

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 789

**AN ORDINANCE AMENDING CHAPTER 603 (FOOD ESTABLISHMENTS)
OF THE WAYZATA CITY CODE**

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment. Chapter 603 of the Wayzata City Code (FOOD ESTABLISHMENTS) is hereby amended to read in its entirety as follows (~~struck~~ text deleted; underlined text added):

CHAPTER 603 - FOOD ESTABLISHMENTS

603.01 - Definitions.

- A. **“Adulterated Food”** shall mean any food which consists in whole or in part of any filthy, putrid, decayed or decomposed substance; which consists in whole or in part of the product of a deceased animal which has died by accident, disease or other than by slaughter; which is contained in an immediate package composed of any poisonous or deleterious substance which may render the contents injurious to health; or which bears or contains any poisonous or deleterious substance which may be injurious to health, provided that if a safe tolerance or standard has been established by lawful regulation for said substance such food shall not be considered adulterated food if said substance is not in excess of the tolerance or standard.
- B. **“Approved”** shall mean acceptable to the Health Authority in conformance with appropriate standards and good public health practice.
- C. **“Bakery Food Vehicle”** shall mean any food vehicle used to transport bakery goods about the streets of the City for the purpose of selling the goods from door to door.
- D. **“Clean”** shall mean free from physical, chemical and microbial substance discernible by ordinary sight or touch, ultra-violet light, artificial light and the safranin-O dye test, and free from insects, vermin and debris.
- E. **“Employee”** shall mean any person who renders a personal service, with or without compensation, within a food establishment.
- F. **“Food”** shall mean any raw, cooked or processed substance, beverage or ingredient used or intended for use in whole or in part for human consumption. The term “food” shall further include, but not be limited to, ice and water.
- G. **“Food Contact Surface”** shall mean any surface of equipment or utensils with which food normally comes into contact, any surface with which food may come into contact, except by spill, and any surface which drains back onto a surface in contact with food.
- H. **“Food Establishment”** shall mean any building, room, stand, enclosure, vehicle, space, area or other place wherein food is stored, prepared, manufactured, processed, wrapped, canned, packed, bottled, transported, distributed, sold or offered for sale or served in any way with or without charge, except for private homes.
- I. **“Food Vehicle”** shall mean any food establishment consisting of a mobile vehicle which hauls any food for the purpose of delivery or sale, including vehicles used for catering purposes.
- J. **“Health Authority”** shall mean the Health Officer of the City, the City Sanitarian, and any duly authorized representative of either of said officials.
- K. **“Home Prepared Food”** shall mean any food which has been processed or prepared in a private home not licensed under this Code.

- L. **“Special Event Food Stand”** shall mean a food establishment operating for a period of no more than ten total days in any calendar year, including but not limited to a fair, carnival, circus, church supper or public exhibition.
- M. **“Misbranding”** shall mean the use of any written, printed or graphic matter upon or accompanying products or containers of food which violates any applicable local, state or federal labeling requirements.
- N. **“Perishable Food”** shall mean food such as apples, bananas, oranges, grapefruit, lettuce, carrots, beans, radishes, onions, potatoes and similar foods which will decompose in the absence of refrigeration. The enumeration herein of specific items shall be for purposes of illustration only and it shall not be deemed to be a limitation upon the meaning of the term so illustrated.
- O. **“Person”** shall mean any individual, firm, partnership, corporation, trustee or association, and with respect to acts prohibited or required herein it shall include employees and licensees.
- P. **“Pre-Packaged Food”** shall mean clean, unadulterated, wholesome food packaged in a substantial, clean container or wrapper.
- Q. **“Readily Perishable Food”** shall mean any perishable food consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or any other food capable of supporting rapid and progressive growth of micro-organisms which can cause food infection or food intoxication.
- R. **“Safe Water”** shall mean water which is not adulterated and which is free from pathogens and coliform organisms.
- S. **“Single-Service Utensils”** shall mean all utensils which are meant to be used only once and then discarded.
- T. **“Smooth”** shall mean having an even surface free of cracks, chips, open seams, rust, corrosion, breaks, pits, checks and ridges. In addition, with reference to equipment and utensil surfaces, “smooth” shall mean a surface which in the case of stainless steel, nickel alloy or other corrosion-resistant metal has at least a No. 4 mill finish, which in the case of cast and forged steel and cast nickel alloy has a roughness not exceeding American Standard No. 125, and which in the case of other non-corrosion-resistant alloys is at least as smooth as commercial grade rolled steel and is free of loose scale.
- U. **“Utensil”** shall mean any kitchenware, tableware, dishes, glassware, cutlery, pots, pans, containers, implements or other equipment with which food comes into contact during storage, cooking, preparation, display or serving.
- V. **“Wholesome”** shall mean sound, healthful, clean, unadulterated, and in all ways fit for human consumption.

(1-1-09 Code; Ord. 701 [11-10-2009])

603.02 - Food Code.

- A. **Food Code Adopted.** The City herein adopts and incorporates by reference the Food Code adopted by the Minnesota Department of Health and set forth in ~~Minn. Rules Ch. 4626, as amended~~ Minn. Statutes 157, and Rules Ch. 4626, as amended, except 157.16, Subd.2(a) and 4626.0033 subparts G through O. ~~A copy of the regulations, together with any applicable amendments, shall be marked “Wayzata – Official Copy” and shall be kept on file in the office of the City Clerk and open to inspection and use by the public.~~
- B. **Permit Required.** A permit is required to install, modify or replace food and beverage equipment regulated in the Food Code except vending machines. Payment of fees specified in the fee schedule must be paid before the permit is issued.

