



Board of County Commissioners Agenda Request

3A
Agenda Item #

Requested Meeting Date: March 26, 2019

Title of Item: Set Public Hearing for Food and Lodging Ordinance Revisions

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input checked="" type="checkbox"/> Hold Public Hearing*
--	---	--

Submitted by: Terry Neff, Environmental Services Director	Department: Environmental Services
---	--

Presenter (Name and Title): Terry Neff, Environmental Services Director	Estimated Time Needed: 10 minutes
---	---

Summary of Issue:

The Minnesota Department of Health has updated the state food code and it is necessary that we update our Food Protection Ordinance to be in compliance.

The Lodging Establishments Ordinance is being proposed for amendment to update definitions, address regulations in the fire code and remove language regarding assisted living as per change in statute.

Set a public hearing date to take public comments on the two above mentioned ordinances.

Alternatives, Options, Effects on Others/Comments:

The alternative would be to continue administering outdated ordinances, which would likely result in problems with our delegation agreement with the Department of Health.

Recommended Action/Motion:

Approve setting a public hearing date for May 14, 2019, to hear public comments on the proposed amendments to the Food Protection Ordinance and Lodging Establishments Ordinance.

Financial Impact:

Is there a cost associated with this request? Yes No

What is the total cost, with tax and shipping? \$

Is this budgeted? Yes No *Please Explain:*

Cost would be for publication of the proposed amendments which should be less than \$500.00

April 24 and May 8, 2019

NOTICE OF HEARING

The Aitkin County Board of Commissioners will hold a public hearing on the adoption of amendments to the Aitkin County Food Protection and Lodging Establishment Ordinances. The hearing will be conducted on May 14, 2019 at 9:30am in the Aitkin City Hall meeting room located at 109 1st Ave NW, Aitkin, MN 56431.

The Aitkin County Board has entered into a Delegation Agreement with the Minnesota Department of Health based on MN Statutes Section 145A.07. Through this delegation of authority, the Aitkin County Board has been charged with protecting the public health as outlined under MN Statutes Chapters 144, 157, and 327. The Food Protection and Lodging Establishment Ordinances are being updated to maintain consistency with Statute and Rule as required in the Scope of the Delegation Agreement.

A summary of the areas for proposed changes within the Food Protection Ordinance are:

SECTIONS 2.00 SCOPE; 4.00 DEFINITIONS; 5.00 ADOPTION OF FOOD AND BEVERAGE ESTABLISHMENT STANDARDS; 6.00 LICENSING; 7.00 INSPECTIONS; 10.00 SOLID WASTE; adding Section 11.00 HANDWASH SINK REQUIREMENTS and SECTION 12.00 FOOD AND BEVERAGE EQUIPMENT REQUIREMENTS, and renumbering in SECTIONS 13.00 thru 17.00.

Proposed changes within the Lodging Ordinance are:

SECTIONS 2.00 SCOPE; 4.00 DEFINITIONS; 5.00 GENERAL REQUIREMENTS; 14.00 FIRE PROTECTION; eliminate SECTION 20.00 PROVISION OF SPECIAL SERVICES; SECTION 21 VARIANCES and renumbering in SECTIONS 20.00 thru 23.00.

Language that is proposed for deletion is in ~~strikethrough~~ and proposed new language is in red.

Copies of these Ordinances with the proposed amendments are available for review and inspection at the Aitkin County Planning and Zoning Office and the Aitkin County Auditor's Office in the Aitkin County Courthouse during regular business hours. A copy with proposed amendments can also be viewed in their entirety on the Aitkin County website at www.co.aitkin.mn.us. Comments can be submitted in writing to the Aitkin County Planning and Zoning Office 209 2nd St NW, Aitkin, MN 56431, by fax# (218) 927-4372, or by e-mail to aitkinpz@co.aitkin.mn.us before 4:30pm on May 10, 2019. Please include a full name and a complete address with all correspondence.

AITKIN COUNTY ORDINANCE REGULATING LODGING ESTABLISHMENTS

SECTION 1.00 PURPOSE.

The purpose of this ordinance is to establish standards for all lodging establishments and to protect the health, safety and general welfare of the people of Aitkin County.

SECTION 2.00 SCOPE.

This ordinance shall provide for the licensing and inspection of all lodging establishments; regulation of the design, construction, operation and maintenance of such establishments; and the enforcement of violations of this ordinance.

This ordinance shall be applicable to all lodging establishments, such as hotels, motels, lodging houses, bed and breakfasts, ~~vacation/private home rentals~~ and resorts as defined in ~~this ordinance~~ or Minnesota Statutes Chapters 157 and 327, and Rule 4625.

SECTION 3.00 AUTHORITY.

This ordinance is adopted by the Board pursuant to Minnesota Statutes Chapter ~~157A.05-157~~ and Rule 145A.07 which authorizes the Commissioner of Health to enter into a delegation agreement with counties or cities organized under the provisions of to perform all or part of the licensing, inspection and enforcement duties.

SECTION 4.00 DEFINITIONS.

