

FOOD PROTECTION ORDINANCE

FOR WILKIN COUNTY

"The Wilkin County Board of Commissioners ordains:"

Section I: PURPOSE.

1.1 Purpose. This Ordinance is enacted to establish standards for the regulation of food establishments to protect the health, safety, and general welfare of the people of Wilkin County pursuant to powers granted under Minnesota Statutes and subsequent recodifications and/or amendments and other applicable legislation, as may be adopted from time to time.

1.2 Objectives. The principal objectives of this Ordinance are as follows:

A. To provide local governance to promote health, safety, and wellness to citizens and patrons of food service establishments.

B. To correct and prevent foodborne illness and conditions that may adversely affect persons utilizing food establishments.

C. To provide standards for the design, construction, operation, and maintenance of food establishments.

D. To provide education to food workers and operators on risk factors contributing to food borne illness.

E. To meet consumer expectations for the safety of food establishments.

Section II: SCOPE.

The scope of this ordinance applies to food service establishments within the jurisdiction of the Health Authority and as described in Minnesota Statute § 157.15.

Section III: DELEGATED AUTHORITY.

Promulgated in Minn. Stat. § 145A.07, the Commissioner of Health has entered into an agreement with Wilkin County, a member of the Partnership 4 Health Community Health Board, to delegate all or part of the licensing, inspection, reporting, and enforcement duties authorized under Minn. Stat. § 145A.04 and Minnesota Statutes Chapter 157.

Section IV: STATE HEALTH DEPARTMENT RULES ADOPTED.

Pursuant to Minnesota Statutes Chapter 157 (excluding Minn. Stat. § 157.16, subd. 2a and Minn. Stat. § 157.16, subd. 3(a)) and Minnesota Rules Chapter 4626, (excluding Minn. R. 4626.0033, subd. G–O and all subsequent amendments thereto), are hereby adopted by Wilkin County by reference.

Section V: GENERAL PROVISIONS.

5.1 Exclusions. This Ordinance shall not apply to food service operations as referenced in Minn. Stat. § 157.22.

Section VI: DEFINITIONS.

6.1 Definitions of words, phrases, and terms used in this Ordinance shall be those set forth in Minnesota Rules Chapter 4626, Minnesota Statutes Chapter 157, Wilkin County Administrative Ordinance, and this section.

6.2 "Health Authority" shall mean the Wilkin County Public Health Department and its designated employees, agents, or contractors, as the Wilkin County Board may designate.

6.3 "County" shall mean Wilkin County.

Section VII: ADMINISTRATION.

7.1 Administrative Ordinance. Except where otherwise specified, this Ordinance is subject to all provisions of the Wilkin County Administrative Ordinance.

7.2 License Required. It is unlawful for any person to operate or permit the operation of a food service establishment, regardless of whether a fee is charged for such use, unless Wilkin County has issued a valid license from the Health Authority which is in full force and effect. Licensing of food service establishments shall be done pursuant to Wilkin County Administrative Ordinance and active Resolution. Only a person who complies with the provisions of this ordinance(s) and resolution(s) applicable thereto within the jurisdiction in which the food service facility is located shall be entitled to receive a license.

7.3 General Licensing. The application or renewal for such licenses shall be made on forms furnished by the Health Authority and shall describe the general nature of the business, the location, and any other information deemed necessary by the Health Authority.

7.4 License Fees. Fees for licenses, late fees, and service fees as shown in the fee schedule issued hereunder shall be those established by an active resolution of the Wilkin County Board of Commissioners. (See Addendum G in Partnership 4 Health's Environmental Health policy)

7.5 License Expiration. Licenses issued pursuant to this Ordinance shall commence and expire on the dates indicated on the license certificate. With the exception of seasonal food establishment licenses, all food establishment licenses shall be issued for the applicable license year. Seasonal food establishment licenses shall be issued for the specific days the seasonal food establishment is in operation.

7.6 Transfer and Display of License. A license shall not be transferable as to person or place. A valid, original license certificate issued from the Health Authority shall be located onsite and posted so that it is clearly visible to the public.

Section VIII: INSPECTIONS AND PLAN REVIEW.

All persons who hereafter construct, remodel, or convert buildings or facilities for use on a parcel of land meeting the definition of food service establishment shall conform and comply in their construction or alteration with the requirements of this ordinance. Plans and specifications for such construction, remodeling or alteration which shall show layout; mechanical, plumbing, and electrical specifications; construction materials; and location and type of equipment and facilities, shall be filed by its owner in the Office of the Health Authority. The establishment shall be constructed and finished in conformance with the approved plans. The Health Authority, in partnership with other State and Local officials, shall inspect the grounds, including buildings and facilities related to the operation or functionality of the establishment, as frequently as deemed necessary during construction to ensure that construction occurs in conformance with the approved plans. The regulatory authority shall conduct a final inspection prior to the start of operations and issuance of an approved license.

8.2 Plan Submission. The license applicant or licensee shall submit properly prepared plans to the Health Authority under the provisions of Minn. R. 4626.1720 and Minn. R. 4626.1725. Complete plans, specifications, plan application, and the plan review fee shall be submitted to the Health Authority at least 30 days before beginning construction or remodeling.