603.03 - ~~Inspection of Food Establishments; State Statutes Adopted. Intentionally Omitted.~~

~~The Health Authority shall inspect every food establishment within the City as frequently as is deemed necessary to ensure compliance with Minn. Stats. § 157.20 (which the City~~

hereby adopts and incorporates by reference) and other provisions of this Chapter. ~~(1-1-09 Code; Ord. 701 [11-10-2009])~~

603.04 - Inspection Procedures.

- ~~A.~~ **Posting.** Each inspection report shall be posted by the Health Authority upon an inside wall of the food establishment, not in a public area, and said report shall not be defaced or removed by any person except the Health Authority. The posting of an inspection report in this manner shall constitute service of an official notification of the inspection. The Health Authority may, in lieu of posting the report, deliver it to a licensee or his authorized agent. A second copy of the report shall be maintained in the permanent records of the City.
- ~~BA.~~ **Access to Premises and Records.** Upon request of the Health Authority, any person operating a food establishment shall permit the Authority access to all parts of the establishment at any reasonable time for the purpose of inspection, and he shall exhibit and allow the copying of any records necessary to ascertain food sources.
- ~~CB.~~ **Removal and Correction of Violations.** All licensees, owners and operators of food establishments ~~having a report posted in said establishment~~ giving notification of one or more violations of this Chapter shall correct or remove each such violation in a reasonable length of time, as determined by the Health Authority. The length of time allowed for the correction or removal of each such violation shall be noted in the inspection report. The failure to remove or correct each such violation within the time period allowed in the inspection report shall constitute a separate violation of this Chapter.
- C. **Self-Inspection Program.** A food establishment licensee must prepare and implement a program of periodic self-inspection to ensure that food safety policies and procedures are followed. Documentation of the self-inspection program must be available for review by the health authority. The health authority may require revisions to the program.

603.05 - Interference with the Health Authority.

No person shall interfere with or hinder the Health Authority in the performance of his duties under this Chapter.

603.06 - Embargo, Examination, Condemnation and Tagging.

Samples of food may be embargoed and examined by the Health Authority as often as may be necessary for the detection of unwholesomeness or adulteration. Equipment and utensils which do not meet the requirements of this Chapter may be embargoed, provided that such equipment and utensils shall be released from the embargo if they are altered to conform herewith. The Health Authority may condemn and forbid the sale of, or cause to be removed or destroyed, any food which is unwholesome or adulterated, unfit for human consumption, or otherwise prohibited by this Chapter or state or federal law. The Health Authority may condemn and cause to be removed any equipment, clothing or utensils found in any food establishment, the use of which would not comply with this Chapter or which are being used in violation of this Chapter. The Health Authority also may condemn and cause to be removed any equipment, clothing or utensils which by reason of dirt, filth, extraneous matter, insects, corrosion, open seams or chipped or cracked surfaces is unfit for use. The Health Authority may place a tag to indicate an embargo or condemnation upon any such food, equipment, utensils or clothing. No person shall remove such a tag, except under the direction of the Health Authority.

603.07 - Transport or Sale of Unhealthful Food.

No person shall transport within or into the City, sell or offer for sale, or hold in attempt to sell any food which is not wholesome or which is adulterated.

603.08 - Enforcement Procedures.

The Health Authority shall have the following authority within the City to enforce the provisions of this Chapter:

- A. **Construction Plan Review.** All persons who hereafter construct, extensively remodel or convert buildings or facilities for use as food establishments shall conform and comply in their construction, erection or alteration with the requirements of this Chapter. Plans and specifications for the construction, remodeling or alteration shall show the layout, arrangement, plumbing and construction materials of work areas and the location, size and type of equipment and facilities proposed, and they shall be filed for review with the Health Authority. The City shall not issue a Building Permit for any such construction, remodeling or alteration until said plans and specifications have the approval of the Health Authority.
- B. **Revocation of License.** The license of any food establishment licensed under this Code may be revoked in the manner provided herein for repeated or uncorrected violations of this Chapter.
- C. **Temporary Suspension of License.** The Health Authority, with the approval of the City Council, shall immediately suspend the license of any food establishment for the violation of any terms of this Chapter if such violations constitute an imminent public health hazard. Upon notification by the Health Authority of a temporary suspension of license, ~~by the posting of his report at the time of an inspection, the licensee~~ shall forthwith cease operation. The licensee may appeal a temporary suspension in writing to the City Council. Upon notification in writing by the licensee to the Health Authority that all violations have been corrected for which the temporary suspension was invoked, the Health Authority shall re-inspect the food establishment within a reasonable length of time. If all violations constituting the grounds for the temporary suspension have been corrected, the Health Authority shall forthwith terminate the suspension. The Health Authority and the City Council shall not suspend a license if the violation or violations which constitute an imminent public health hazard can be eliminated or removed by embargo or condemnation as provided in this Chapter.

(1-1-09 Code; Ord. 701 [11-10-2009])

Section 3. Effective Date.

3.1 This Ordinance will become effective upon passage and publication.

Adopted by the City Council this ____ day of _____, 2019.

Ken Willcox
Mayor

ATTEST:

Jeffrey Dahl
City Manager

First Reading:
Second Reading:
Publication: