FOOD ORDINANCE

CHAPTER 1. TITLE AND REPEALER

1.01 This Ordinance hereby repeals and replaces St. Louis County Ordinance #6 and shall be known as the Food and Beverage Establishment Ordinance for St. Louis County, Minnesota, otherwise known as Ordinance #59.

CHAPTER 2. INTRODUCTION

2.01 PURPOSE AND INTENT. The purpose and intent of this Ordinance is to establish standards for food and beverage service establishments to protect the health, safety, and the general welfare of the people of St. Louis County pursuant to powers granted under Minnesota Statutes, Chapters 145A & 157 (2000). The objectives are to:

A. Prevent foodborne illness.

B. Correct and prevent conditions that may adversely affect the health and safety of customers and employees of food and beverage service establishments.

C. Provide minimum standards for the design, construction, operation, and maintenance of food and beverage service establishments.

D. Meet consumer expectations of the quality and safety of food and beverage service establishments.

E. Assure that foodservice management personnel are knowledgeable and qualified to educate their employees in the elements of foodborne disease prevention.

2.02 SCOPE. This Ordinance shall apply to all food and beverage service establishments located in St. Louis County where food, meals, lunches, or beverages are prepared or served for consumption by the general public either on the premises or for immediate consumption off the premises as defined in Minnesota Statutes, Rules and in this Ordinance.

2.03 LEGAL AUTHORITY. This Ordinance is enacted pursuant to Minnesota Statutes Chapter 157, which established the authority for the Commissioner of Health to license food and beverage establishments and Minn. Stat. § 145A.07 which authorizes the Commissioner of Health to enter into an agreement with any Board of Health to perform all or part of the licensing, inspection, and enforcement duties authorized by law. The St. Louis County Board of Commissioners, by agreement, functions as the Board of Health.

2.04 ADOPTED STANDARDS. This Ordinance hereby adopts by reference; Minnesota Rules 4626.0020 through 4626.1870, now in effect or as hereafter amended or modified, otherwise known as the Minnesota State Food Code; and Minnesota Rules 4626.2000 through 4626.2025, now in effect or as hereafter amended or modified, otherwise known as the Food Manager Certification rule.

2.05 CONSTRUCTION. Words used in the present tense include the past and future tense; the singular includes the plural, and the plural includes the singular; the word "shall" is mandatory and the word "may" is permissive; the masculine gender includes the feminine gender.

2.06 INTERPRETATION. In the interpretation of this Ordinance, its provisions shall be held to be minimum requirements and shall be construed so as to fully effect its purpose and shall not be deemed a limitation or repeal of any other power established by law or ordinance except as specifically provided herein. In the event conflicting requirements are imposed by this Ordinance or other ordinances of St. Louis County, the more restrictive conditions shall apply. The Administrator shall rule on what is more restrictive as well as other interpretations that may arise.

CHAPTER 3. DEFINITIONS

3.01 ADOPTED DEFINITIONS. The definitions contained in the Minnesota State Food Code, and Minnesota Rules 4626.2000 otherwise known as Certification of Food Managers, now in effect or as hereafter amended or modified, are hereby adopted except as modified in Section 3.02.

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

A. **Administrator.** The Director of the St. Louis County Department of Public Health and Human Services or his/her designee.

B. **Board.** The St. Louis County Board of Commissioners.

C. **Business Days.** Monday through Friday excluding holidays.

D. **County.** St. Louis County.

E. **Department.** The St. Louis County Department of Public Health and Human Services.

F. **Seasonal.** An establishment that is open 180 days or less per year based on opening and closing dates.

G. **Food and Beverage Establishment.** Any building, structure, enclosure, or any part thereof 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. (Ch. 157)

CHAPTER 4. ADMINISTRATION

4.01 ADMINISTRATION. The Administrator shall administer and interpret the provisions of this Ordinance. In addition to the duties set forth herein, the Administrator shall maintain adequate files and records relating to all licenses or permits issued, inspections made, work approved, and other official actions.

4.02 POWERS. The Administrator shall have all powers necessary to administer and enforce the provisions of this Ordinance. In addition to the other powers set forth herein, and without limitation, the Administrator shall be empowered to do the following:

A. Prepare reports and recommendations regarding any additional measures that he or she deems necessary to effect the purpose of this Ordinance.

B. Obtain assistance and cooperation from other state and local health, legal, and law enforcement officials in the administration and enforcement of this Ordinance.

