



OFFICE OF COUNTY RECORDER  
WADENA COUNTY, MINNESOTA

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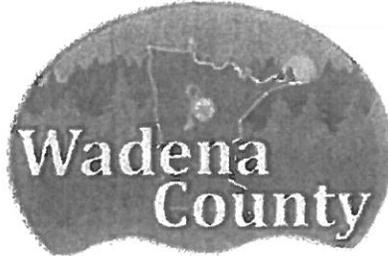
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SOLEDAD HENRIKSEN, COUNTY RECORDER

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ATTN: CINDY PEDERSON  
22 DAYTON AVE SE  
WADENA, MN 56482



**WADENA COUNTY UNIFIED ENVIRONMENTAL  
HEALTH ORDINANCE**

**BY AND THROUGH**

**WADENA COUNTY  
PUBLIC HEALTH**

**EFFECTIVE November 5, 2019**



**Public Health**  
Prevent. Promote. Protect.

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**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WADENA COUNTY, MINNESOTA;**

**SECTION 1.           PURPOSE**

- 1.1     The purpose of this ordinance is to establish standards for establishments licensed as required by this Ordinance and to protect the health, safety and general welfare of the citizens and visitors of Wadena County. The general objectives include the following:
- 1.2     Identify, correct and prevent conditions that may adversely affect persons utilizing the establishments licensed by Wadena County.
- 1.3     Provide minimum standards for the design, construction, operation and maintenance of the establishments licensed by Wadena County.
- 1.4     Establish inspection requirements and associated procedures involved with administering and enforcing this Ordinance.
- 1.5     Comply with the delegation agreements that Wadena County has entered with the Minnesota Department of Health.

**SECTION 2.           LEGAL AUTHORITY**

- 2.1     **AUTHORITY** This Ordinance is enacted pursuant to Minnesota Statute Chapters 157, 144 and 327 which establishes the authority for the State to license food and beverage establishments, lodging establishments, manufactured home parks, recreational camping areas, youth camps and swimming pools and spas; Minnesota Statute Section 145A.07, which authorizes the Commissioner of Health to enter into an agreement with a local board of health to perform all or part of its licensing, inspection and enforcement duties; and Minnesota Statute Section 145.A.05 which authorizes Wadena County to enact this Ordinance necessary to administer and enforce delegated powers.
- 2.2     Minnesota Department of Health (MDH), in order to ensure safe drinking water in all public water supplies, has the powers and duties stated in the Safe Drinking Water Act, Minnesota Statutes, Sections 144.381-144.387 (the "Act"). The Act authorizes staff to enter the premises of a public water supply to inspect facilities and records; to conduct sanitary surveys; to investigate the standards of operation and service delivered by public water supplies; and to implement and enforce the Act and the respective rules adopted, Minnesota Rules, Chapter 4720. Minnesota Rules, parts 4720.5100, 4720.5110, subpart 1, and 4720.5120 which applies to transient non-community water supplies and wellhead protection for licensed establishments. Duties as listed in 2.2 are not delegated to Wadena County

Public Health as part of this delegation agreement. Establishments with public water supply are responsible for attaining approval from the Minnesota Department of Health.

**SECTION 3.           JURISDICTION**

**3.1    JURISDICTION** This Ordinance shall be applicable to all establishments licensed by this Ordinance within the legal boundaries of Wadena County except as exempted by Minnesota Statute Section 157.22 and except those establishments under the jurisdiction of the Department of Agriculture. Private school food services located in any building constructed and primarily used for religious worship and youth camps as defined in Minnesota Statute Section 144.71-144.74 shall be subject to these regulations.

**SECTION 4.           DEFINITIONS**

**4.1**       The definitions contained in Minnesota Rules 4625, 4626, 4630, 4717, 4720; and Minnesota Statutes Chapters, 157, 144 and 327, 144.382; now in effect or as hereafter amended or modified, are hereby adopted, except as modified in Section 4.2 of this Ordinance.

**4.2**       The following definitions shall apply to the interpretation and enforcement of this Ordinance and adopted Standards.

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

**4.2.2**     Establishment means any entity which is required to hold a license to operate in accordance with this Ordinance, which includes food and beverage establishments, lodging establishments, manufactured home parks, recreational camping areas, youth camps, and swimming pools and spas.

**4.2.3**     Health Department/Health Authority means the Wadena County Public Health Department and its designated employees, agents, or contractors acting under the Board's authority.

**4.2.4**     Public Water Supply has the meaning given to "public water system" in the federal Safe Drinking Water Act, United States Code, title 42, section 300f, and clause (4).

**SECTION 5.           VARIANCES AND WAIVERS**

**5.1**       Procedures to Request a Variance or Waiver: A licensee may request the Health Department grant a variance or waiver from the provisions contained

in Minnesota Rules, Part 4626.1690 to 4626.1715 for food and beverage establishments, Minnesota Rules, Part 4625.2355 for lodging establishments, Minnesota Rules, Part 4630.1801 for manufactured home parks and recreational camping areas and Minnesota Rules, Part 4630.4750, for youth camps, Minnesota Rules 4717.7000 subp. 1, D-F and subp. 2 as adopted in Section 12 of this Ordinance. All requests for a variance or waiver must be submitted to the Health Department in writing. Each request shall contain:

- a) The specific language in the rule, as adopted in Section 12 of this Ordinance, from which the variance or waiver is requested;
- b) The reasons for the request;
- c) The alternative measures that will be taken if a variance or waiver is granted;
- d) The length of time for which the variance or waiver is requested, and;
- e) Other relevant information necessary to properly evaluate the request for the variance or waiver.
- f) The MDH retains exclusive authority for reviewing and granting variances, as provided MN Rules 4720.2700 and 4720.3970

**5.2 Criteria for Decision:** The decision to grant or deny a variance or waiver shall be based on the Health Department's evaluation that:

- a) The variance or waiver will not adversely affect the environment, public health or safety or Minnesota Rules 4626.1695;
- b) The alternative measures to be taken, if any, are equivalent or are superior to those prescribed in this Ordinance, and;
- c) Compliance with this Ordinance would impose an undue burden on the applicant.

**5.3 Notification of Variance:** The Health Department shall notify the applicant in writing of the decision to grant or deny a variance or waiver. If a variance or waiver is granted, the notification shall specify the period of time for which the variance or waiver will be effective and the alternative measures or conditions, if any, the applicant must meet.

**5.4 Effect of Alternative Measures or Conditions:** All alternative measures or conditions attached to a variance or waiver have the force and effect of this Ordinance and are subject to the issuance of correction orders and penalties as provided by law.

- 5.5 **Renewal:** A request for the renewal of a variance or waiver must be submitted in writing before its expiration date. Renewal requests shall contain the information in Section 5.1. The Health Department shall renew a variance or waiver if the applicant continues to satisfy the criteria in Section 5.2, and demonstrates compliance with the alternative measures or conditions imposed when the original variance or waiver was granted.
- 5.6 **Denial, Revocation, or Refusal to Renew:** The Health Department shall deny, revoke, or refuse to renew a variance or waiver if the Health Department determines that the criteria in Section 5.1 and 5.2 are not met. The Health Department shall notify the applicant in writing of the decision to deny, revoke; or refuse to renew the variance or waiver. The notice must describe the reasons for the denial, revocation, or refusal to renew, and inform the applicant of the right to appeal the decision .
- 5.7 **Appeal Procedure:** An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a hearing before the Appeals Board. The procedure outlined in Section 11 of this Ordinance shall apply in the event that a variance or waiver is denied, revoked or a refusal to renew a variance or waiver. At the hearing, the applicant bears the burden of proving that the applicant has satisfied the criteria specified in Section 5.2.

**SECTION 6. PLAN REVIEW PROVISIONS**

- 6.1 **General:** When an establishment is constructed, extensively remodeled, is adding equipment or whenever an existing structure is converted for use as a licensed establishment under the provisions of this Ordinance, properly prepared plans and specifications for the construction, remodeling, additions, or conversion must be submitted to the Health Department for review and approval before construction, remodeling, additions, or conversion is begun. The plans and specifications must indicate the proposed layout, arrangement, construction materials of work areas, menu and the type and model number of proposed equipment and facilities. The plans and specifications, submitted and drawn to scale, must be legible and complete in all details. The plans and the fee specified by the Board shall be submitted at least 30 days before beginning construction, extensive remodeling, addition of equipment, or conversion of an establishment.
- 6.2 **Plumbing Plans:** Plumbing plans and specifications shall be submitted directly to the Minnesota Department of Labor and Industry for approval.
- 6.3 **Swimming Pool/Spa Plans:** Pool and spa plans and specifications shall be submitted directly to the Minnesota Department of Health for approval.

- 6.4 **Construction:** The Health Department shall inspect all establishments prior to the start of operation, to determine compliance with the approved plans and specifications.

## SECTION 7 LICENSING PROVISIONS

- 7.1 **License Required:** Unless otherwise provided by ordinance, no person shall, within Wadena County, operate any facility, engage in any activity, or permit property under the person's control to be used for any activity, which is regulated by the Wadena County Unified Environmental Health Ordinance, without the appropriate license issued by the County permitting such activity. All licenses expire as of December 31 each year, with the exception of licenses for seasonal establishments, which expire according to the date stated on the license.
- 7.2 **Application for License:** Each application for a license, together with appropriate license fees as determined by the Board, shall be submitted to the Health Department not later than December 10 (tenth) each year. In the case of a new establishment, new owner, or seasonal establishment, license application and fees must be submitted 20 days prior to the opening date, or the change of ownership, of such an establishment. Application for a license or license renewal shall be on forms furnished by the Health Department. The applicant shall provide such information as may be required by this Ordinance under which the license is issued and any further information as the Health Department may require for the administration and enforcement of said license. All license applications require Board approval. Any person who operates an establishment without a license shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance.
- 7.3 **License Fees:** All establishments licensed under the provisions of this ordinance shall be subject to an annual fee at a rate specified by the Board. This annual license fee may be adjusted, as the Board deems appropriate. A penalty fee at a rate specified by the Board shall be added to the amount of the license fee and paid by the establishment license holder if the annual license fee has not reached the Wadena Health Department by the date specified in Section 7.2 of this Ordinance.
- 7.4 **Taxes Fines and Fees:** All taxes on the property which is the subject of the license shall be paid in full to the amount then due and owing prior to the issuance of a license. All unpaid fines and fees assessed to the license holder, by the Health Department, must be paid in full prior to the issuance of a new license or the renewal of an existing license.
- 7.5 **Grounds for Denial:** Omission of any information, submission of false information, or an existing violation of Federal and State Law or County

Ordinance may constitute grounds for the denial of the license applied for, or the suspension or revocation of an issued license. The licensee is entitled to an appeal as outlined in Section 11 of this Ordinance.

**7.6 License Nontransferable:**

7.6.1 A license obtained pursuant to this Ordinance shall not be transferable between owners or locations.

7.6.2 All licensees shall submit written notice to the Health Department of any change of name or address.

**7.7 Licensee Responsibility:** The licensee shall:

7.7.1 Be responsible for compliance with all applicable provisions of this Ordinance under which the license is issued and all Federal and State Laws.

7.7.2 Allow the Health Department, Board or their authorized representatives, access to the site or facility subject to the license for inspection at any time during the conduct of business.

7.7.3 Allow the Health Department or their authorized representative access to records concerning the licensed operation.

**7.8 Posting Requirements:** Every licensed establishment must have the license posted in a conspicuous place at the establishment.

**SECTION 8 INSPECTION PROVISIONS**

**8.1** Minnesota Statute Chapters 157, 144, and 327 and rules adopted under Minnesota Statute Chapters 157, 144, and 327. The person operating an establishment shall, upon request of the Health Department, permit access to all parts of the establishment at any time during the conduct of any records, the taking of photographs, the collection of samples, or any other procedures necessary to ascertain compliance with the provision of this Ordinance.

**8.2** The Health Department may conduct a re-inspection of establishments pursuant to Wadena County Environmental Health Policy. This re-inspection may be subject to the re-inspection fee as set by the Board.

**8.3** Prior to issuing a license to a new establishment, the Health Department shall cause an inspection to verify compliance with all aspects of this Ordinance.

- 8.4 In the event a licensed establishment discontinues operation or is not licensed for a period of 90 days or longer, said establishment will require an inspection prior to a new license being issued. The Health Department shall determine what changes will need to be made prior to licensure. All changes must be completed prior to presenting the license application to the Board
- 8.5 A request for an inspection of a licensed establishment, for the purpose of consultation may be subject to an inspection fee as set by the Board.

## **SECTION 9                    COMPLIANCE**

- 9.1 Whenever an inspection or review of an establishment is made, the findings shall be recorded on an inspection form. Compliance orders shall be recorded on the inspection form furnished to the person in charge of the establishment at the time of the inspection or by mail to the license holder for the establishment. The completed inspection report form is a public document and shall be available for public disclosure to any person who requests it, except when report forms are part of on-going investigations or pending litigation. The inspection form shall state a specific, appropriate, and reasonable period of time for correction of the violations pursuant to Wadena County Environmental Health policy. Correction of the violations shall be accomplished within the period specified. Failure to make corrections within the time period specified shall result in the enforcement options being initiated as outlined in Section 10 and Section 14 of this Ordinance.