8.3 Approval Required. The food establishment shall be constructed in conformance with plans approved by the Health Authority. The jurisdiction shall not issue a building permit for a food establishment or remodeling or alteration permit for such an establishment until the Health Authority has approved such plans.

8.4 Access to Premises and Records. After providing proper identification, the person in charge of the food establishment shall, upon request of the Health Authority, permit access to all parts of the establishment at any reasonable time for the purpose of inspection as often as deemed necessary by the Health Authority. The inspection frequency of an establishment or facilities shall be based on the degree of health risk (risk categories are defined in Partnership 4 Health's Environmental Health procedures) and Minn. Stat. § 157.20, subd. 2. The person in charge shall make available and allow copying of any and all records necessary to ensure compliance with this Ordinance.

8.5 Interference with Health Authority. No person shall interfere with or hinder the Health Authority in the performance of its duties or refuse to permit the Health Authority to make inspections of a food establishment.

8.6 Removal and Correction of Violations. The licensee, owner, or operator of a food establishment, upon receipt of a report giving notification of one or more violations of this Ordinance, shall correct or remove each violation in the length of time determined by the Health Authority. The length of time for the correction or removal of each such violation shall be noted on the inspection report provided by the Health Authority to the establishment. Failure to remove or correct each violation within the specified time period may constitute a separate violation of this Ordinance and further action by the Health Authority. The Health Authority may issue orders to halt construction or remodeling, or to take corrective measures to ensure compliance with this Ordinance.

Section IX: GROUNDS FOR EMERGENCY CLOSURE.

9.1 Grounds for Emergency Closure. If any of the following conditions exist, the operator may be ordered to discontinue all operations of the food establishment until such time as the Health Authority confirms the correction of the violation:

- A.** Failure to possess a current license required by this Ordinance;
- B.** Evidence of a sewage backup in a food preparation, food storage, or utensil washing area;
- C.** Lack of potable, plumbed, hot or cold water to the extent that hand washing, utensil washing, food preparation, or toilet facilities are not operational;
- D.** Lack of electricity or gas service to the extent that hand washing, utensil washing, food preparation, lighting, or toilet facilities are not operational;
- E.** Evidence of an ongoing illness associated with the operation of the establishment;
- F.** Significant damage to the food establishment due to tornado, fire, flood, or other disaster;
- G.** Evidence of an infestation of rodents or other vermin;
- H.** Evidence of cross contamination, filthy conditions, untrained staff, or poor personal hygiene;
- I.** Lack of an effective means of sanitizing dishes or utensils; or
- J.** Any violation or combination of violations deemed by the Health Authority to be an immediate or potentially serious health, safety, or security concern to patrons of the establishment; and
- K.** Anytime a public health nuisance, as defined in Minn. Stat. § 145A.02 subd. 17, exists.

Section X: STANDARDS FOR HEALTH, SAFETY, AND NUISANCE PREVENTION.

10.1 Standards Adopted. This Ordinance incorporates by reference the provisions of Minnesota Statutes Chapter 157 and Minn. R. 4626.0010–4626.2010, and all subsequent recodifications and amendments, and specifically adopts the following additional standards pursuant to Minn. Stat. § 145A.05, subd. 1:

A. For the purposes of this Ordinance, the standards found in Minn. R. 4626.1050 subd. A shall be modified as follows: A hand washing lavatory shall be equipped to provide water to the user through a mixing valve or combination faucet, at a temperature of at least 43 degrees C (110 degrees F), but not more than 54 degrees C (130 degrees F) in a food establishment and not more than 48 degrees C (120 degrees F), in a sink that is used by children such as a school, day care, or preschool.

Section XI: VARIANCES.

11.1 Determination and Notice. When a licensee or applicant requests a variance under Minn. R. 4626.1690–4626.1715, on the form provided by the Health Authority, from a provision of this Ordinance or Minnesota Rules Chapter 4626, the Health Authority will issue a written determination regarding that variance request. The administrative review of the variance will be issued to the licensee or applicant within ten County working days of the completion of the review.

Section XII: SEPARABILITY.

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 XIII: PENALTY.

13.1 Penalty. Any person violating a provision of this ordinance may be guilty of a misdemeanor and upon conviction thereof shall be punished pursuant to Wilkin County Administrative Ordinance.

13.2 Administrative Citations. Whenever the Health Authority discovers a violation of this Ordinance, a citation may be issued to the person alleged to have committed the violation. The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

13.3 Re-inspection. If violation(s) found during an establishment inspection are deemed a potential public health or safety risk, a re-inspection of the establishment may be performed by the Health Authority. A re-inspection service fee, as defined in resolution, may be assessed to a licensed establishment after a re-inspection is completed.

Section XIV: LICENSE SUSPENSION, REVOCATION, AND APPEALS.

14.1 For serious or repeated violations of any of the requirements of this ordinance, a license granted pursuant to this Ordinance may be permanently revoked or suspended. (refer to Section 11 of Partnership4Health Environmental Health Policy)

14.2 Appeals to the Board: Any person affected by any notice or emergency order which has been issued and serviced as provided in this policy shall be granted a hearing on the matter before the Board of Commissioners (refer to section 12 of Partnership4Health Environmental Health Policy)

Section XV: EFFECTIVE DATE.

After passage by the Wilkin County Board of Commissioners, this Ordinance shall be effective on September 13, 2022.