C. Cooperate with local and state personnel in the enforcement of this Ordinance and state regulations, rules, and requirements relating to food and beverage establishments.

D. Arrange for the enforcement of any and all rules, orders, permits, and other requirements established herein or issued pursuant to this Ordinance.

E. Enter upon the premises of any food or beverage establishment at any reasonable time for the purpose of administrating and enforcing this Ordinance.

F. The Administrator may impose additional requirements to protect against health hazards related to the conduct of their operation and may prohibit the sale or distribution of any or all foods.

G. Interpret the provisions and intent of the Ordinance as may be necessary from time to time.

CHAPTER 5. LICENSURE

5.01 REQUIREMENT. It shall be unlawful for any person to operate a food or beverage establishment within the County who does not possess a valid license for all aspects of his or her business. The Administrator is authorized to issue licenses or permits for the operation of food or beverage establishments, and such establishments are required to obtain such licenses prior to commencing operation. Only a licensee who complies with the requirements of this Ordinance and the adopted Standards shall be entitled to receive and retain such a license. To qualify for a license, an applicant shall be an owner of the establishment, an officer of the legal ownership, or the manager of the food operation through lease or other agreement with the property owner; comply with the requirements of this Ordinance, the Minnesota Food Code, Certification of Food Managers Rule, and pay all applicable license fees at the time the application is submitted or before the establishment opens for business. If the property owner enters into a new lease agreement for establishment operation with a new manager, a new license shall be issued, even if the food operation is essentially the same. Licenses shall not be transferable from one establishment or person to another establishment or person. Discontinuance of an operation by the licensee at the address covered by the license voids the license. A licensee shall immediately surrender a void or invalid license to the Administrator.

5.02 APPLICATION. Prior to June 1 annually, or the first day or operation, every person, partnership, or corporation, operating or seeking to operate a food or beverage establishment shall make application in writing to the Administrator for a license to operate such establishment. Applications or fees received after June 1 or the first day of operation will be charged a late fee as set by the Board. The application shall be in such form and shall contain such information as the Administrator may find necessary to his or her determination that the food or beverage establishment shall be operated and maintained in such a manner as to protect and preserve the health and safety of the persons utilizing the establishment. Each license application, or subsequent renewal, with the applicable fee shall be submitted to the Administrator who shall issue a receipt for the payment received. The license year ends on May 31 annually and all renewals are due on or before June 1 or the first day of operation. Failure to pay fees within the designated time limits will result in immediate closure of the establishment.

5.03 APPROVAL. If the Administrator determines from the application that the health and safety of the public using the establishment will be properly safeguarded, he or she may, prior to actual inspection of the establishment, issue the license in writing, provided the appropriate fee(s) have been paid in full.

5.04 DENIAL. If the Administrator determines from the application or subsequent inspection that the health and safety of the persons in the food or beverage establishment will not be properly safeguarded, he or she may deny the application for licensure. Such applicant is then entitled to a hearing before the Board as outlined in Chapter 9, of this Ordinance.

5.05 PLAN REVIEW. Whenever a food or beverage service establishment is constructed or remodeled or whenever an existing structure is converted to use as a food or beverage service establishment, properly prepared plans and specifications for such food service area construction, remodeling, or conversion shall be submitted to the Administrator with applicable fees for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed equipment layout, room finish materials, plumbing specifications, kitchen exhaust ventilation and make-up air specifications, construction materials of work areas, and the manufacturer's name and model number of proposed equipment and facilities. The plans and specifications shall be drawn to scale and shall be legible and complete in all details, and must be submitted to the Department for review and approval prior to the start of construction.

H. The Administrator shall approve the plans and specifications only if they meet the requirements of this Ordinance, the Minnesota Food Code and any other applicable Federal, State or Local laws and regulations..

I. The establishment shall be constructed and finished in conformance with the approved plans.

J. The licensee must obtain an inspection from the Administrator prior to the start of operation. Construction must be completed and approved before operation can begin.

K. The licensee is responsible for obtaining written approval for the proposed construction from any other agency or official that may have authority over elements of such proposed construction, including, but not limited to; the State Fire Marshall, the Minnesota Department of Health Plumbing Division, or the appropriate city or township officials.

