

FARIBAULT COUNTY
BOARD OF COMMISSIONERS
OFFICIAL PROCEEDINGS
MARCH 18, 2014

The Faribault County Board of Commissioners met pursuant to the recess of March 4, 2014 at the Courthouse in the City of Blue Earth at 9:00 a.m. on March 18, 2014. The following members were present: Bill Groskreutz, Tom Loveall, John Roper, Tom Warmka, and Greg Young Commissioners. Senior Technical Clerk Clara Vereide and County Attorney Troy Timmerman were also present.

The meeting was called to order by Chair Loveall.

The pledge of allegiance was recited.

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Groskreutz/Young motion carried unanimously to approve the synopsis and official proceedings of the March 4, 2014 regular meeting.

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Warmka/Roper motion carried unanimously to approve the agenda of March 18, 2014.

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No member of the public appeared during public comment.

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Calendar was updated.

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Committee reports were given. Groskreutz reported on the Clark Township annual meeting and MVAC quarterly report; Roper reported on Drug Court, EDA, Township meetings, South Central Workforce Council, and MVAC; Warmka reported on Township meetings; and Loveall reported on planning and zoning, transit, and personnel.

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Faribault County Development Corporation Executive Director Linsey Warmka met regarding Economic Development Agency business. Discussion was held regarding Blue Earth industrial park site, Elmore Academy, and USDA Rural Business Enterprise grant.

Warmka/Roper motion carried unanimously to adopt Resolution 14-CB-08 supporting the application for a USDA Rural Business Enterprise Grant pending approval by County Attorney. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

R E S O L U T I O N

BE IT RESOLVED, that the Faribault County Board of Commissioners act as the applicant for project contained in the Rural Business Enterprise Grant Application to be submitted in March, 2014.

BE IT FURTHER RESOLVED, that the Faribault County Board of Commissioners has the legal authority to apply for financial assistance, and the institutional, managerial, and financial capability to ensure adequate administration.

BE IT FURTHER RESOLVED, the Faribault County Board of Commissioners has not violated any Federal, State, or local laws pertaining to fraud, bribery, kickbacks, collusion, conflict of interest or other unlawful or corrupt practice.

BE IT FURTHER RESOLVED, that upon approval of its application by the USDA Rural Development, the Faribault County Board of Commissioners may enter into an agreement with the USDA Rural Development of the above-referenced project, and that it will comply with all applicable laws and regulations as stated in all contract agreements.

NOW, THEREFORE BE IT RESOLVED, that the Auditor of Faribault County, the Faribault County Board of Commissioners Chair or their successors in office, are hereby authorized to execute such agreements and amendments thereto, as are necessary to implement the project(s) on behalf of the applicant.

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Groskreutz/Young motion carried unanimously to set June 17, 2014 at 6:30 p.m. for Board of Equalization and change the start of the regular board meeting to 2:00 p.m.

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Groskreutz/Roper motion carried unanimously to approve the Language Assistance Plan for Faribault County Prairie Express.

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Soil and Water/Planning and Zoning Program Technician Shane Johnson met regarding feedlot business.

Warmka/Young motion carried unanimously to approve the 2013 Annual County Feedlot Officer and Performance Credit Report as presented.

Groskreutz/Roper motion carried unanimously to approve the 2014-2015 County Feedlot Program Delegation Agreement and Work Plan.

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No action was taken on the training request presented due to lack of information.

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Soil and Water/Planning and Zoning Program Administrator Michele Stindtman met regarding office business.

Stindtman presented a conditional use permit from Eugene Stallkamp. Eugene Stallkamp of Bricelyn was present.

Young/Groskreutz motion carried unanimously to approve Resolution 14-PZ02-09 granting a conditional use permit to Eugene Stallkamp in Section 19 of Foster Township for the operation of a pet crematorium. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

RESOLUTION

Eugene Stallkamp
Foster Township, Section 19
#01-14-28

WHEREAS, according to the Faribault County Zoning Ordinance, the applicant is requesting a conditional use permit for the operation of a pet crematorium.

The proposed project is located in the Southeast Quarter (SE ¼) of Section Nineteen (19), Township One Hundred Two (102) North, Range Twenty-four (24) West, Foster Township, Faribault County, Minnesota.

