

**POPE COUNTY**  
**FOOD AND BEVERAGE**  
**ORDINANCE**

January 1, 2019

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 Violations Throughout the Entirety of Douglas County and Pope County Thereof be and thereby is established as follows:

This Ordinance shall be applicable to all food and beverage service 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 churches, except as exempted by Minnesota Statutes, Chapter 157 and all other businesses and establishments where meals, lunches, or drinks are served.

The Douglas County Board of Commissioners, Pope County Board of Commissioners and the Horizon Community Health Board, pursuant to Minnesota Statutes, Chapter 145A, Section 145A.05, Subd. 8 ordain:

### **SECTION 1 – PURPOSE**

The purpose of this ordinance is to establish standards for all food and beverage service establishments and to protect the health, safety and general welfare of the people of Douglas and Pope Counties, including the following general objectives:

1. Prevent food borne illness.
2. Provide a minimum standard for the design, construction, operation and maintenance of food and beverage service establishments.
3. Correct and prevent conditions that may adversely affect persons utilizing food and beverage service establishments.
4. Meet consumer expectations for the quality and safety of food and beverage service establishments.
5. Establish inspection requirements and associated procedures involved with administering and enforcing this Ordinance.
6. Comply with the delegation agreement that Horizon Community Health Board has entered into with the Minnesota Department of Health.

### **SECTION 2 - LEGAL AUTHORITY**

This ordinance is enacted pursuant to Minnesota Statutes, Chapter 157, which establishes the authority for the State to license food and beverage establishments and Minnesota Statutes, Chapter 145A, Section 145A.05, which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under the provisions of Minnesota Statutes, Chapter

145A, Section 145A.05 to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.

### **SECTION 3 – DEFINITIONS**

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

1. **Additional Food Service:** “Additional Food Service” means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.
2. **Administrator:** “Administrator” means the Administrator of Horizon Public Health and his or her respective designee(s) operating under the authority of the Horizon Community Health Board to administer environmental health programs and public health services.
3. **Appeals Board:** “Appeals Board” means three representatives, two of which are appointed by the County Board of Commissioners representing the county from which the appeal is generated and one appointed by the other participating County Board of Commissioners.
4. **Agency:** “Agency” means Horizon Public Health, providing delegated services for Food, Pool and Lodging for the counties of Douglas and Pope.
5. **Boarding Establishment:** “Boarding establishment” means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.
6. **Commissioner:** “Commissioner” means the commissioner of health.
7. **Community Health Board:** “Community Health Board” means the 13-member appointed Board governing Horizon Public Health.
8. **County:** “County” means the County of Douglas or Pope, Minnesota.
9. **County Board:** “County Board” means the elected Board of Commissioners for the County of Douglas or Pope.
10. **Delegation Agreement:** “Delegation Agreement” means the properly executed delegation of responsibility to the Horizon Community Health Board by the State of Minnesota, as provided in Minnesota Statutes.
11. **Environmental Health Advisory Committee:** The “Environmental Health Advisory Committee” shall consist of two Douglas County Commissioners appointed annually by the Douglas County Board of Commissioners and two

Pope County Commissioners appointed annually by the Pope County Board of Commissioners, the Horizon Public Health Administrator, the Supervisor of Environmental Health and the Registered Sanitarian(s). The Environmental Health Advisory Committee shall serve in an advisory capacity to review matters related to the programmatic and fiscal operations of the Horizon Environmental Health Program and to make recommendations to the Horizon Community Health Board on matters reserved to that Board by law.