5.06 LICENSE APPROVAL WITHDRAWAL. The Administrator may, by written order, suspend or revoke any food or beverage establishment license or permit when he or she has information indicating the license or permit has been issued in error, on the basis of incorrect or inadequate information, that the food/beverage establishment is not operating in compliance with the provisions of the license or permit issued; or for non-payment of fees.

5.07 POSTING The license shall be posted in a conspicuous place on the premises of the establishment.

5.08 LICENSE NOT TRANSFERABLE A license is not transferable to another licensee or location.

5.09 RECIPROCAL LICENSING AGREEMENTS. Food originating from

establishments not required to be licensed by the County may be sold within the County if such food establishments conform to the requirements of the Minnesota Food Code and are licensed by the United States Department of Agriculture, the Minnesota Department of Agriculture or the Minnesota Department of Health. To determine the extent of compliance with such provisions, the Administrator, at his or her discretion, may accept reports from responsible authorities in other jurisdictions where such food establishments are located or may perform inspections to assure compliance with this Ordinance.

CHAPTER 6. INSPECTIONS

6.01 REQUIREMENT. It shall be the duty of the Administrator to inspect each licensed or permitted food and beverage establishment in accordance with Minnesota Department of Health requirements. Reinspections required due to non-compliance with correction orders may be charged an additional fee. The Department shall maintain a written policy for charging reinspection fees.

6.02 RIGHT-OF-ENTRY. The Administrator, after proper identification, shall be permitted at any reasonable time, to enter any food or beverage establishment for the purpose of making inspections to determine compliance with this Ordinance or the Minnesota Food Code. The Administrator shall be permitted to examine the records of the food or beverage establishment to obtain information pertaining to food and equipment purchased, received, or used, and persons employed and to obtain any other information that may be necessary to determine whether the establishment is in compliance with this Ordinance or the Minnesota Food Code. Any interference with the Administrator in performance of his/her duties shall be grounds for immediate suspension of the license.

CHAPTER 7. ENFORCEMENT

7.01 NON-PAYMENT OF FEES. All license fees must be paid by the designated due date or the first day of operation, whichever comes first. A late fee charge, as approved by the Board, shall be assessed to the licensee for any fees that are not paid on or before the designated due date. In the case of previously licensed facilities, failure to pay the license fee and any assessed late charges within 30 days of the original due date shall result in the Administrator issuing an order to close the establishment immediately for failure to have a valid license.

7.02 VIOLATIONS. Whenever the Administrator conducts an inspection of a food or beverage establishment and discovers that any of the requirements of this Ordinance have been violated, he or she shall notify the license or operator of such violations by means of an inspection report or other written notice. In such notification, the Administrator shall:

A. Set forth the specific violations found;

B. Write correction orders for the violations found;

C. Establish a specific and reasonable period of time for the correction of the violations found;

D. State that failure to comply with any notice issued in accordance with the provisions of this Ordinance may result in suspension of the license or permit or that a citation may be issued;

E. State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Administrator within 30 days of the date of inspection.

7.03 CITATIONS. Whenever the Administrator discovers a violation of this Ordinance, a citation may be issued by the appropriate law enforcement agency or Administrator to the person alleged to have committed the violation. The citation may be issued in addition to other enforcement actions as deemed necessary by the Administrator to effect the purpose of the Ordinance. The Department shall maintain a written policy for issuing citations.

A. Citations shall contain the following information:

1. The name and address of the person charged with a violation or the owner or person in charge of the premises at which the violation occurs.
2. The date and place of the violation.
3. A short description of the violation followed by the chapter of the Ordinance, the Minnesota Food Code and or Standards violated.
4. The court date and location at which the person receiving the citation shall appear and a notice that if such person does not respond, a warrant may be issued for such person's arrest.

B. Pursuant to the Minnesota Rules of Criminal Procedure, the citation shall be issued to the person charged with the violation, or in the case of a corporation or unit of government, to any officer or agent authorized to accept such issuance.

C. If the person charged with the violation does not appear at the time specified by court rule, the Administrator may request a complaint to be signed and a warrant to be issued for the arrest of such person to compel appearance in

court.

7.04 CORRECTION OF VIOLATIONS All violations found must be corrected within the time specified in the inspection report given to the licensee. Upon reinspection, any uncorrected violation orders may be cause for further action as outlined in this Ordinance.