WHEREAS: The Planning Commission finds:

1. That the proposed use will not have an adverse impact on the health, safety, and general welfare or be injurious to the use and enjoyment of other properties for purposes already permitted in the surrounding neighborhood.
2. That the proposed use will not have an adverse impact on traffic conditions including parking, traffic congestion, or traffic hazard.
3. That there are adequate public utilities, public services, roads, drainage, off-street loading space, and other necessary facilities to support the proposed use of the property.

4. That the proposed use will not have an adverse effect or diminish property values or future development of land in the surrounding neighborhood.
5. That the proposed use meets the standards of the Zoning Ordinance including that the use is allowed with a conditional use permit in the designated zoning district in which it is proposed. Use is allowed in the A-2 General Ag District with a conditional use permit.
6. That the proposed use will not have an adverse effect on the environment including impacts on groundwater, surface water, soils, and air quality. Listed conditions address any potential for adverse effects.
7. That the proposed use will not have an adverse effect on normal and orderly development and improvement of surrounding properties in the surrounding neighborhood.
8. That adequate measures are in place to prevent or control offensive odors, fumes, dust, noise, and vibration so that none of these will constitute a nuisance.
9. That the result of this request will not allow for the storage of materials and that adequate disposal measures are in place.

NOW THEREFORE BE IT RESOLVED, that the Faribault County Board of Commissioners approve the conditional use permit for Eugene Stallkamp to operate a pet crematorium on an existing site in the A-2 General Agriculture District with the following conditions:

1. This conditional use permit only authorizes the use specifically described in the submitted plan and application for a pet crematorium.
2. All other federal, state, and local applicable laws, ordinances, licenses, and permits shall be obtained and complied with from the appropriate agency and maintained in association with the pet crematorium.
3. Afterburner must be maintained and operated properly according to MN Rules 7011.1215.
4. No on-site disposal of solid waste will be permitted. This means there shall be no burial of waste, from the business, nor from the residence. All solid waste at the site must be disposed through self-hauling to a permitted solid waste management facility, or through a contract with a licensed commercial solid waste hauler.
5. This facility shall not be used for human cremation.
6. Animal carcasses if stored shall be stored in such a manner to prevent the attraction of flies and vermin and to minimize any offensive odors.
7. No sign will be permitted with this use.
8. The owner shall comply with all Faribault County and Minnesota State Building Code for structures that will be visited by the public.
9. Any additional modifications to the existing plan must be submitted to the Zoning Administrator and may require a conditional use permit.

10. A maintenance fee of \$50.00 every two years shall be paid as long as the conditional use is in effect starting March 18, 2016.

Stindtman presented a conditional use permit from Nathan Scheid. Nathan Scheid of Easton was present.

Warmka/Roper motion carried unanimously to approve Resolution 14-PZ03-10 granting a conditional use permit to Nathan Scheid in Section 18 of Barber Township for the operation of a feedlot of greater than 1,000 animal units. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

R E S O L U T I O N

Nathan Scheid
Barber Township, Section 18
#02-14-29

WHEREAS, according to the Faribault County Zoning Ordinance, the applicant is requesting a conditional use permit for the operation of feedlot greater than 1,000 animal units.

The proposed project is located in the A-2 General Agriculture District located in the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Eighteen (18) Township One Hundred Three (103) North, Range Twenty-six (26) West, Barber Township, Faribault County, Minnesota.

See Exhibit A.

WHEREAS: The Planning Commission finds:

1. That the proposed use will not have an adverse impact on the health, safety, and general welfare or be injurious to the use and enjoyment of other properties for purposes already permitted in the surrounding neighborhood.
2. That the proposed use will not have an adverse impact on traffic conditions including parking, traffic congestion, or traffic hazard.
3. That there are adequate public utilities, public services, roads, drainage, off-street loading space, and other necessary facilities to support the proposed use of the property.
4. That the proposed use will not have an adverse effect or diminish property values or future development of land in the surrounding neighborhood.
5. That the proposed use meets the standards of the Zoning Ordinance including that the use is allowed with a conditional use permit in the designated zoning district in which it is proposed. Use is allowed in the A-2 General Ag District with a conditional use permit.