For the purpose of this ordinance, the following words shall have the following meanings:

- 4.01 Approved.** "Approved" shall mean acceptable to the Department as determined by conformance to applicable standards and good public health practices.
- 4.02 Bed and Breakfast.** ~~"Bed & Breakfast" are owner-occupied establishments which offer lodging and breakfast, without a limitation on the number of rooms offered.~~ shall mean an eating and lodging establishment that is the owner's personal residence, is occupied by the owner at the time of rental and in which guests are only provided with a breakfast meal. ~~If breakfast is offered to more than 10 persons, a commercial kitchen is required.~~
- 4.03 Boarding House.** "Boarding House" shall mean a lodging establishment maintained as, or advertised as, or held out to be an enclosure where meals or lunches are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.
- 4.04 Clean.** "Clean" shall mean the absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.
- 4.05 Commercial Planned Unit Developments.** "Commercial Planned Unit Developments" shall mean land uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other service-oriented activities.
- 4.06 County.** "County" shall mean the County of Aitkin.
- 4.07 County Board.** "County Board" shall mean the Aitkin County Board of Commissioners and its authorized representatives.
- 4.08 Deck.** "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point the deck surface extends more than ~~30~~ **six (6)** inches above ground.

- 4.09 Department.** "Department" shall mean the Aitkin County Environmental Services Department and its authorized representatives.
- 4.10 Good Repair.** "Good Repair" shall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.
- 4.11 Hotel or Motel.** "Hotel or Motel" means a lodging structure maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.
- 4.12 Individual Sewage Treatment System.** "Individual Sewage Treatment System" shall mean a system as described and regulated in the Aitkin County Individual Sewage Treatment System and Wastewater Ordinance No. 1.
- 4.13 Landing.** "Landing" shall mean the top or bottom of a section of stairway, with or without railings.
- 4.14 Lodging Establishment.** "Lodging Establishment" shall mean a hotel, motel, lodging house, bed and breakfast, resort, ~~vacation/private home rental~~ or other establishment that meets the definition of Lodging Establishment as defined in Minn. Stat., Chapter 157.
- 4.15 Person.** "Person" shall mean any individual, firm, partnership, public or private corporation, municipality, or other organization, receiver, trustee, assignee or agent, and with respect to acts prohibited or required herein, shall include employees or licensees.
- ~~**4.16 Platform.** "Platform" shall mean a horizontal, unenclosed structure with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and the platform surface extends less than 30 inches above ground.~~
- 4.16 Resort.** "Resort" means a lodging structure located on or near any lake, stream, skiing or hunting area, or any recreational area for convenient access, and held out to the public to be a place where sleeping accommodations are furnished to the public for recreational periods of one day, one week, or longer, and having for rent ~~three five~~ or more cottages, units or enclosures.
- ~~**4.17 Single Service Articles.** "Single Service Articles" shall mean tableware, utensils and other items such as bags, containers, stirrers, straws, toothpicks and wrappers, that are designed and constructed to be used one time by one person, after which they are intended to be discarded.~~
- 4.18 Usable Floor Space.** "Usable Floor Space" shall mean all floor space in a sleeping room not occupied by closets, toilet rooms, shower or bathrooms.
- ~~**4.19 Vacation/Private Home Rental.** "Vacation/Private Home Rental" means a single family dwelling and/or related structure that is rented out on a transient basis for a charge. A transient basis shall be any period of time less than thirty (30) consecutive days.~~

SECTION 5.00 GENERAL REQUIREMENTS.

- 5.01 Space.** Every room occupied for sleeping purposes by one person shall contain at least 70 sq. ft. of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 sq. ft. of usable floor space for each occupant thereof. Under no circumstances shall there be provided less than 400 cu. ft. of air space per occupant. Beds shall be spaced at least 3 ft. apart when placed side by side. No sleeping quarters shall be provided in any basement having more than half its clear floor to ceiling height below the average grade of the adjoining ground. When strict compliance herewith is impracticable, the Department may waive any of the provisions of this paragraph subject to such conditions as may be deemed desirable in the individual case.

- 5.02 Bedding and Linen.** All beds, bunks, cots, and other sleeping places provided for guests in ~~lodging establishments hotels, motels, resorts and lodging houses~~ shall be supplied with suitable pillow slips and under and top sheets. All bedding including mattresses, quilts, blankets, pillows, sheets, spreads, and all bath linen shall be kept clean. No bedding including mattresses, quilts, blankets, pillows, bed and bath linen, shall be used that are worn out or unfit for further use. Pillow slips, sheets, and bath linen after being used by one guest shall be washed before they are used by another guest, a clean set being furnished each succeeding guest. For any guests occupying a guest room for an extended period of time, a fresh set of sheets and pillow slips shall be furnished at least once each week, and at least two clean towels shall be furnished each day, except that the proprietor will not be responsible for the sheets, towels, pillow slips, and bath linen furnished by a guest.
- 5.03 Room Furnishings.** All equipment, fixtures, furniture and furnishings, including windows, draperies, curtains and carpets, shall be kept clean and free of dust, dirt, vermin and other contaminants, and shall be maintained in good order and repair.
- 5.04 Toilets.** Every ~~lodging establishment hotel, motel and lodging house~~ shall be equipped with adequate and conveniently located water closets for the accommodation of its employees and guests. Water closets, lavatories and bathtubs or showers, shall be available on each floor when not provided in each individual room. Toilet, lavatory and bath facilities shall be provided in the ratio of one toilet and one lavatory for every ten occupants, or fraction thereof, and one bath tub or shower for every twenty occupants, or fraction thereof. Toilet rooms shall be well ventilated by natural or mechanical methods. The doors of all toilet rooms serving the public and employees shall be self-closing. Toilets and bathrooms shall be kept clean and in good repair and shall be well lighted and ventilated. Hand washing signs shall be posted in each toilet room used by employees. Every resort shall be equipped with adequate and convenient toilet facilities for its employees and guests. If privies are provided they shall be separate buildings and shall be constructed, equipped, and maintained in conformity with the standard of the Department and shall be kept clean.
- 5.05 Hand Washing.** All lavatories for public use or furnished in guestrooms shall be supplied with hot and cold running water and with soap. Scullery sinks should not be used as hand washing sinks.