7.05 PROBATION. If during an inspection, the Administrator finds critical item violations and/or correction orders not remedied from a previous inspection, the Administrator may place a licensee on probation. Probation means that if the stated violations are not corrected within the time limits specified in the probation notice, an Administrative Hearing shall be ordered. The licensee may be removed from probationary status if the violations are corrected within the stated time limits.

7.06 ADMINISTRATIVE HEARING. If the conditions of a probationary status are not met, the licensee/operator shall be required to appear at a hearing before the Administrator and the inspecting Environmental Health Specialist. At the conclusion of such hearing, the Administrator shall:

A. Determine that the establishment is in compliance and no further action is necessary;

B. Reach a written agreement with the operator stating a schedule of corrections that would bring the establishment into compliance. Any additional inspections will be subject to a reinspection fee.

C. Order the immediate suspension of the license pending correction of the violations.

If the licensee fails to comply with the correction order by the date(s) specified or does not appear at the Administrative Hearing, the Administrator shall immediately suspend the license pending an appeal before the Board.

7.07 SUSPENSION. Any license may be suspended for cause as provided in this Ordinance. Such suspension requires that all operations cease and the establishment remain closed until the suspension has been lifted by the Administrator.

7.08 REINSPECTION. Any establishment whose license has been suspended may at any time make written application to the Administrator for a reinspection for the purpose of reinstatement. Within three (3) business days following receipt of a written request, including a statement signed by the licensee that in his/her opinion the conditions causing the suspension have been corrected, the Administrator shall make a reinspection. If the licensee is in compliance with the requirements of this Ordinance, the license shall be reinstated. If the establishment is not in compliance

upon reinspection, the suspension shall remain in effect and any further reinspections will be result in a reinspection fee being charged.

7.09 REVOCATION. For serious or repeated violations of any of the requirements of this Ordinance, or for interference with the Administrator in the performance of his or her duties, a license may be revoked after opportunity for a revocation hearing before the Board as provided in Chapter 9. A license may be suspended for cause pending revocation. If the Board upholds the revocation, such license becomes null and void. A new license application, including plan review and payment of the appropriate fees, must be submitted and approved before a new license is issued.

7.10 REINSTATEMENT. Whenever a licensed establishment is required to close under the provisions of this Ordinance, it shall not resume operations until the conditions causing the closure no longer exist and the Administrator has issued clearance to resume operations in writing. The licensee may request reinspection as per Section 7.08.

CHAPTER 8. EMERGENCY CLOSURE

8.01 EMERGENCY CLOSURE. Notwithstanding the other provisions of this ordinance, whenever the Administrator 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. The licensee shall not resume operations until authorized in writing by the Administrator.

A. An imminent health hazard may include, but not necessarily be limited to the following:

1. Lack of any utilities such as water, electricity or sewer;

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

3. The licensee fails to comply with the orders of the Administrator such that the provisions of Chapter 11 of this Ordinance cannot be met;

4. The presence of a foodservice worker with a communicable disease or infected wound who refuses to comply with the orders of the Administrator such that the provisions of Chapter 11 of this Ordinance cannot be met;

5. An infestation of rodents or insects; or

6. Evidence of a foodborne illness associated with the operation of the establishment.

B. If, following an on-site inspection, the Administrator determines that closure of a food establishment is required in order to protect public health as provided in this Chapter, the Administrator shall order immediate closure of the establishment in writing. The order shall identify the food establishment, describe the specific grounds upon which 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 given to the owner, manager, or person in charge.

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

D. In the event the person receiving the order fails to close the establishment, the Administrator 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 Administrator, law enforcement 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 Chapter.

E. The licensee may request, in writing, a hearing contesting the emergency closure order or the conditions for reopening the establishment. The hearing shall be held before the Administrator within two (2) business days following receipt of the request. The Administrator shall render a written decision within two (2) business days after the conclusion of the hearing. The decision of the Administrator may be appealed to the Board as provided in Chapter 9.

CHAPTER 9. HEARINGS AND APPEALS

9.01 APPEAL/HEARING REQUEST. Any decision of the Administrator, including denial of licensure, suspension of license or other such action may be appealed to the Board.

9.02 APPEAL REQUEST. The licensee must submit a request for an appeal from the Administrator's order within 10 days of the order. The appeal must be submitted to the Administrator who shall submit the appeal to the Board. The Board shall follow the procedure for an appeal as outlined in Section 9.04 of this Chapter.

9.03 CAUSE. Any license issued pursuant to this Ordinance may be suspended for up to ninety (90) days, revoked, a civil penalty imposed or a combination of any of these sanctions may be imposed by the Board after a hearing.