6. That the proposed use will not have an adverse effect on the environment including impacts on groundwater, surface water, soils, and air quality. Listed conditions address any potential for adverse effects.
7. That the proposed use will not have an adverse effect on normal and orderly development and improvement of surrounding properties in the surrounding neighborhood.
8. That adequate measures are in place to prevent or control offensive odors, fumes, dust, noise, and vibration so that none of these will constitute a nuisance.
9. That the result of this request will not allow for the storage of materials and that adequate disposal measures are in place.

NOW THEREFORE BE IT RESOLVED, that the Faribault County Board of Commissioners approve the conditional use permit for Nathan Scheid to operate a feedlot over 1,000 animal units in the A-2 General Agriculture District with the following conditions:

1. This conditional use permit only authorizes the use specifically described in the submitted plan and application for a swine facility over 1,000 animal units.
2. All county, state, and federal laws, regulations, and ordinances shall be obtained and plans submitted prior to receiving a building permit.
3. A copy of the recorded deed for the 10 acres must be on file with the Zoning Administrator.
4. Construction must be substantially completed by June 2015.
5. Any additional modifications to the existing plan must be submitted to the Zoning Administrator and may require a conditional use permit
6. A maintenance fee of \$50.00 every two years shall be paid as long as the conditional use is in effect starting March 18, 2016.

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Public Works Director John McDonald met regarding office business. McDonald presented a map of the spring road restrictions that went into effect March 14, 2014 for 8 weeks. The 2013 annual report, a report on MN Transportation Day at the Capital, and a construction update were given.

Groskreutz/Young motion carried unanimously to approve advertising with Martin County for 125 miles of road striping.

Young/Warmka motion carried unanimously approving an addendum on bid contracts with the option to rent the Brush Creek gravel pit site for \$30,000 for the season.

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A public hearing was held for the adoption of revisions to the Food and Beverage Ordinance. Faribault/Martin County Human Services Public Health Sanitarian Tim Langer and Community Health Manager Carmen Reckard attended.

Warmka/Groskreutz motion carried unanimously to approve Resolution 14-CB-11 amending the Food and Beverage Ordinance. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

RESOLUTION

BE IT RESOLVED, by the Board of County Commissioners of Faribault County, Minnesota, as follows:

1. The Board of Commissioners of Faribault County hereby approves and adopts the attached Faribault County Food and Beverage Ordinance.
2. This resolution shall become effective immediately upon its adoption and approval.

FOOD AND BEVERAGE ORDINANCE

An Ordinance Providing for the Licensing and Inspection of Restaurants and Places of Refreshment and Similar Food Service; Regulating their Design, Construction, Operation and Maintenance and Providing for the Enforcement of this Ordinance and the Fixing of Penalties Throughout the Entirety of Faribault County Thereof be and thereby is established as follows:

This Ordinance shall be applicable to all food and beverage establishments such as restaurants, boarding houses and places of refreshment as defined in Minnesota Statutes Chapter 157 and shall include temporary and push cart commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, public buildings and all other businesses and establishments where meals, lunches or drinks are served, except those exempted by Minnesota Statute 157.22.

This Ordinance is enacted pursuant to Minnesota Statutes Chapter 145A, Section 145A.05, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under provisions of Section 145A.05 to perform all or part of the licensing, inspection, and enforcement duties authorized under the provisions of these sections.

The Faribault County Board of Commissioners pursuant to Minn. Stat. 145A.05, Subd. 8 ordain:

SECTION I -DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this Ordinance.

- 1.1 Agency means Human Services of Faribault and Martin Counties acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.

- 1.2 Health Department means Human Services of Faribault and Martin Counties and its community health personnel.
- 1.3 Staff means the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian and any related personnel acting under the Agency's authority.
- 1.4 Director means the Executive Director of Human Services of Faribault and Martin Counties.
- 1.5 Program Manager means the Community Health Services Program Manager of Human Services of Faribault and Martin Counties.
- 1.6 Sanitarian means the Public Health Sanitarian of Human Services of Faribault and Martin Counties.

SECTION II- ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

- 2.1 The standards for Food and Beverage Establishments outlined in the Minnesota Food Code Minnesota Rules Chapter 4626, including the Certified Food Manager Requirements for Food Establishments, Minnesota Rules 4626.2000 through 4626.2025 and any subsequent amendments thereto, are hereby incorporated in and made part of this Ordinance. Wherein Minnesota Rules Chapter 4626 refers to the Commissioner; Commissioner shall mean Human Services of Faribault and Martin Counties Community Health Board and its designated agents.