12. **Food and Beverage Service Establishment:** “Food and Beverage Service Establishment,” also referred to herein as “Establishment,” shall mean those food and beverage establishments as defined in Minnesota Statutes, Chapter 157 and shall include drive-ins, bars, taverns, drive-in cafes, clubs, lodges, eating facilities at resorts, schools, group daycare facilities, children’s camps, fairs, circuses, carnivals, churches, public buildings and all other businesses and establishments where meals, lunches or beverages are served, except as exempted by Minnesota Statutes, Chapter 157, Section 157.22, and successor statutes.
13. **Food Cart:** “Food cart” means a food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.
14. **Hazard:** “Hazard” means any biological, chemical, or physical property that may cause an unacceptable consumer health risk.
15. **Hearing:** “Hearing” means a proceeding held before the Horizon Environmental Health Appeals Board where evidence is taken for the purpose of determining an issue of fact.
16. **Imminent Health Hazard:** “Imminent Health Hazard” means a significant threat or danger to health that exists when there is evidence sufficient to show that a product, practice, circumstance or event creates a situation that requires immediate correction or cessation of operation to prevent injury based upon:
  - A) the number of potential injuries; and
  - B) the nature, severity and duration of the anticipated injury.
17. **License:** “License” includes the whole or part of any permit, certificate, approval, registration or similar form of permission or renewal required by County ordinance or State law administered by the County for the operation of any business, service, or facility.
18. **Licensee:** “Licensee” means the person who has been given the authority by the issuance of a license by the County to establish, operate, and/or maintain a facility or activity regulated by County ordinances.

- 19. Mobile Food Unit:** “Mobile food unit” means a food and beverage service establishment that is a vehicle mounted unit, either:
- (1) motorized or trailered, operating no more than 21 days annually at any one place or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or
  - (2) operated in conjunction with a permanent business licensed under this chapter or Chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.
- 20. Owner:** “Owner” means any person or person(s) having a legal interest in real or personal property or any person in possession or control of real or personal property including, but not limited to, mortgages, contract for deed vendees, and contract for deed vendors.
- 21. Person:** “Person” means an individual, firm, partnership, association, or corporation or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.
- 22. Public Health Services:** “Public health services” means the services of Horizon Public Health that are authorized under Minnesota Statutes, Chapter 145A, Local Public Health Act, including the Counties of Douglas, Pope, Grant, Stevens, and Traverse.
- 23. Restaurant:** “Restaurant” means a food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.
- 24. Risk Categories:**
- A. **High-risk establishment.** “High-risk establishment” means any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:
    - a. Serves time and temperature control safety (TSC) foods that require extensive processing on the premise, including manual handling, cooling, reheating, or holding for service;
    - b. Prepares foods several hours or days before service;
    - c. Serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illnesses;
    - d. Has a public swimming pool; or
    - e. Draws its drinking water from a surface water supply.
    - f. Must be inspected at least once every 12 months.

- B. **Medium-risk establishment.** “Medium-risk establishment” means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:
  - a. Serves time and temperature control safety (TSC) foods but with minimal holding between preparation and service; or
  - b. Serves foods, such as pizza, that require extensive handling followed by heat treatment
  - c. Must be inspected at least once every 18 months.
  
- C. **Low-risk establishment.** “Low-risk establishment” means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment that:
  - a. Must be inspected at least once every 24 months.
  
- 25. **Seasonal Permanent Food Stand:** “Seasonal permanent food stand” means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.
  
- 26. **Seasonal Temporary Food Stand:** “Seasonal temporary food stand” means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location, except as provided in paragraph (b).
  - (b) A seasonal temporary food stand that may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70 that has jurisdiction over the seasonal temporary food stand.
  
- 27. **Special Event Food Stand:** “Special event food stand” means a food and beverage establishment which is used in conjunction with celebrations and special events, and which operates for no more than 10 total days within the applicable license period.

**SECTION 4 – PLAN REVIEW OF FUTURE CONSTRUCTION**

- 4.1 Whenever a Food and Beverage Service Establishment is constructed, or extensively remodeled and whenever an existing structure is converted to use as food and beverage service establishments under Minnesota Statutes, Chapter 144, properly prepared plans and specifications for the construction, remodeling, or conversion must be submitted to the Agency for review and approval before construction, remodeling or conversion is begun. The plans and specifications must indicate the proposed layout, arrangement, construction materials of work areas, and the type and model number of proposed fixed equipment and facilities. The plans and specifications, submitted and drawn to scale, must be legible and complete in all details. Plumbing specifications need to be submitted directly to the Minnesota Department of Labor and Industry.