9.04 PROCEDURE FOR HEARING BY THE COUNTY BOARD. Notice of intent to revoke, deny, withdraw or suspend a food or beverage license and a brief statement of the facts upon which said action(s) is based shall be served by mail at the address stated on the licensee's food or beverage application. The notice shall further include the time, place and date of the hearing before the Board. Public notice of the hearing shall be given by publication in the newspaper designated for publication of public notices. A minimum of ten (10) days written notice to the licensee prior to the hearing shall be provided.

The hearing shall be public. The St. Louis County Attorney's Office shall present evidence through documents, witnesses sworn on oath, and arguments in support of the factual basis for the action(s) requested. The licensee or someone on his behalf may present evidence, cross-examine any witnesses, and make argument on behalf of the licensee.

9.05 FINDINGS, CONCLUSIONS AND ORDER. The Board shall, based upon the record and evidence at the hearing, render findings of fact and conclusions on all material issues no later than twenty-one (21) days after the hearing date. Written findings, conclusions and order may be filed with the County Auditor and served on the licensee.

9.06 INFORMAL DISPOSITION. Resolution of any matter involving suspension or revocation of a license may be handled informally by agreement of the Board and licensee through stipulation, agreed settlement, consent order or default. Any matter handled by informal disposition shall be included in the licensee's file and record for purposes of future assessment of the licensee's qualifications to be a license holder.

CHAPTER 10. PENALTIES

10.01 CRIMINAL PENALTIES. Any person violating any of the provisions of this Ordinance or of the regulations or standards promulgated hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed $1000.00 for each violation. Each day upon which a violation occurs shall constitute a separate violation. The Administrator may, in addition, enforce all provisions of this Ordinance through such proceedings for injunctive relief as may be proper under the laws of Minnesota. The Administrator shall initiate action to prevent, restrain, correct, or abate violations or threatened violations.

10.02 CIVIL PENALTIES. Upon cause shown, the Board shall have the authority to assess

a civil penalty of up to $2000.00 imposed for each violation.

CHAPTER 11. SUSPECTED DISEASE TRANSMISSION

11.01 When the Administrator has reasonable cause to suspect the possibility of disease transmission from any food establishment or employee, the Administrator shall make such investigation as may be indicated, and take appropriate action to protect the health and safety of the employees, customers or the general public. The Administrator may require any or all of the following measures:

A. The immediate removal of any employee from any and all food establishment operations until such time as the Administrator gives clearance for the employee to return to work.

B. The immediate closure of the food establishment(s) until, in the opinion of the Administrator, no further danger of disease outbreak exists.

C. Restriction of any employee's services to an area of the establishment where there would be no danger of transmitting disease.

D. Conduct medical and laboratory examinations of any employee, or other employees, and of his, her, and/or their body discharges.

CHAPTER 12. COMPLIANCE WITH OTHER LAWS, ORDINANCES, AND REGULATIONS

12.01 In order for a license to be obtained and retained under the provisions of this Ordinance, the licensee must be in compliance with all other federal, state, and local laws, ordinances, and regulations as they pertain to such establishment.

CHAPTER 13. FEES

13.01 The Board shall set, revise, rescind and collect such fees as it deems necessary for the administration of this Ordinance. Fees may include, but are not limited to, those charged for licenses, reinspection and plan review. The Board may establish a late fee for any or all categories. All fees must be paid in full prior to opening or the beginning of operation.

CHAPTER 14. SEVERABILITY

14.01 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.

CHAPTER 15. EFFECTUATION

15.01 This Ordinance shall take effect and be in full force on the 1st day of December, 2004, upon its adoption by the St. Louis County Board of Commissioners, and shall be published in the official newspaper(s) of St. Louis County as provided by Minnesota Statutes.

Commissioner Sweeney moved the adoption of this Ordinance, and Commissioner Kron duly seconded the motion, and it was adopted on the following vote:

Yeas: Commissioners Fink, Kron, Forsman, Sweeney, Nelson, and Chair Raukar - 6

Nays: None

Absent: Commissioner Fay - 1

_____
Chair, County Board

Certified as a complete and accurate copy of Ordinance No. 59

_____
Don Dicklich, County Auditor

ATTEST:

_____
Paul Tynjala, Deputy Auditor
Clerk of the County Board