SECTION III- EMBARGO, CONDEMNATION AND TAGGING

- 3.1 General The Staff may condemn and cause to be removed, embargo, and/or tag any item deemed to be violation of Minnesota Rules 4626 in accordance with Section 4626.1805 through 4626.1815; or successor Rules.

SECTION IV- PLAN REVIEW OF FUTURE CONSTRUCTION

- 4.1 General When an establishment in Faribault County, licensed or to be licensed under the provisions of Minn. Stat. 157, is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit to the Health Department all required plans, specifications and materials, and comply with the requirements of Minnesota Rules 4626. Plans and the fee specified by the Agency shall be submitted at least 30 days before beginning construction, extensive remodeling, or conversion of a food establishment.
- 4.2 General The Sanitarian shall inspect the establishment prior to the start of operation, to determine compliance with the approved plans and specifications. The licensee shall not begin operations until the Sanitarian has conducted a final inspection and approved issuance of the food license.

SECTION V - PROCEDURE WHEN INFECTION IS SUSPECTED

5.1 General When the Staff has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee; he/she 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 Staff may require any or all of the following measures:

- 1) The immediate exclusion of the employee from all food service establishments;
- 2) The immediate closure of the food service establishment concerned until, in the opinion of the Staff, no further danger of disease outbreak exists;
- 3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease, and;
- 4) Adequate medical and laboratory examinations of the employee or other employees and their body discharges.

SECTION VI - COMPLIANCE PROCEDURES

6.1 Licenses Needed It shall be unlawful for any person to operate a food and/or beverage service establishment within Faribault County who does not possess a valid license issued to them by the Health Department as required by this Ordinance. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment, person, or location to another establishment, person, or location. A valid license shall be posted in every food service establishment. All licenses expire as of December 31 each year.

6.2 Application for License

- A. Any person desiring to operate a food service establishment shall make written application for a license on forms provided by the Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location and type of proposed food service establishment, as well as the signature of the applicant or applicants. If a partnership, the names of the partners, together with their addresses shall be included. Each application for a license, together with the appropriate license fee as described herein, shall be submitted to the Health Department not later than January 31 each year, following expiration of the previous year's license, or in the case of a seasonal or new business, within 30 days of the opening date of such a business. Any person who operates a food service establishment without submitting a license application and

appropriate fee shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance.

- B. Proprietors of any food and/or beverage establishment shall pay an annual license fee at a rate specified by resolution of Human Services of Faribault and Martin Counties. This annual license fee may be adjusted from time to time, as the Agency shall deem appropriate. A penalty fee at a rate specified by Human Services of Faribault and Martin Counties shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Health Department office by the dates specified in section 6.2A.
- C. From and after October 1st of each year, the license fee for new food and beverage establishments, or new operators, shall be one-half of the appropriate annual license fees plus any penalties which may be required.

6.3 Inspection and Correction

- A. The Health Department shall inspect food, beverage, and lodging establishments according to Minnesota Statute 157 and rules adopted under Minnesota Statutes 157. The frequency of inspection shall be based on the degree of health risk and shall be in compliance with the inspection frequency outlined in Minnesota Statutes, Section 157.20; or successor Statutes.
- B. The person operating a food establishment shall, upon request of the Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with the provisions of this Ordinance. Any interference with the Health Department in performance of his/her duties shall be grounds for immediate suspension of the license.
- C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request, furnish reasonable samples free of charge to the Health Department for laboratory analysis.
- D. Whenever an inspection of a food service establishment is made, the findings shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending investigations.
- E. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

6.4 Suspension of License

- A. Licenses may be suspended temporarily by the Staff at any time for failure by the holder to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within five (5) working days with the Staff by the license holder.
- B. Notwithstanding the other provisions of this Ordinance, whenever the Sanitarian finds insanitary or other condition(s) in the operation of a food establishment which, in their judgment, may constitute a substantial hazard to the public health, they can without warning, notice or hearing, issue a written notice to the license holder or operator citing such condition(s), specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all food and/or beverage operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Staff, shall be afforded an appeal before the Appeals Board as soon as the Appeals Board may be convened.
- C. Any person whose license or permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the license. Within ten (10) working days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Sanitarian shall make a reinspection. If the applicant is in compliance with the requirements of this Ordinance and Minnesota Rules Chapter 4626, the license shall be reinstated.