## **SECTION 10                ADMINISTRATIVE PROVISIONS**

- 10.1 **Enforcement by Administrative Action:** Whenever an establishment has failed to comply with any notice requiring corrective action issued under the provisions of this Ordinance, administrative procedures may be utilized to bring the establishment into compliance. Administrative actions that may be utilized are:
- 10.1.1 **Administrative Penalties:** Monetary penalties may be assessed to the establishment operator or owner for continual non-compliance, for the same violation or violations. Fines will be assessed pursuant to the Wadena County Environmental Health Policy. The administrative penalties fee schedule shall be set by the Board.
- 10.1.2 **Administrative Meeting:** A formal meeting which may include, but would not be limited to, the owner of the establishment, County Field Inspection Staff and Department Heads, County Administrator, County Attorney, County Board Member, and additional legal counsel.

10.1.3 **Suspension of License:** Whenever an establishment has failed to comply with any notice requiring corrective action issued under the provisions of this Ordinance, and the ongoing violation or violations constitute a hazard to the health of the public, the licensee will be notified, in writing, that the license will be suspended within 10 days unless the licensee either:

- a) Submits a written request for a hearing before the Appeals Board, pursuant to Section 11 of this Ordinance, or;
- b) Submits a written request for a re-inspection including a statement by the licensee that the condition(s) causing the suspension of the license have been corrected. The Health Department upon receipt of the request shall make a re- inspection within 10 days. The re-inspection shall be subject to a re-inspection fee as set forth in the Wadena County Public Health Environmental Health Fee Schedule.

10.1.4 **Immediate Suspension of License:** Notwithstanding other provisions of this Ordinance, when the Health Department finds conditions in the operation of a license establishment which constitute an imminent health hazard to the public, the Health Department may, without notice or hearing, issue a written notice to the licensee, or the designated person in charge, citing such conditions and specifying the corrective action to be taken. The order shall state that the license is immediately suspended and operations must be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith. The establishment shall remain closed until the specified conditions have been corrected, and that the corrections have been verified by an agent of the Health Department.

10.1.5 **Revocation of License:** For serious or repeated violations of any of the requirements of this Ordinance, a license may be permanently revoked. Prior to such action, the Health Department shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a ten (10) day period, and that the licensee is entitled to a hearing before the Appeals Board, upon written application, pursuant to Section 11 of this Ordinance.

## **SECTION 11**

### **APPEALS PROVISIONS**

11.1 **Appeal From – Denial, Suspension or Revocation of License.** Any establishment whose license to operate has been denied, suspended or revoked, or has received notice from the Health Department that its license

is to be denied, suspended or revoked, may request and shall be granted a hearing on the matter before the Appeals Board by the procedure provided below.

- 11.2 **Appeals Board.** The Appeals Board shall be appointed by the Board and members will consist of; two County Commissioners, two members of the Wadena County Public Health Advisory Committee, and one independent Registered Sanitarian or a board certified medical professional. The Appeals Board shall elect its own chair. The Appeals Board may act if a simple majority of its members are present and participate in the decision.
- 11.3 **Request for Hearing.** Any person affected by a notice of denial, suspension or revocation shall be granted a hearing on the matter before the Appeals Board upon submitting to the Health Department a written request for such hearing which sets forth a brief statement explaining the licensee's defense to the action. Said request shall be filed within ten days after the notice of denial, suspension or revocation was served, or postmarked if notice sent certified mail.
- 11.4 **Date of Hearing.** A hearing shall be held not more than 30 days after the date on which the request was filed. The Chair of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such 30 day period if, in his/her judgment, a good and sufficient reason exists for such postponement.
- 11.5 **Notice of Hearing.** The Health Department shall cause ten days written notice of the hearing to be given to the licensee by personal service, or service by certified mail of the notice, to the licensee's last known address, or the address of the establishment.
- 11.6 **Proceedings.** At such hearing, the licensee, his agent, or attorney shall be given an opportunity to be heard, and to show why the denial, suspension or revocation issued by the Health Department should be modified or withdrawn. The Health Department shall present a detailed written statement, and testimony subject to cross-examination, regarding its findings and decision to the Appeals Board at the time of the hearing.
- 11.7 **Decisions of the Appeals Board.** After such hearing, the Appeals Board shall sustain, modify, or withdraw the notice of denial, suspension or revocation, depending upon its findings as to whether the licensed establishment is being operated in compliance with the provisions of this Ordinance. A copy of the decision of the Appeals Board shall be served by certified mail on the licensee. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in a court of competent jurisdiction as provided by the laws of the state.

