

CLAY COUNTY ORDINANCE 2015- 2

The Clay County Board hereby ordains as follows:

TITLE: This Section shall be known as the Clay County Food Protection Ordinance.

REPEALER: Clay County Ordinance 2011-3, Part I, Subpart A is hereby repealed in its entirety. The following shall be incorporated in the appropriate chapter of the Clay County Code in its place.

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 Clay 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 Statutes Chapter 157.15.

Section III: DELEGATED AUTHORITY.

Promulgated in Minnesota Statutes Chapter 145A.07, the commissioner of health has entered into an agreement with Clay 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 145A.04, subdivision 6 and MN Statutes Chapter 157.

Section IV: STATE HEALTH DEPARTMENT RULES ADOPTED.

Pursuant to Minnesota Statutes Chapter 157 excluding section 157.16 Subd 2(a) and 157.16 Subd 3(a), and Minnesota Rules Chapter 4626, excluding 4626.2015 through 4626.2025, including all subsequent amendments thereto, are hereby adopted by Clay County by reference.

Section V: GENERAL PROVISIONS.

5.1 Exclusions. This Ordinance shall not apply to food service operations as referenced in MN Statutes Chapter 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, Statutes Chapter 157, Clay County Administrative Ordinance 2010-3 Part 2, and this section.

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

6.3 "County" shall mean Clay County.

Section VII: ADMINISTRATION.

7.1 Administrative Ordinance. Except where otherwise specified, this Ordinance is subject to all provisions of Clay County Administrative Ordinance 2010-3 Part 2.

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 Clay 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 Clay County Administrative Ordinance 2010-3 Part 2 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 Clay County Board of Health.

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 Minnesota Rules, Chapter 4626.1720 and 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 Clay County 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 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 Minnesota Statutes, Section 145A.02 subdivision 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 Minnesota Rules, Chapters 4626.0010 through 4626.2010, and all subsequent recodifications and amendments, and specifically adopts the following additional standards pursuant to Minnesota Statute, Section 145A.05, subdivision 1:

A. Minnesota Rules, Chapter 4626.1050 subp. A is amended to read 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.

B. Minnesota Rules, Chapter 4626.2010 Subp. 4 is amended to read as follows: Exemptions. These exempted food establishments are not required to have a certified food manager, but the person in charge required by 4626.0025 in these food establishments must be trained in basic food sanitation by the Health Authority.

Section XI: VARIANCES.

11.1 Determination and Notice. When a licensee or applicant requests a variance under Minnesota Rules, Chapter 4626.1690 through 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.

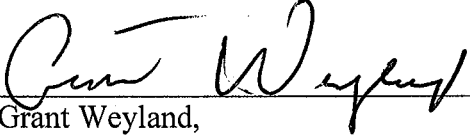
13.1 Penalty. Any person violating a provision of this ordinance may be guilty of a misdemeanor and upon conviction thereof shall be punished pursuant to Clay County Ordinance 2010-3 Part 2.

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.

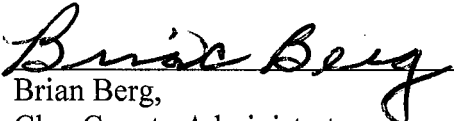
EFFECTIVE DATE: After passage by the Clay County Board of Commissioners, this Ordinance shall be effective the date of enactment.

Adopted by the Clay County Board of Commissioners this 14 day of July, 2015.



Grant Weyland,
Chairman, Clay County Board of Commissioners

ATTEST:



Brian Berg,
Clay County Administrator