Individual or other approved sanitary towels or warm-air dryers shall be provided at all lavatories for use by employees or the public.

5.06 Eating Utensils and Drinking Vessels Provided in Guestrooms.

- 5.061** After each usage, all multi-use eating utensils and drinking vessels shall be thoroughly washed in hot water containing a suitable soap or synthetic detergent, rinsed in clean water, and effectively subjected to a bactericidal process approved by the Department. Approved facilities for manual dishwashing shall consist of a three-compartment sink with stacking and drain boards at each end. All mechanical dishwashing machines ~~must be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program. shall conform to Standard Number 3 of the NSF International, dated 1996 and any subsequent revisions.~~
- 5.062** All dishes, glasses, utensils and equipment after washing and bactericidal treatment shall be permitted to drain and air dry.
- 5.063** Single service ~~articles utensils or vessels as defined in the Aitkin County Food Protection Ordinance~~ must be handled in a sanitary manner. Such ~~articles utensils may~~ shall not be reused.

- 5.07 Insect and Rodent Control.** Every ~~lodging establishment hotel, motel, lodging house and resort~~ shall be so constructed and equipped as to prevent the entrance, harborage or breeding of flies, roaches, bedbugs, rats, mice and all other insects and vermin, and specific means necessary for the elimination of such pests such as cleaning, renovation or fumigation shall be used. The Department may order the facility to hire an exterminator licensed by the state to exterminate pests when:
- 5.071** The infestation is so extensive that it is unlikely that a non-professional can eradicate the pests effectively, or
- 5.072** The extermination method of choice can only be carried out by a licensed exterminator, or
- 5.073** Upon reinspection, it is found that an establishment has not been brought into compliance with a prior order to rid the establishment of pests.
- 5.08 Personnel Health and Cleanliness.** No person shall resume work after visiting the toilet without first thoroughly washing their hands.
- Personnel of ~~lodging establishments hotels, motels, lodging houses and resorts~~ may be required to undergo medical examination to determine whether or not they are cases or carriers of a communicable disease.
- 5.09 Cleanliness of Premises.** The premises of all ~~lodging establishments hotels, motels, lodging houses, and resorts~~ shall be kept clean and free of litter or rubbish.
- 5.10 Food Service.** If food is served at a lodging establishment the food service is subject to all requirements of the Aitkin County Food Protection Ordinance.
- 5.11 Carbon Monoxide Alarms.** Carbon monoxide alarms must be provided as required per the 2015 Minnesota State Building Code MR1305.0908 and Minnesota Statutes 299F.50 and 299F.51.

SECTION 6.00 LICENSING.

- 6.01 License Required.** No person shall operate a lodging establishment within Aitkin County unless a license for the current year has been obtained pursuant to this ordinance.
- 6.02 Transfer and Display of License.** Only a person who complies with the requirements of this ordinance shall be entitled to receive a license. Licenses shall not be transferable as to person or place. All licenses obtained for a lodging establishment shall be conspicuously displayed.
- 6.03 License Fees.** Fees for licenses issued hereunder shall be those established by resolution of the County Board.
- 6.04 Application.** License application shall be made on forms furnished by the Department and shall set forth the general nature of the business, the location, and other information as the County Board may require. The issuance, maintenance, termination and administration of such licenses shall be in accordance with and subject to all conditions of the Aitkin County Administrative Procedure Ordinance relative to the general requirements for licenses in Aitkin County.

SECTION 7.00 INSPECTION.

- 7.01 Inspection Prior to Approval of Application.** Prior to approval of an application for a license for a new lodging establishment or an establishment that has not previously been licensed by Aitkin County or the Minnesota Department of Health, the Department shall inspect the proposed establishment to determine compliance with the requirements of this ordinance.

7.02 Inspection Frequency. The Department shall inspect every high-risk establishment at least once every 12 months; every medium-risk establishment at least once every 18 months; and all low-risk establishments at least once every two years.

High-risk, medium-risk and low-risk have the meaning given to them in Minn. Stat. Section 157.20.

7.03 Notification of Inspection Results. The Department shall notify the licensee in writing regarding the results of each inspection. The inspection report shall be delivered to the licensee or his authorized agent in person or by first class, certified or registered mail. A copy of the inspection report shall be filed with the records of the Department and the Licensee shall maintain a copy for at least three (3) years of the date of the last inspection

7.04 Removal and Correction of Violations. All licensees, owners, or operators of establishments having received a report giving notification of one or more violations of this ordinance shall correct or remove each violation in a reasonable length of time determined by the Department. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this ordinance.

