establishment is constructed or remodeled, or whenever an existing structure is converted to use as a food or beverage service establishment, properly prepared plans and specifications for such food service area construction, remodeling, or conversion shall be submitted to the Department with applicable fees for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed equipment layout, room finish materials, plumbing specifications, kitchen exhaust ventilation and make-up air specifications, construction materials of work areas, and the manufacturer's name and model number of proposed equipment and facilities. The plans and specifications shall be drawn to scale and shall be legible and complete in all details, and must be submitted to the Department for review and approval prior to the start of construction.

A. The Department shall approve the plans and specifications only if they meet the requirements of this Ordinance, the Minnesota Food Code, Minnesota Rules, Chapter 4626 and any other applicable Federal, State or Local laws and regulations.

B. The establishment shall be constructed and finished in conformance with the approved plans.

C. The licensee must obtain an inspection from the Department prior to the start of the operation. Construction must be completed and approved before operation can begin.

D. The licensee is responsible for obtaining written approval for the proposed construction from any other agency or official that may have authority over elements of such proposed construction, including, but not limited to; the Minnesota State Fire Marshall, the Minnesota Department of Labor and Industry Plumbing Division, or the appropriate county, city or township officials.

SECTION VIII - - LICENSING AND COMPLIANCE PROCEDURES

8.1 Licenses needed. It shall be unlawful for any person to operate a food and beverage service establishment within Rock County who does not possess a valid license issued to them by the 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. All licenses expire as of December 31st each year.

8.2 Application for License.

A. Any person desiring to operate a food and beverage service establishment shall make written application for a license on forms provided by the Department. Each application for a license shall be completed in full, and together with the appropriate license fee, as described herein, shall be submitted to the Department not later than January 31st each year, following expiration of the previous year's license, or in the case of a new food and beverage service establishment, prior to the opening date of such food and beverage service establishment. Any person who operates a food and beverage 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. License renewals shall be obtained on an annual basis. License Renewal applications shall be submitted on forms provided by the Department no later than December 31st of the year preceding the year for which application is made.

C. Proprietors of any food and beverage service establishment shall pay an annual license fee, at a rate specified by action of the County Community Health Board. This annual license fee may be adjusted from time to time as the Community Health Board shall deem appropriate. A penalty fee, at a rate specified by Community Health Board action, shall be added to the amount of the license fee, and paid by the proprietor if the annual license fee has not reached the Department by the dates specified in section 8.2A.

D. From and after October 1 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 penalty which may be required.

E. The fees prescribed by the Community Health Board shall apply to all licenses which become effective on or after January 1st of the licensing year.

SECTION IX - - INSPECTIONS

The Department shall inspect food and beverage establishments according to Minnesota Statute 157 and rules adopted under Minnesota Statutes 157.

9.1 It shall be the duty of the Department to inspect each licensed or permitted food and beverage establishment in accordance with Minnesota Department of Health requirements. Re-inspections required due to non-compliance with correction orders may be charged an

additional fee. The Department shall maintain a written policy for charging re-inspection fees.

9.2 The Department, after proper identification, shall be permitted, at any reasonable time, to enter any food or beverage establishment for the purpose of making inspections to determine compliance with this Ordinance or the Minnesota Food Code. The Department shall be permitted to examine the records of the food and beverage establishment, to obtain information pertaining to food and equipment purchased, received, or used, and persons employed, and to obtain any other information that may be necessary to determine whether the establishment is in compliance with this Ordinance or the Minnesota Food Code. Any interference with the Department in performance of his/her duties shall be grounds for immediate suspension of the license.

9.3 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.

9.4 The inspection report form shall specify a specific and reasonable period of time for the correction of the violation(s). Correction of the violation(s) shall be accomplished within the period specified.

9.5 The frequency of inspections shall be based on the degree of hazard to the public, and to comply with the time frames established in Minnesota Statute, Section 157.20; or successor statutes.

SECTION X - - ADOPTION OF THE SAFE DRINKING WATER ACT AND STANDARDS OF THE PUBLIC WATER SUPPLIES

10.1 The requirements of the Safe Drinking Water Act as outlined in Minnesota Statutes Chapter 144, Sections 144.381 to 144.387 and the standards for Public Water Supplies as outlined in Minnesota Rules Chapter 4720 for carrying out the authority to regulate transient water systems and for carrying out the authority related to wellhead protection are hereby incorporated in and made part of this Ordinance. Wherein Minnesota Rules Chapter 4720 refers to the Commissioner, Commissioner shall mean Southwest Health and Human Services Community Health Board and its designated Environmental Health Services staff.

10.2 Every food and beverage establishment shall obtain a safe, adequate supply of water from a public community water supply system, a public non-community water supply system, or a source of supply and system which is located, constructed, and operated in accordance with the provisions of Minnesota Rules Chapter 4725.

SECTION XI - - EMERGENCY CLOSURE

11.1 Notwithstanding the other provisions of this Ordinance, whenever the Department finds an imminent health hazard to exist, the establishment shall immediately cease food service operations according to the procedures outlined in this section. The licensee shall not resume operations until authorized by the Department. An imminent health hazard may include, but is not limited to the following:

A. Lack of any utilities such as water, electricity, or sewer;

B. Evidence of a sewer backup in the food preparation or food storage areas;

C. The licensee fails to comply with the orders of the Department;

D. The presence of a foodservice worker with a communicable disease or infected wound who refuses to comply with the orders of the Department;

E. An infestation of rodents or insects; or

F. Evidence of a food borne illness associated with the operation of the establishment.

SECTION XII - - PROCEDURE WHEN INFECTION IS SUSPECTED

12.1 When the Department has reasonable cause to suspect the possibility of disease transmission from any food establishment or employee, the Department shall make such investigation as may be indicated, and take appropriate action to protect the health and safety of the employees, customers or the general public. The Department may require any or all of the following measures:

A. The immediate exclusion of the employee from any and all food service operations until such time as the Department gives clearance for the employee to return to work;

B. The immediate closure of the food service establishment until, in the opinion of the Department, no further danger of disease outbreak exists;

C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request; furnish suspect food and/or beverage samples free of charge to the Department for laboratory analysis.

D. Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;

E. Conduct medical and laboratory examinations of the employee, or other employees, and their bodily discharges.

SECTION XIII - - ADMINISTRATIVE ORDINACE

13.1 The guidelines related to licensing, fees and enforcement of licensed establishments of the Rock County Public Health Administrative Ordinance, as amended from time to time, are hereby incorporated in and made part of this Ordinance.

SECTION XIV- - MINNESOTA DEPARTMENT OF HEALTH

14.1 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 XV- - PENALITIES

15.1 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 one thousand dollars ($1,000) 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.

15.2 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 violations.

SECTION XVI - - SEVERABILITY

16.1 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 this Ordinance, which can be given effect without the invalid provision or application, and for this purpose, the provisions of this Ordinance are severable.

SECTION XVII - - REPEAL OF PREVIOUS ORDINANCE

17.1 This Ordinance, adopted 06/19/12, hereby repeals and replaces in its entirety, the Rock County Environmental Health Licensing Ordinance of July 6, 2010.

SECTION XVIII- -EFFECTIVE DATE

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

Adopted this 19th **day of** June, 2012.

Chairman
Rock County Board of Commissioners

Attest:

Kyle Oldre
Rock County Auditor