6.5 Revocation of License For serious or repeated violations of any of the requirements of this Ordinance or Minn. Rules Chapter 4626, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, Staff shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

6.6 Appeals Board The Appeals Board shall consist of six (6) members from the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from each county are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six members.

- A. Request for Hearing Any person affected by a notice of embargo, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Staff, written petition requesting such a hearing and setting

forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) working days after the notice was served.

- B. Date of Hearing The hearing requested shall be held not more than ten (10) working days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment a good and sufficient reason exists for such postponement.
 - C. Notice of Hearing The Staff shall cause five (5) working days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner or petitioner's last known address.
 - D. Proceedings At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of embargo, suspension, or revocation issued by the Health Department should be modified or withdrawn. The Program Manager or County Attorney shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
 - E. Decisions of the Appeals Board The Appeals Board, within three (3) working days after such hearing, shall sustain, modify or withdraw the notice of embargo, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief there from in any court of competent jurisdiction as provided by the laws of the state.
 - F. Record of Proceedings The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Program Manager or County Attorney shall be recorded and written summaries be entered as a public record in the office of the Director. Such record shall include a copy of every notice or order or writing issued in connection with the matter.
 - G. Notices not Appealed Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Health Department within ten (10) working days after the notice is served.
- 6.7 Severability The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase, or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.
- 6.8 Minnesota Department of Health The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting

more restrictive sanitary standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.

- 6.9 Penalties Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.
- 6.10 In the event of a violation or a threat of violation of this Ordinance, the County Attorney may make 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.
- 6.11 Effective Date This Ordinance shall be in full force and effect upon publication.

SECTION VII - REPEAL OF PREVIOUS ORDINANCE

7.1 This Ordinance, adopted March 18, 2014 hereby repeals and replaces in its entirety the Faribault County Food and Beverage Ordinance adopted on May 18, 1999.

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A public hearing was held for the adoption of the Swimming Pool Ordinance. Faribault/Martin County Human Services Public Health Sanitarian Tim Langer and Community Health Manager Carmen Reckard attended.

Warmka/Roper motion carried unanimously to approve Resolution 14-CB-12 to adopt the Swimming Pool Ordinance. Commissioners Groskreutz, Loveall, Roper, Warmka, and Young voted yes.

SWIMMING POOL ORDINANCE

An Ordinance Providing for the Licensing and Inspection of public pools regulating their design, construction, operation, and maintenance and providing for the enforcement of this Ordinance and the fixing of penalties throughout the entirety of Faribault County, hereby is established as follows:

This Ordinance shall be applicable to all public pools as defined in MN Rules Chapter 4717.

The Human Services of Faribault and Martin Counties Community Health Board pursuant to MN Statute Chapter 145, Section 145A.05, Subdivision 8 ordains:

SECTION 1: Purpose

The purpose and intent of this Ordinance is to provide a standard for the design, construction, operation, and maintenance of public swimming pools so that public health and safety will be maintained.

SECTION 2: Scope

This Ordinance shall be applicable to all public swimming pools as defined in MN Rules Chapter 4717, and shall provide for the licensing and inspection of all public swimming pools, regulation of the design, construction, operation, and maintenance of such pools and the enforcement of violations of this Ordinance.

SECTION 3: Authority

1. This Ordinance is enacted pursuant to MN Statute Chapter 145, Section 145A.05, Subdivision 8, which authorizes the Commissioner of Health to enter into an agreement to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.
2. The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health Rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting more restrictive standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this Ordinance.

SECTION 4: Definitions

The following definitions shall apply in the interpretation and the enforcement of this Ordinance.

1. Appeals Board shall mean six (6) members of the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from the Faribault County and two (2) members from Martin County are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six (6) members.
2. Board shall mean the Human Services of Faribault and Martin Counties Community Health Board acting under the provisions of MN Statute 145, Chapter 145A, subdivision.10, as the Board of Health.
3. Commissioner of Health shall mean the Minnesota Commissioner of Health.
4. Director shall mean the Executive Director of Human Services of Faribault and Martin Counties.
5. Health Authority shall mean the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian or designated staff.