SECTION 8.00 CONSTRUCTION - PLAN REVIEW.

8.01 Plan Review. All persons who hereafter construct, remodel or convert buildings or facilities for use as lodging establishments, shall submit a complete set of plans and specifications to the Department for review and approval before construction, remodeling, or conversion shall begin. The plans and specifications shall show the layout; arrangement; mechanical, plumbing and electrical specifications; construction materials of work areas; and location, size and type of equipment and facilities. The plans must be drawn to scale and must be legible and complete in all details. Plumbing specifications must be submitted to the Minnesota Department of Labor and Industry.

8.02 Plan Approval. The Department shall review and approve or not approve the plans and specifications within 30 days of the time a complete set of plans and specifications are submitted. The Department shall notify the applicant, in writing, of the results of the review.

8.03. Plan Review Fees. The appropriate fee, as established by resolution of the County Board, shall be submitted at the time construction plans are submitted.

8.04 A city or town shall not issue a building permit for a lodging establishment or remodeling or alteration permit for such establishment until such plans have the approval of the Department.

8.05 Construction Inspection. The Department shall inspect the lodging establishment as frequently as it may deem necessary during construction to ensure that construction occurs in conformance with this ordinance.

8.06 Final Inspection. The Department shall conduct a final inspection prior to the start of operations and issuance of an approved license. The lodging establishment shall be constructed and finished in conformance with the approved plans.

8.07 Expansion.

8.071 An expansion, conversion or change of use of a lodging establishment shall be through a Conditional Use Permit through the Aitkin County Planning and Zoning Office. Expansions, conversions or changes in use within Shorelands of Aitkin County shall meet the requirements set forth in Section 8.0 (Commercial Planned Unit Development) of the Aitkin County Shoreland Ordinance.

8.072 A compliance inspection of all individual sewage treatment systems on the property shall be completed prior to acceptance of an application for a Conditional Use Permit. Any individual sewage treatment systems not in compliance shall be repaired, replaced or otherwise brought into compliance when the Conditional Use Permit is approved or as otherwise agreed upon, in writing, by the Department.

SECTION 9.00 BUILDING REQUIREMENTS.

- 9.01 Building Maintenance.** Every building, structure or enclosure used to provide lodging accommodations for the public shall be kept in good repair, and so maintained as to promote the health, comfort, safety and well-being of persons accommodated.
- 9.02 Floors.** The floors of all guestrooms, hallways, bathrooms, storerooms, and all other spaces used or traversed by guests shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair. Cleaning of floors shall be done as to minimize the raising of dust and the exposure of guests thereto. The requirements of this section shall not prevent the use of rugs, carpets or natural stone, which can be kept clean. Abrasive strips for safety purposes may be used wherever deemed necessary to prevent accidents.
- 9.03 Walls and Ceilings.** The walls and ceilings of all rooms, halls and stairways shall be kept clean and in good repair. Studs, joists or rafters shall not be left exposed except when suitably finished and kept clean.
- 9.04 Screening.** When flies, mosquitoes, and other insects are prevalent, all outside doors, windows and other outer openings shall be screened; provided that such screening shall not be required for rooms deemed by the Department to be located high enough in the upper stories of the building as to be free of such insects, or in such areas where other effective means are provided to prevent their entrance.
- 9.05 Lighting and Ventilation.** All rooms and areas used by patrons and guests and all other rooms or spaces in which lighting and ventilation, either natural or artificial, are essential to the efficiency of the business operation shall be well lighted and ventilated.

An area shall be considered well ventilated when excessive heat, odors, fumes, vapors, smoke or condensation is reduced to a negligible level and barely perceptible to the normal senses. During seasons when weather conditions require tempering of make-up air, adequate equipment shall be provided to temper the make-up air. Every gas-fired or oil-fired room heater and water heater shall be vented to the outside air.

SECTION 10.00 WATER SUPPLY.

- 10.01 Water Source.** A safe adequate supply shall be located, constructed and operated in accordance with Minn. Rules Chapter 4720 or Minn. Rules Chapter 4725.
- 10.02 Water Temperature.** The temperature of hot water that is provided in any public area or guestroom, including but not limited to lavatories, bathtubs or showers shall not exceed 130 degrees F (approximately 55 degrees C).

SECTION 11.00 REGISTRATIONS OF GUESTS.

- 11.01** Persons operating a lodging establishment, as defined in this Ordinance, furnishing overnight accommodations for transient guests shall provide and keep a guest register. Upon arrival, every guest shall provide the name and home address of all persons in their party, the make of the party's motor vehicle, vehicle registration number, the state the vehicle is registered and other identifying letters or characters appearing on the plate. Such registration shall be kept in an accurate and orderly manner and retained for one year.

11.02 Guest Registration. Every person, upon arriving at a lodging establishment applying for guest accommodations shall furnish the operator or other attendant in charge the information necessary to complete registration.

11.03 Registration Records, Inspection. The registration records shall be open to the inspection of all state and local law enforcement officers.

SECTION 12.00 SEWAGE DISPOSAL.

All sewage shall be managed in accordance with the Aitkin County Individual Sewage Treatment System and Wastewater Ordinance No. 1.

