

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1185

AN EMERGENCY ORDINANCE AMENDING CHAPTER 13, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA RELATING TO THE CITY HEALTH BOARD; WAIVING SECOND READING OF THIS ORDINANCE, AND PROVIDING FOR ITS IMMEDIATE EFFECTIVENESS FOR A PERIOD OF 90 DAYS.

WHEREAS Section 13-26, 13-27 and 13-28 of the Code of Ordinances of the City of Miles City dealing with the creation, membership and powers of the City Health Board no longer conform to Montana statute due to amendments of the Montana statutes;

AND WHEREAS, inspections of retail food establishments, licensed beverage retailers, hotels, motels and tourist courts within the City of Miles City city limits have been conducted by the Custer County Health Board;

AND WHEREAS, the Custer County Commissioners of Custer County informed the City by letter that the County Sanitarian would no longer inspect facilities within the city limits of the City of Miles City;

AND WHEREAS, the authority to inspect such facilities lies with the County Health Board and not with the Custer County Commissioners;

AND WHEREAS, the Custer County Health Board has failed to assert its authority to require the County Sanitarian to conduct inspections of facilities within the city limits of the City of Miles City;

AND WHEREAS, in order to obtain a renewal of their licenses, such facilities must be inspected by a qualified inspector prior to December 31, 2008;

AND WHEREAS, it is necessary for the preservation of public health and safety that the City of Miles City immediately take actions necessary to assure that such facilities within the City limits are timely inspected;

AND WHEREAS, in order to do so, Sections 13-26, 13-27 and 13-28 of the Miles City Code of Ordinances must be amended to conform to existing State of Montana statutes;

NOW BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. Section 13-26 of the Code of Ordinances of the City of Miles City, Montana is amended to read as follows:

“Sec. 13 - 26. Creation; Membership

There is hereby created in and for the city a board of health, which shall consist of five members who shall be appointed by the Mayor and approved by the City Council and serve at the pleasure of the Mayor and City Council. The term of office of the members shall be three (3) years, with staggered terms as determined by the Mayor and City Council. Any member may be removed by action of the Mayor, approved by a majority vote of the City Council as then constituted.”

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Section 2. Section 13-27 is amended to read as follows:

“Sec. 13-27. **Meetings; organization and procedures.**

The board of health shall have the power to make rules and regulations for its own operation and procedure and to issue such orders as may be necessary for the proper performance of its duties; provided such rules, regulations and orders shall not be inconsistent with the laws of the state or ordinances of the city. The board shall hold regular meetings at least quarterly and shall keep a record of its official proceedings. Provided, however, that all health care information, as defined by state and federal law, in the possession of the board of health shall be confidential and subject to the Montana Uniform Health Care Information Act and the federal Health Insurance Portability and Accountability Act of 1996 (HIPPA).”

Section 3. Section 13-28 is amended to read as follows:

“Sec. 13-28. **Powers and duties; compensation of members**

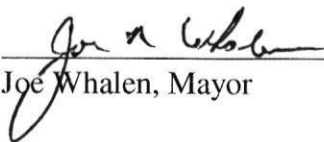
The board of health shall have such powers and duties as provided by state law or city ordinance. The board of health shall appoint a city health officer in accordance with state law and fix the compensation of such officer. The members shall serve without compensation.”

Section 4. Pursuant to §7-5-104, second reading of this Ordinance is hereby waived;

Section 5: These amendments shall become effective immediately upon passage of this Ordinance by the affirmative vote of two-thirds (2/3) vote of the whole City Council.

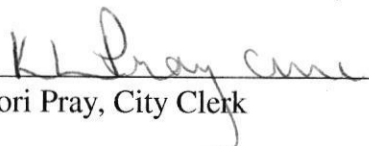
Section 6: These amendments shall remain in effective for a period of 90 days from the date of passage of this Ordinance.

FINALLY PASSED AND ADOPTED this 23rd day of December, 2008 by the affirmative vote of at least two-thirds (2/3) of the whole City Council..



Joe Whalen, Mayor

ATTEST:



Kori Pray, City Clerk