6. Health Department shall mean Human Services of Faribault and Martin Counties Environmental Health Department or the authorized representative.
7. Private Residential swimming pool shall mean any swimming pool located on private property under the control of the homeowner, the use of which is limited to swimming or bathing by members of the homeowners or their invited guest. (The design, construction, and operation of such pools are not subject to the provisions of MN Rules Chapter 4717).
8. Public swimming pool shall mean any swimming pool, other than a private residential swimming pool, that is: (1) open to the public generally, whether for a fee or free of charge; (2) open exclusively to members of an organization and their guests; (3) open to residents of a multiunit apartment building, apartment complex, residential real estate development, or other multi-family residential area; (4) open to patrons of lodging establishment or other public accommodation facility; (5) operated by a person in a park, school, licensed child care facility, group home, motel, camp, resort, club, condominium, manufactured home park, or political subdivision with the exception of swimming pools at family day care homes licensed under MN Statute Chapter 245, Section 245A.14, subdivision 11, paragraph (a).
9. Sanitarian shall mean the Public Health Sanitarian of Human Services of Faribault and Martin Counties.
10. Special purpose pool shall mean treatment pools, therapeutic pools, and special pools for water therapy whirlpools, spas and cold plunge.
11. Wading pool shall mean any pool used or designed to be used exclusively for wading or bathing and a maximum depth of 24 inches.

SECTION 5: Adoption of Public Pool Standards

The standards for Public Pools outlined in MN Rules Chapter 4717 and the Abigail Taylor Pool Safety Act; MN Statute Chapter 144, Section 144.1222 and any subsequent amendments thereto are hereby incorporated in and made part of this Ordinance. Wherein MN Rules Chapter 4717 refers to the Commissioner, Commissioner shall mean the Human Services of Faribault and Martin Counties Community Health Board and its designated Health Department staff.

SECTION 6: Review of Construction Plans

When a Public pool in Faribault County is licensed or to be licensed under the provisions of MN Rules Chapter 4717 is constructed, installed or materially altered, complete plans and specifications shall be submitted to the Minnesota Department of Health as specified in Minnesota Rules Chapter 4717, Part 4717.0450, along with the required fee.

SECTION 7: Licensure

1. The Health Department is authorized to issue licenses for the operation of public swimming pool and such pools are required to be licensed prior to commencing operation in any calendar year. It shall be unlawful for any person to operate a public pool within Faribault County who does not possess a valid license issued to them by the Health Department as required by this Ordinance. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license.
2. Licenses issued pursuant to this Ordinance expire on December 31, of each year. License renewal applications shall be filed prior to January 31 or the first day of operation in each calendar year. Licenses shall become overdue and subject to a penalty if received after January 31 or 30 days after the first day of operation in each calendar year. Every person seeking to operate a public swimming pool shall make application in writing to the Health Department. Such application shall include the applicant's full name and address and whether such applicant is an individual, firm, partnership or corporation, the location, as well as the signature of the applicant or applicants. Such application shall be provided by the Health Department. When a person is seeking to operate more than one swimming pool, an additional license and fee shall be required.
3. Applicants for license shall pay an annual license fee at a rate specified by the Board. This annual license fee may be adjusted as the Board shall deem appropriate. A penalty fee at a rate specified by the Board shall be added to the amount of the license fee and paid by the applicant if the annual license fee has not reached the office of the Health Department by the dates specified. Licenses shall not be transferable from one establishment, person, or location to another establishment, person, or location. When opening after October 1, and before January 1, a new business or new operator is required only to pay ½ of the normal annual fee.
4. If the Health Department should determine from the application that the health and safety of the public will be properly safeguarded, approval of the license may be given except for a newly constructed or altered pool.
5. If the Health Department should determine from the application or subsequent inspection that the health and safety of the public in the pool will not be properly safeguarded, the Health Department may deny the application for licensure. Such applicant is entitled to a hearing before the Appeals Board as outlined in Section 11 of this Ordinance.