SECTION 13.00 SOLID WASTE.

13.01 Solid Waste. The storage, collection and disposal of refuse and garbage shall be in accordance with the Aitkin County Solid Waste Ordinance. All garbage, trash and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions, and shall be disposed of in a sanitary manner. All garbage receptacles shall be kept clean and in good repair. All refuse and garbage storage shall be kept in fly-tight, watertight rodent-proof containers.

13.02 Open Burning. Burning of solid waste except at a licensed facility is prohibited.

SECTION 14.00 FIRE PROTECTION.

All fire protection measures shall be in accordance with requirements of Minnesota Statute, the State Fire Marshall Chapter 299F. ~~All lodging establishments shall provide suitable fire escapes, which shall be kept in good repair, and accessible at all times. Hallways shall be marked and exit lights provided; fire extinguishers shall be provided and shall be recharged annually and kept accessible for use. No sleeping quarters shall be maintained in rooms which do not have unobstructed egress to the outside or to a central hall leading to a fire escape. All fire protection measures shall be in accordance with requirements of the state fire marshal.~~

14.01 Fire Exits and Escapes. Suitable fire escapes and emergency exit routes must be provided, maintained in good repair and accessible at all times. Multi-unit dwellings must post signs indicating fire escapes and emergency exit routes and provide suitable exit lighting.

14.02 Fire Extinguishers. At least one easily accessible fire extinguisher per lodging establishment and no fewer than the number required by the state fire marshal must be provided. Fire extinguishers must be inspected annually by an approved extinguisher servicing company.

14.03 Egress Escape. No sleeping quarters shall be maintained in rooms which do not have unobstructed egress to the outside.

14.04 Smoke Alarm Installation. Smoke alarms must be installed as required in the Minnesota State Fire Code, adopted per Minnesota Statute 299F.011.

14.05 Smoke Alarm Replacement. Smoke alarms must be replaced as required in the Minnesota State Fire Code, adopted per Minnesota Statute 299F.011.

SECTION 15.00 PLUMBING.

All new plumbing in hotels, motels, lodging houses and resorts, and all plumbing reconstructed after January 1968 shall be designed, constructed and maintained in accordance with Minn. Rules, Chapter 4714 4715.

SECTION 16.00 SWIMMING POOLS.

All swimming pools and other artificial recreational bathing facilities shall be located, constructed and operated in conformity with Minn. Rules.

SECTION 17.00 SANITARY DISPENSING OF ICE.

Any lodging establishment which makes ice available in public areas, including but not limited to lobbies, hallways, and outdoor areas, shall restrict access to such ice in accordance with the following provisions:

- 17.01** After the effective date of this rule, any newly-constructed lodging establishment which installs ice-making equipment, and any existing lodging establishment which replaces its ice-making equipment, shall install only automatic dispensing, sanitary ice-making and storage equipment in areas that the public has access. Any such establishment may install open-type ice bins only if the ice therefrom is dispensed in the manner provided in Subsection 2.
- 17.02** After December 31, 1984, any existing lodging establishment which has not converted to automatic dispensing ice-making and storage equipment shall no longer permit unrestricted public access to open-type ice bins, and shall dispense ice to guests only by having employees give out prefilled, individual, sanitary containers of ice, or by making available prefilled, disposable, closed, bags of ice.

SECTION 18.00 ACCESSIBILITY.

All new establishments and any major remodeling or renovation of an existing establishment shall, when appropriate, bring the establishment into compliance with Minn. Rules Chapter 1341, cited as the Minnesota Accessibility Code.

SECTION 19.00 INDOOR AIR QUALITY.

The person in charge of a lodging establishment shall ensure that the requirements of the Minnesota Clean Indoor Act, Minn. Stat. Chapter 144 are met throughout the establishment.

~~**SECTION 20.00 PROVISION OF SPECIAL SERVICES.**~~

~~A boarding and lodging establishment or a lodging establishment that provides special services such as "Health Supervision Services" or "Supportive Services", as defined in Minn. Stat. Section 157.17, must obtain a license from Aitkin County. In addition, the applicant must register with the Commissioner of Health, on forms provided by the Minnesota Department of Health and comply with the provisions of Minn. Stat. Section 157.17.~~

~~This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members or the resident or by a registered or licensed home care agency employed by the resident.~~

SECTION 20.00 VARIANCE.

In any case where, upon application of responsible persons, the Department finds that by reason of exceptional circumstances the strict enforcement of Section 5.01, Section 5.04 and Section 9.03. and Section 14.00 except the last sentence, and Section 17.00 would cause undue hardship and would be unreasonable, impractical or not feasible, the Department in its discretion may permit a variance therefrom. The Department shall grant a variance only to these sections according to the procedures set forth in Minnesota Rules, Section 4625.2355.

Such variances may be reviewed periodically and rescinded or altered as necessary to protect the public health or eliminate nuisance conditions.

SECTION 21.00 ENFORCEMENT.

- 21.01 Misdemeanor.** Any person who violates a provision of this County ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefor as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

21.02 Equitable Relief. 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 22.00 SEVERABILITY.

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 23.00 EFFECTIVITY.

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

AITKIN COUNTY FOOD PROTECTION ORDINANCE

SECTION 1.00 PURPOSE AND INTENT.