- 4.2 The Agency shall approve the plans and specifications if they meet the requirements of Section 4.1 of this ordinance and report the findings within 30 days of the date that plans are received.
- 4.3 The facility must be constructed and finished in conformance with the approved plans.
- 4.4 The Agency shall inspect the food and beverage establishment before start of operation to determine compliance with the approved plans and specifications.

#### **SECTION 5 - FEES**

Fees for the administration of the Horizon Public Health Food and Beverage Ordinance shall be established and amended periodically by action of the respective County Boards.

#### **SECTION 6 –REGULATORY AGENCY**

Horizon Public Health is hereby established in this Ordinance as the Agency responsible for the enforcement and administration of this Ordinance. The Agency shall:

- 1) Act as the inspecting Agency for Douglas and Pope Counties;
- 2) Issue licenses and maintain records relating to this Ordinance;
- 3) Provide informational materials regarding this Ordinance;
- 4) Administer this Ordinance; receive applications, requests, documentation; interpret and apply the Ordinance; and enforce the Ordinance.

#### **SECTION 7 -- INCORPORATION OF MINNESOTA FOOD CODE**

Minnesota Rules, Chapter 4626 except .0033 items G-O, the Minnesota Food Code, in effect on the effective date of this Ordinance, and all future revisions thereof, are hereby adopted by reference and made part of this Ordinance.

#### **SECTION 8 - LICENSES**

- 8.1 **General.** It shall be unlawful for any person, firm, corporation or partnership to operate a food and beverage service establishment within the County who does not possess a valid license issued by the Agency 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
- 8.2 **Application.** Any person desiring to operate a food and beverage service establishment shall first make application for a license on forms provided by the Agency, pay the required fee, and receive approval for operation, including plan review approval if a plan review is required. The application shall include: the full name and address of the owner of the building, structure, or enclosure; the lessee and manager of the establishment; the name under which the business is to be conducted; and any other information as may be required by the Agency to complete the application for license. The license shall be

issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this ordinance and shall be subject to enforcement action, as provided in this ordinance.

- 8.3 **License renewals.** License renewals shall be obtained on an annual basis. License renewal applications shall be submitted to the Agency on forms provided by it no later than December 1 of the year proceeding the year for which application is made; or in the case of a new business, not later than the opening date of such a business.
- 8.4 **Expiration Date.** Initial and renewal licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year.
- 8.5 **Initial & Renewal Fee Schedule.** Initial and renewal license applications shall be accompanied by the applicable fee as determined by the participating County Boards of Commissioners. Such rates may be changed by action of the participating County Boards of Commissioners from time to time as they shall deem appropriate. All license fees are non-refundable.
- 8.6 **Reduced License Fee.** Beginning on or after October 1 of each year, the license fee for new establishments or operators shall be one half of the appropriate annual license fee.
- 8.7 **Issuance or Denial of License:**
- a. Unless otherwise provided in this ordinance under which a license is issued, the Agency shall have fifteen (15) days to approve or deny an application for license or renewal. All establishments requiring a license under this ordinance are expected to submit their application for an initial license or renewal by December 1 of the year prior to the requested license period.
  - b. If December 1 falls on a weekend, the annual license renewal application and fee is due at the end of the county business day the following Monday.
  - c. Where an application is approved by the Agency, the establishment's license(s) shall be issued according to Agency policies and procedures.
  - d. Where a license is denied, the Agency shall state the factual basis for its decision and notice of its decision shall be hand delivered by the Agency to the applicant or shall be served by registered or certified mail to said applicant at the address designated in the license application. The applicant shall have ten (10) working days, exclusive of the day of service, to request a hearing. The request shall be in writing stating the grounds for appeal and served personally or by registered or certified mail on the Agency by midnight of the tenth (10th) agency working day following

service of the notice of denial. If the applicant fails to request an appeal within the specified time period, any opportunity for a hearing is forfeited and the Agency's decision is final. After receipt of an appeal request, the Agency shall set time and place for the hearing.

**8.8 License Non-Transferable:**

- a. A license is not transferable and non-refundable.
- b. The discontinuation of an operation by the licensee at the address covered by the license voids the license.
- c. A voided license shall be surrendered to the Agency immediately by anyone in possession of it.

**8.9 Change of Ownership:** A license shall not be issued to any person when an establishment changes ownership until an inspection by the Agency has been conducted and a compliance schedule has been established that is mutually agreeable to the owner and the Agency regarding previous orders.

When an establishment has been closed for 90 days or more, the Agency shall conduct an inspection and set forth a compliance schedule that is mutually agreeable to the new owners and the Agency to achieve compliance with the Minnesota Food Code prior to issuing a license.

**8.10 License Displayed.** A valid license shall be conspicuously posted in every food and beverage service establishment.

**SECTION 9 – INSPECTION/ENFORCEMENT:**

9.1 Horizon Public Health shall inspect food and beverage service establishments according to Minnesota Statutes, Chapter 157, and rules adopted under Minnesota Statutes, Chapter 157, and the Horizon Inspection and Enforcement Policy.

9.2 The person operating a food and beverage service establishment shall, upon request of the Agency and after proper identification, permit access to all parts of the food and beverage service 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.

9.3 Every person engaged in the operation of a food and beverage service establishment, shall upon request furnish reasonable samples free of charge to the Agency for laboratory analysis.

9.4 Whenever an inspection of a food and beverage 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 a pending litigation.

- 9.5 The inspection report form shall specify a specific and reasonable period of time for the correction of violations. Correction of violations shall be accomplished within the period specified.

## **SECTION 10 – SUSPENSION AND REVOCATION OF LICENSE**

- 10.1 Licenses may be suspended temporarily by the Agency 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 with a form of suspension 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) agency working days with the Agency by the license holder.
- 10.2 Notwithstanding the other provisions of this ordinance, whenever the Agency finds unsanitary or other condition(s) in the operation of a food and beverage service 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 beverage service 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 Agency, shall be afforded an appeal before the Appeals Board.
- 10.3 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) agency 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 Agency shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and Minnesota Rules, Chapter 4626, the license shall be reinstated.
- 10.4 Revocation of License. For serious or repeated violations of any of the requirements of this ordinance or Minnesota 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, the Agency shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) agency working day period.

- 10.5 Emergency Closure. Whenever the Agency finds that an emergency exists which requires immediate action to protect public health, it may, without notice or hearing, issue an Order reciting the existence of an emergency and require that such action be taken as deemed necessary to meet the emergency. Notwithstanding the other provisions of this Ordinance, such Order shall be effective immediately. Any person to whom an Emergency Order is directed shall comply therewith immediately.
- a. Emergency Closure Procedure. Emergency Closure of an Establishment will be ordered if a prohibited activity is occurring or it is determined that the Establishment is an imminent health hazard.
  - b. Following an Emergency Closure, the Establishment shall not reopen without written permission from the Agency.
  - c. The Agency must give written permission to reopen upon submission of satisfactory proof that the problem condition(s) causing the need for emergency closure have been corrected or removed by the operator(s).
  - d. Following an emergency closure, correction of the problem condition requires that all inanimate objects, equipment and surface areas in the room or area where the prohibited activity or imminent health hazard occurred be cleaned and sanitized.