SECTION 8: Inspection

1. Pursuant to MN Rules, Chapter 4717, Part 4717.0375, the Health Authority shall have the right to enter and have access to the Public Pool at any time during the conduct of business. No persons shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make such inspections.
2. The person operating a public pool shall, upon request of the Health Department and after proper identification, permit access to all parts of the pool at any reasonable time for purpose of

inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this Ordinance.

3. When any of the conditions in the following items listed as A to F are found, a public pool must be immediately closed to use when so ordered by the Health Department. The owner of the pool or the owner's agent must place a sign at the entrance to the pool indicating that the pool is closed. The pool must remain closed until the condition is corrected and approval to reopen is granted by the Health Department. A pool must be closed when:
 - A. The units of lifesaving equipment specified in MN Rules Chapter 4717, Part 4717.1450 are not provided;
 - B. The water clarity standard specified in MN Rules Chapter 4717, Part 4717.1750, subpart 7, is not met;
 - C. The disinfectant residual specified in MN Rules Chapter 4717, Part 4717.1750 subpart 3, is not met;
 - D. The pool has been constructed or physically altered without approval of plans as required by MN Rules Chapter 4717, Part 4717.0450;
 - E. All pool drain equipment does not meet the requirements of MN Statue Chapter 144, Section 144.1222 Subdivisions 1, b, c, and d and any subsequent amendments thereto.
 - F. There is any condition that endangers the health or safety of the public.
4. All findings of an inspection of a public pool shall be recorded on the inspection report form. One copy of the inspection report form shall be furnished to the person in charge. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when report forms are a part of pending litigations.
5. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations. Correction of the violations shall be accomplished within the period specified.

SECTION 9: Suspension of License

1. Licenses may be suspended temporarily by the Health Authority at any time for failure by the holder to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that license holder or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within ten (10) days with the Health Authority by the license holder.

2. Any person whose license or permit has been suspended may at any time make application for a re-inspection for the purpose of reinstatement of the license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Sanitarian shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance the license shall be reinstated.

SECTION 10: Revocation of License.

For serious or repeated violations of any of the requirements of this Ordinance, MN Rules Chapter 4717 or MN Statute Chapter 144, Section 144.1222, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Health Authority shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

SECTION 11: Appeals Procedure

Appeals shall be heard by the Appeals Board, which shall consist of six (6) members of the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from Faribault County and two (2) members from Martin County are included. The Chairperson of the Human Services Board will be the Appeals Board Chairperson and will be included as one of the six (6) members.

1. Request for Hearing. Any person affected by a notice of closure, suspension, or revocation shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Director, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) days after the notice was served.
2. Date of Hearing. The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the judgment of the Chairperson a good and reasonable reason exists for such postponement.
3. Notice of Hearing. The Health Authority shall cause five (5) days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner's last known address.
4. Proceedings. At such hearing the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of closure, suspension, or revocation issued by the Health Authority should be modified or withdrawn. The Health Authority shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
5. Decisions of the Appeals Board. The Appeals Board, within three (3) days after such hearing, shall sustain, modify or withdraw the notice of closure, suspension, or revocation depending upon its findings. A copy of the decision of the Appeals Board shall be served by mail to the

petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief there from in any court of competent jurisdiction as provided by the laws of the state.

- 6. Record of Proceedings. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Health Authority shall be recorded and written summaries be entered as a public record in the office of the Director. Such record shall include a copy of every notice or order or writing issued in connection with the matter.
- 7. Notices not appealed. Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Director within ten (10) days after the notice is served.

SECTION 12: Severability.

The provisions of this Ordinance shall be severable. Should any section, paragraph, sentence, clause, phrase, or portion of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

SECTION 13: Penalties.

Any person, firm, or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

SECTION 14: Effective Date

This Ordinance, adopted this 18th day of March, 2014 shall be in full force and effect upon publication.

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A letter from Faribault County Community Food Partnership inviting the board to their April 14, 2104 meeting was read.

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Groskreutz/Roper motion carried unanimously to pay bills totaling \$ 327,443.46 as follows:

COUNTY REVENUE FUND	\$ 101,712.38
PUBLIC WORKS FUND	40,325.64

HUMAN SERVICES FUND	167,846.00
DITCH FUNDS	<u>17,559.44</u>
	\$ 327,443.46

* * * * *

The meeting was adjourned for March 2014.

Tom Loveall, Chairman

Clara Vereide, Senior Technical Clerk