- 1.01 Purpose.** The purpose of this ordinance is to establish standards for food and beverage service establishments and to protect the health, safety and general welfare of the people of Aitkin County.
- 1.02 Intent.** The intent of this ordinance is to prevent foodborne illnesses; to correct and prevent conditions that may adversely affect the health and safety of persons utilizing food and beverage service establishments; to provide minimum standards for the design, construction, operation, and maintenance of food and beverage service establishments; and to meet consumer expectations of the quality and safety of food and beverage service establishments.

SECTION 2.00 SCOPE.

This ordinance shall provide for the Licensing and Inspection of all establishments providing food and beverage services; regulation of the design, construction, operation and maintenance of such establishments; and the enforcement of violations of this ordinance.

This ordinance shall be applicable to all food and beverage **service** establishments, such as restaurants, boarding houses and places of refreshments, as defined in Minn. Stat. Chapter 157 and this ordinance, and shall include temporary, **seasonal**, push cart **and mobile food unit** commissaries, taverns, bars, **food** caterers, clubs, lodges, eating facilities at resorts and youth camps, bed and breakfasts, schools, public buildings, day care facilities and churches, except as exempted in Minn. Stat. Section 157.22 and all other businesses and establishments where food or beverages are served.

SECTION 3.00 AUTHORITY.

This ordinance is adopted by the Board pursuant to Minnesota Statutes Chapter **157A.05 157** and Section 145A.07 which authorizes the Commissioner of Health to enter into a delegation agreement with counties or cities organized under the provisions of to perform all or part of the licensing, inspection and enforcement duties.

SECTION 4.00 DEFINITIONS.

For the purpose of this ordinance, the following words shall have the following meanings:

- 4.01 Bed and Breakfast.** "Bed and Breakfast" shall mean an eating and lodging establishment that is the owner's personal residence, is occupied by the owner at the time of rental and in which guests are only provided with a breakfast meal.
- 4.02 Commissary.** "Commissary" shall mean a licensed food and beverage service establishment where food is prepared, portioned, packaged or stored and where such food is intended for consumption at another establishment or place. It is also a place which is used as the base of operations for servicing, cleaning, supplying and maintaining food catering, mobile food units, push carts and seasonal food stands.
- 4.03 County Board.** "County Board" shall mean the Aitkin County Board of Commissioners and its authorized representatives.
- 4.04 Certified Food Protection Manager.** "Certified Food Protection Manager" means an individual who has a valid Minnesota Food Protection Manager's certification under Part 6.05.
- 4.05 Department.** "Department" shall mean the Aitkin County Environmental Services Department and its authorized representatives.

- 4.06 Food and Beverage Service Establishment.** "Food and Beverage Service Establishment" shall mean those establishments as defined in Minnesota Statutes Chapter 157 ~~and shall include drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, group day care facilities, children's camps, fairs, circuses, carnivals, churches, and public buildings, except as exempted by Minnesota Statutes Section 157.22, and all other businesses and establishments where meals, lunches or beverages are served.~~ and shall include a building, structure, enclosure, or any part of a building, structure, or enclosure 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.
- 4.07 Food Catering.** "Food Catering" shall mean the preparation of food in a licensed food and beverage service establishment and may include the transportation of such food for service and consumption at some other site. A food establishment doing food catering is responsible for maintaining control of and ensuring the safety of the food from preparation to service to the consumer.
- 4.08 Mobile Food Unit.** "Mobile Food Unit" shall mean a vehicle-mounted food service establishment, or trailered, designed to be readily movable.
- 4.09 Person.** "Person" shall mean any individual, firm, partnership, public or private corporation, municipality or other organization, receiver, trustee, assignee or agent, and with respect to acts prohibited or required herein, shall include employees or licensees.
- 4.10 Push (FOOD) Cart.** "Push Cart" shall mean a non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.
- 4.11 Seasonal Food Stand.** "Seasonal Food Stand" shall mean a food and beverage service establishment that is either permanent or temporary of a "knock-down" nature and moved around with both operating no more than 14 consecutive days at a time.
- 4.12 Temporary Food Service Establishment.** "Temporary Food Service Establishment" shall mean a mobile food unit or seasonal food stand that operates at a fixed location for a temporary period of time of not more than 10 consecutive days in conjunction for 3 times a year maximum with a fair, carnival, circus, public exhibition, special event or celebration or similar transitory gathering.

SECTION 5.00 ADOPTION OF FOOD AND BEVERAGE SERVICE ESTABLISHMENT STANDARDS.

The standards for Food & Beverage Service Establishments as defined in Minnesota Rules Chapter 4626.0010 to 4626.1855, ~~except Section 4626.0033 subparts G to O~~ 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. ~~The standards for Certified Food Protection Manager requirements outlined in Minnesota Rules Chapter 4626.0033 to 4626.2010 are hereby incorporated in and made part by adoption of this ordinance.~~ Where Minnesota Rules Chapter 4626 refer to the Commissioner, Commissioner shall mean the Aitkin County Board and its designated agents.

SECTION 6.00 LICENSING.