#### **SECTION 11 –PROCEDURE WHEN INFECTION IS SUSPECTED**

When the Agency has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee, the Agency shall under the direction and/or guidance of the Minnesota Department of Health, secure an illness or morbidity history of the suspected employee, and/or make other investigations as may be required, and take appropriate action. The Agency may require any or all of the following measures:

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

#### **SECTION 12 – APPEALS**

- 12.1 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 Horizon Public Health, a written petition requesting such a hearing and a brief statement. The petition shall be filed within ten (10) agency working days after the notice was served.

- 12.2 **Date of Hearing.** The hearing requested shall be held not more than ten (10) agency working days after the date on which the petition was filed. The Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten (10) agency working day period, if in the judgment a good and sufficient reason exists for such postponement.
- 12.3 **Notice of Hearing.** The Agency shall give five (5) agency working days written notice of the hearing to the petitioner or petitioners by personal service or by certified mail to the petitioner or petitioner's last known address.
- 12.4 **Proceedings.** At the hearing, the petitioner, their agent, or attorney shall be given an opportunity to be heard and to show why the notice of embargo, suspension, or revocation issued by the Agency should be modified or withdrawn. The Agency shall present a detailed written statement of their findings of fact and recommendation(s) to the Appeals Board at the time of the hearing.
- 12.5 **Decisions of the Appeals Board.** The Appeals Board, within three (3) agency working days after such hearing, shall sustain, modify or withdraw the notice of embargo, suspension, or revocation depending upon its findings of fact. 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 therein from any court as provided by the laws of the state.
- 12.6 **Record of Proceedings.** The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings of fact and the recommendation(s) of the Agency shall be recorded and reduced to writing and entered as a public record in the office of the Public Health Administrator at Horizon Public Health. Such record shall include a copy of every notice or order or writing issued in connection with the matter.
- 12.7 **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 Agency within ten (10) agency working days after the notice is served.

### **SECTION 13 – VARIANCES**

#### **13.1 Variance:**

- A. **Request.** A party may ask Horizon Public Health, as the Regulatory Authority, to grant a variance from the following Minnesota Rules:
  1. Food establishments, as specified in Minnesota Rules, Chapter 4626, parts 4626.1690 to 4626.1715.

B. Variance Permitted: In any case where, upon application to Horizon Public Health, as the Regulatory Authority, it appears by reason of exceptional circumstance that the strict enforcement of any provision of the standards of this Ordinance would cause unnecessary hardship, or that strict conformity with the standards would be unreasonable and impractical or not feasible under the circumstances, the Regulatory Authority may permit a variance there from upon such conditions as it may prescribe for management consistent with the general purpose and intent of the applicable ordinance and of all other applicable State and local regulations and laws.

1. Variance Procedures: The applicant for a variance shall be the person to whom the rule applies. The person requesting the variance shall submit the request in writing to Horizon Public Health with the appropriate fee. A request shall contain:
  - (a) The specified language in the ordinance from which the variance is requested;
  - (b) The reasons why the rule cannot be met;
  - (c) The alternative measures that will be taken to ensure a comparable degree of protection to health or the environment if a variance is granted;
  - (d) The length of time for which the variance is requested;
  - (e) A statement that the person applying for the variance will comply with the terms of the variance, if granted; and
  - (f) Other relevant information the Regulatory Authority determines necessary to properly evaluate the request for the variance; and
  - (g) A HACCP plan, if required under part 4626.1730, that includes the information in part 4626.1735 that is relevant to the variance requested.

Informal Administrative Hearing: Horizon Public Health shall conduct an informal conference within thirty (30) days of receipt of an application for variance. The applicant or their designated representative may attend the hearing and present the facts or conditions upon which the application for a variance is based. Horizon Public Health shall prepare a written decision with its reasons therefore, and serve it personally or by registered or certified mail on the applicant by midnight of the tenth (10<sup>th</sup>) agency working day following the hearing.