- 11.8 **Record of Proceedings.** The proceedings of each hearing held before the Appeals Board pursuant to petition, shall be recorded by a Court Reporter or an audio visual recording. The findings and decisions of the Appeals Board shall be entered as a public record in the office of the Health Department. Such record shall include a copy of every notice, order, or writing issued in connection with the matter.
- 11.9 **Notices not Appealed.** Any notice of denial, suspension or revocation shall automatically become final if a written request for a hearing is not filed with the Health Department within ten days after the notice is served.

## **SECTION 12            ADOPTION AND AMENDMENT OF STANDARDS**

### **12.1    Food and Beverage Establishment Standards**

- 12.1.1 The standards for Food & Beverage Establishments outlined in Minnesota Rules Parts, 4626.0010 to 4626.1855 and Minnesota Statute Chapter 157, any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance.
- 12.1.2 Standards for Certified Food Protection Manager requirements outlined in Minnesota Rules Parts, 4626.0033, Subpart G-O and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance. Minnesota Department of Health retains exclusive authority of these subparts.
- 12.1.3 Wherein Minnesota Rules 4626 refers to the Commissioner, Commissioner shall mean the Wadena County Board or designated agents.

### **12.2    Lodging Establishment Standards**

- 12.2.1 The standards for Lodging Establishments outlined in Minnesota Rules Parts, 4625.0100 to 4625.2355, Minnesota Statute Chapter 157 and Minnesota Statute Chapter 327 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance.
- 12.2.3 Wherein Minnesota Rules 4625 and Minnesota Statutes 157 and 327 refer to the Commissioner, Commissioner shall mean the Wadena County Board or designated agents.
- 12.2.4 Section 7 of this ordinance shall replace Minnesota Rules, Part 4625.2300.

**12.3 Manufacture Home Parks and Recreational Camping Area Standards**

12.3.1 The standards for Manufactured Home Parks and Recreational Camping Areas outlined in Minnesota Rules Parts, 4630.0200 to 4630.1900, 4630.2210 and Minnesota Statute Chapter 327 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance.

12.3.2 Wherein Minnesota Rules 4630 and Minnesota Statute Chapter 327 refer to the Commissioner, Commissioner shall mean the Wadena County Board or designated agents.

**12.4 Youth Camp Standards**

12.4.1 The standards for Youth Camp Establishments outlined in Minnesota Rules, Parts 4630.2300 to 4630.4750, Minnesota Statute, Sections 144.71 to 144.74 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance.

12.4.2 Minnesota Rules, Parts 4630.2700 through 4630.3000 referring to food service operations within youth camps, are amended to read: "All food service facilities shall be constructed, equipped and operated in accordance with Section 12.1 of this Ordinance."

12.4.3 Wherein Minnesota Rules 4630 refers to the Commissioner, Commissioner shall mean the Wadena County Board or designated agents.

**12.5 Swimming Pool and Spa Standards**

12.5.1 The standards for Swimming Pool and Spa establishments outlined in Minnesota Statute, Section 144.1222 Minnesota Rules, Parts 4717.0150 to 4717.3970 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance. Minnesota Department of Health retains exclusive authority of MN Rules 4717.0310 and 4717.0450, plan review and approval, and Minnesota Rules 4717.3975 and 4717.7000 subp.1 (J).

12.5.2 Wherein Minnesota Rules 4717 refers to the Commissioner, Commissioner shall mean the Wadena County Board or its designated agents.

**SECTION 13 SEVERABILITY**

**13.1 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.

**SECTION 14            CRIMINAL PENALTIES**

**14.1 Penalties:** Any person, firm or corporation who violates any of the provisions hereof or who fails to comply with any of the provisions hereof or who makes 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.

**SECTION 15            REPEAL OF PREVIOUS ORDINANCES**

**15.1** This Ordinance, adopted 11-5-19 hereby repeals and replaces in its entirety the following list of Wadena County ordinances;  
Wadena County Ordinances dated 07-10-2010

- Food & Beverage, Ordinance #9
- Lodging, Ordinance #12
- Manufactured home parks & recreational camping areas, Ordinance #11
- Swimming pool, Ordinance #14
- Youth camps, Ordinance #10

**SECTION 16            EFFECTIVE DATE**

**16.1 Effective Date:** This Ordinance shall be in full force and effect upon passage and shall apply to all establishments licensed as required by this Ordinance, existing at the time of passage and all establishments started thereafter.

Motion: Horsager  
 Second: Monson  
 Ayes: 5                      Nays: 0  
 Adopted this 5<sup>th</sup> day of November, 2019

**ATTEST:**

Ryan Otter  
 County Coordinator  
 County of Wadena  
 State of Minnesota

M. J. Stearns  
 Chairman of Board  
 County of Wadena  
 State of Minnesota