- 6.01 License Required.** No person shall operate a food establishment within Aitkin County unless a license for the current year has been obtained pursuant to this ordinance.
- 6.02 Application.** License application shall be made on forms furnished by the Department and shall set forth the general nature of the business, the location, and other information as the County Board may require. The issuance, maintenance, termination and administration of such licenses shall be in accordance with and subject to all conditions of the Aitkin County Administrative Ordinance relative to the general requirements for licenses in Aitkin County.

- 6.03 License Fees.** Fees for licenses issued hereunder shall be those established by resolution of the County Board.
- 6.04 Transfer and Display of License.** Only a person who complies with the requirements of this ordinance shall be entitled to receive a license. Licenses shall not be transferable as to person or place. All licenses obtained for a food ~~and or~~ beverage service establishment shall be conspicuously displayed in public areas of said establishment.
- 6.05 Certified Food ~~Protection~~ Manager Requirements for Food and Beverage Service Establishments.** The standards for a Certified Food Protection Manager as defined in Minnesota Rules Chapter 4626.0033.A to F are hereby incorporated in and made part of this ordinance. ~~An owner or operator of a food establishment must either possess or employ a certified food manager for each food establishment except for a satellite or catered feeding location. Exemption from needing a CFM shall be:~~
- ~~6.051. Where a food establishment's preparation activities are solely limited to one or more of the following:~~
- ~~(1) heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza;~~
 - ~~(2) preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;~~
 - ~~(3) preparing or serving nonalcoholic or alcoholic beverages or ice;~~
 - ~~(4) grinding coffee beans;~~
 - ~~(5) packaging foods that are not potentially hazardous foods;~~
 - ~~(6) serving bulk food as defined in Minnesota Statutes, section 31.80, subdivision 2;~~
 - ~~(7) processing raw meat, poultry, fish, or wild game intended for cooking after sale;~~
 - ~~(8) heating as the only preparation step for a bakery product;~~
 - ~~(9) providing prepackaged food in its original package; or~~
 - ~~(10) cleaning or sanitizing eating, drinking, or cooking utensils, when the only food served is prepared off site;~~
- ~~6.052 — The following establishments if food is prepared for 18 or fewer persons per mealtime: a boarding establishment as defined in Minnesota Statutes, section 157.15, subdivision 4, a bed and breakfast, a child care facility, or an adult day care center;~~
- ~~6.053 — A food cart, mobile food unit, seasonal permanent food stand, seasonal temporary food stand, or special event food stand, as defined in Minnesota Statutes, section 157.15, subdivisions 6, 9, 12a, 13, and 14, respectively;~~
- ~~6.054 — A retail food vehicle, portable structure, cart, or vending machine; and~~
- ~~6.055 — A food establishment that provides meals no more than one day in a seven-day period and that is owned and operated by a business or a nonprofit organization whose primary activity is not food service.~~

SECTION 7.00 INSPECTIONS.

- 7.01 Access to Premises.** The person operating the food ~~and or~~ beverage service establishment shall, upon request of the Department and after proper identification,

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 beverages. No persons shall interfere with or hinder the Department in the performance of their duties, or refuse to permit the Department to make such inspections.

7.02 Inspection Prior to Approval of Application. Prior to approval of an application for a license for a new food and or beverage service establishment or an establishment that has not previously been licensed by Aitkin County or the Minnesota Department of Health, the Department shall inspect the proposed establishment to determine compliance with the requirements of this ordinance.

7.03 Inspection Frequency. The Department shall inspect every high-risk establishment at least every 12 months; every medium-risk establishment at least once every 18 months; and all low-risk establishments at least once every 2 years.

High-risk, medium-risk and low-risk have the meaning given to them in Minn. Stat. Section 157.20.

7.04 Notification of Inspection Results. The Department shall notify the licensee in writing regarding the results of each inspection. The inspection report shall be delivered to the licensee or his authorized agent in person or by first-class, certified or registered mail. A copy of the inspection report shall be filed with the records of the Department and the Licensee shall maintain a copy for at least three (3) years of the date of the last inspection.

7.05 Removal and Correction of Violations. All licensees, owners, or operators of establishments having received a report giving notification of one or more violations of this ordinance shall correct or remove each violation in a reasonable length of time determined by the Department. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this ordinance.

SECTION 8.00 CONSTRUCTION - PLAN REVIEW.

8.01 Plan Review. All persons who hereafter construct, remodel or convert buildings or facilities for use as a food and or beverage service establishments, shall submit a complete set of plans and specifications to the Department for review and approval before construction, remodeling, or conversion begins. The plans and specifications shall show the layout; arrangement; mechanical, plumbing and electrical specifications; construction materials of work areas; and location, size and type of equipment and facilities. The plans must be drawn to scale and must be legible and complete in all details. Plumbing specifications must be submitted to the Minnesota Department of Labor and Industry Health.

8.02 Building Permit. A city or town shall not issue a building permit for a food and or beverage service establishment or remodeling or alteration permit for such establishment until such plans have the approval of the Department.

8.03 Plan Review Fees. The appropriate fee, as established by resolution of the County Board, shall be submitted at the time construction plans are submitted.

8.04 Plan Approval. The Department shall review and approve or not approve the plans and specifications within 30 days of the time a complete set of plans and specifications are submitted. The Department shall notify the applicant, in writing, of the results of the review.

8.05 Construction Inspection. The Department shall inspect the establishment as frequently as it may deem necessary during construction to ensure that construction occurs in conformance with this ordinance.