Request for Formal Hearing: In the event that Horizon Public Health decides to deny the application for variance, the applicant may request a formal hearing on said variance. The request shall be served personally or by registered or certified mail on the Agency by midnight of the tenth (10<sup>th</sup>) agency working day following said Agency decision.

2. Criteria for Decision: Horizon Public Health may grant a variance if:
  - (a) The variance was requested in the manner prescribed in Ordinance.
  - (b) The variance will have no potential adverse effect on public health, safety, or the environment;
  - (c) The alternative measures to be taken, if any, are equivalent to or superior to those prescribed;
  - (d) Strict compliance with the rule will impose an undue burden on the applicant;
  - (e) The variance does not vary a statutory standard or preempt federal law or rule; and
  - (f) The variance has only future effect.
3. Conditions Granting a Variance: In granting a variance Horizon Public Health may attach conditions that it determines are needed to protect the public health, safety, or the environment. Alternative measures or conditions attached to a variance have the force and effect of the law. If a party violates alternative measures or conditions attached to a variance, the party is subject to the enforcement actions and penalties set forth in Section 14 of this Ordinance. A party to whom a variance has been issued shall notify Horizon Public Health in writing within 30 days of a change in the conditions upon which the variance was granted.
4. When granting a variance, Horizon Public Health shall specify the date upon which the variance will expire.
5. Renewal of Variance: A request for the renewal of a variance shall be submitted to Horizon Public Health in writing 30 days before its expiration date. Renewal requests shall contain the information specified in ordinance. Horizon Public Health shall renew a variance if the party continues to satisfy the criteria imposed at the time the original variance was approved. This part does not apply if there has been a change in the conditions upon which the variance was granted.

## **SECTION 14 – CRIMINAL LIABILITY AND ENFORCEMENT**

- 14.1 Criminal Penalties. Any person, firm or corporation who violates any of the provisions of this Ordinance, or who fails, neglects or refuses to comply with the provisions of this Ordinance, including violations of conditions and safeguards, or who knowingly makes any material false statement or knowing omission 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 \$1,000.00 or by imprisonment not to exceed 90 days, or both. Each day that a violation exists shall constitute a separate offense.

14.2 Civil Remedies. In the event of a violation or a threat of violation of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application of injunctive relief, action to compel performance, or other appropriate action in court, if necessary, to prevent, restrain, correct, or abate such violations or threatened violations.

#### **SECTION 15 – SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, said invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application and for this purpose the provisions of this ordinance are severable.

#### **SECTION 16 - PROVISIONS ACCUMULATIVE**

The provisions of this Ordinance are cumulative and are additional limitations upon all other rules, statutes, and ordinances heretofore passed covering any subject matter.

#### **SECTION 17 - NO CONSENT**

Nothing contained in this Ordinance shall be deemed to be consent, license or permit to operate, construct or maintain any site, facility or establishment or to carry on any activity, trade, profession or privilege.

#### **SECTION 18 –REPEALER**

All prior ordinances pertaining to subjects treated in this Ordinance shall be deemed repealed from and after the effective date of this Ordinance, provided this repeal shall not affect any offense committed or penalty incurred, or any right established prior to the effective date of this Ordinance.

#### **SECTION 19 - EFFECTIVE DATE**

**Effective date** This Ordinance shall be in full force and effect after its passage and publication provided by law, on January 1, 2019.

ADOPTED BY THE DOUGLAS COUNTY BOARD OF COMMISSIONERS THIS

\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

\_\_\_\_\_  
Chairperson  
Douglas County Board of Commissioners

OR

ADOPTED BY THE POPE COUNTY BOARD OF COMMISSIONERS THIS 20

DAY OF November, 2018.

Larry Linder  
Chairperson  
Pope County Board of Commissioners

Reviewed and accepted by the Horizon Community Health Board this 10<sup>th</sup>

day of December, 2018.

Larry Linder  
Chairperson  
Horizon Community Health Board