- 8.06 Final Inspection.** The Department shall conduct a final inspection prior to the start of operations and issuance of an approved license. The food ~~and or~~ beverage service establishment shall be constructed and finished in conformance with the approved plans.

SECTION 9.00 SEWAGE DISPOSAL.

All sewage and other water carried wastes shall be managed in accordance with the Aitkin County Individual Sewage Treatment System and Wastewater Ordinance No. 1.

SECTION 10.00 SOLID WASTE.

- 10.01** The storage, collection and disposal of refuse and garbage ~~at a food and beverage service establishment in the manufactured home parks and recreational camping areas~~ shall be so conducted as to create no health hazards, rodent harborage, insect-breeding areas, accident or fire hazards or air pollution. All refuse and garbage shall be stored in fly-tight, water-tight ~~and~~ rodent-proof containers. ~~which shall be located convenient to any manufactured home site, provided that, on days of collection plastic garbage and refuse bags may be used for outside storage as long as no nuisance conditions are created. In recreational camping areas, garbage and refuse containers shall be provided on the ratio of at least one for every four sites or centrally located facilities may be provided.~~ Refuse and garbage collection shall be made as often as necessary, but not less frequently than once per week, to prevent nuisance conditions. Final disposal of refuse and garbage shall be accomplished in accordance with the criteria and standards established by the Aitkin County Solid Waste Ordinance.

- 10.02 Open Burning.** Open burning of solid waste is prohibited.

SECTION 11.00 HANDWASH SINK REQUIREMENTS.

Warm water measuring between 100°F and 120°F must be provided at any handwash sink in a food and beverage service establishment.

SECTION 12.00 FOOD AND BEVERAGE EQUIPMENT REQUIREMENTS.

When a food and beverage service establishment is located in a child care center, residential care home, supervised living facility, apartment building with congregate dining, boarding establishment, bed and breakfast or similar establishment, all food service equipment must meet the requirements in Minnesota Rules 4626.0506.

SECTION 13.00 PROCEDURE WHEN INFECTION IS SUSPECTED.

When the Department has reasonable basis to suspect the possibility of disease transmission from a food ~~and or~~ beverage service establishment employee, the Department 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 Department may require any or all of the following measures:

- 13.01** The immediate exclusion of the food employee from all food service establishments;
- 13.02** The immediate closure of the food service establishment concerned until, with the facts provided to the Environmental Service Director, no further danger of disease outbreak exists;
- 13.03** Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;
- 13.04** Adequate medical and laboratory examinations of the employee, or other employees, and their bodily fluids and discharges.

SECTION 14.00 EMERGENCY CLOSURE.

- 14.01 Emergency Closure.** Notwithstanding the other provisions of this ordinance, whenever the Department finds an imminent health hazard to exist, such as, but not limited to, those listed below; the establishment shall immediately cease food service operations

according to the procedures outlined in this section. Operations shall not be resumed until authorized in writing by the Department.

14.02 Imminent Health Hazard. An imminent health hazard may include, but not necessarily be limited to, the following:

12.021 Lack of any basic facilities such as water, electricity or sewer;

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

12.023 The presence of a food service worker ~~in~~ with a communicable disease or infected wound who refuses to comply with the orders of the Department;

12.024 An infestation of rodents or insects; or

12.025 Evidence of an on-going foodborne illness associated with the operation of the establishment.

14.03 If following an on-site inspection the Department determines that closure of a food establishment is required in order to protect public health, the Department shall order the immediate closure of the establishment in writing. The order shall identify the food establishment, describe the specific grounds upon which the closure is based, direct the immediate closure of the establishment and vacating of the premises by consumers, list the corrective actions necessary to re-open the establishment, and state that a hearing on the emergency closure may be requested by the licensee. The order shall be served in person to the owner, manager, or person in charge.

14.031 The person receiving the order shall immediately close the establishment and require all persons to vacate. The establishment shall remain closed until the Department rescinds the order for emergency closure. Failure to close the establishment or keep the establishment closed is a misdemeanor.

14.032 In the event the person receiving the order fails to close the establishment, the Department may order all persons to vacate the premises. Failure to leave upon said orders is a misdemeanor. If a person fails to vacate the premises as ordered by the Department, the Aitkin County Sheriff or local police may be summoned to assist in vacating the premises and issuing such citations or making such arrests as may be necessary to comply with this Ordinance.

14.033 The licensee may request, in writing, a hearing on the emergency closure order, and the conditions for reopening the establishment. The hearing shall be held within two (2) business days following the request. The hearing shall be before The Environmental Services Director who shall render a written decision within two (2) business days after the conclusion of the hearing. The decision of the Department may be appealed to the County Board as provided in the Aitkin County Administrative Procedures Ordinance.

14.034 Whenever a food service establishment is required under the provisions of this Ordinance to cease operations, it shall not resume operations until it is shown on re-inspection that conditions responsible for the order to cease operation no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

SECTION 15.00 ENFORCEMENT.

15.01 Misdemeanor. Any person who violates a provision of this County ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished therefore as provided by law. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

15.02 Equitable Relief. 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 violation.

SECTION 16.00 SEVERABILITY.

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 17.00 EFFECTIVITY.

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

