

**BIG STONE COUNTY
STATE OF MINNESOTA**



**AN ENVIRONMENTAL HEALTH ORDINANCE PROVIDING
FOR THE REGULATION OF HOTELS, MOTELS, LODGING
ESTABLISHMENTS, AND RESORTS WITHIN BIG STONE
COUNTY IN CONSORTIUM WITH CHIPPEWA, LAC QUI
PARLE, SWIFT, AND YELLOW MEDICINE COUNTIES AS
COUNTRYSIDE PUBLIC HEALTH**

EFFECTIVE: July 1, 2022

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THE COUNTY BOARD OF COMMISSIONERS OF BIG STONE COUNTY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I – GENERAL PROVISIONS

- 1.1 Purpose. To protect and provide for the public health, safety, and general welfare of the county of Big Stone by licensing and inspecting hotels, motels, lodging establishments, and resorts; regulating their design, construction, operation and maintenance; and providing for the enforcement of the regulations herein throughout said county.
- 1.2 Legal Authority. Countryside Public Health is a joint powers board of health organized under Minnesota Statute Chapter 145A.03 and Minnesota Statute Chapter 471.59 by Big Stone, Chippewa, Lac Qui Parle, Swift, and Yellow Medicine Counties. This ordinance is enacted pursuant to Minnesota Statute Chapter 145A.05 and Minnesota Statute Chapter 471.59 under which county boards may adopt ordinances to regulate actual or potential threats to the public health and is related to a delegation of authority by the Minnesota Commissioner of Health to Countryside Public Health under Minnesota

Statute Chapter 145A.07, Subd. 1, for the licensing, inspection, reporting, and enforcement duties authorized under Minnesota Statutes, Chapter 157 and 327 and Minnesota Rules 4625.0100 to 4625.2200 and all amendments or additions thereto, relating to rules and standards for hotels, motels, lodging establishments, and resorts.

- 1.3 Jurisdiction. This ordinance shall be applicable in Big Stone County to all hotels, motels, lodging establishments, and resorts as defined in Minnesota Statute 157.15, and all amendments or additions thereto.
- 1.4 Compatibility. Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by any other provision of this ordinance, or any other applicable law, ordinance, rule or regulation, the provision which establishes the higher standards for the promotion of the public health, safety, and general welfare shall prevail.
- 1.5 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 II – DEFINITIONS

The following definitions shall apply in the interpretation and the enforcement of this ordinance:

- 2.1 Board means Countryside Public Health (CPH) Community Health Board acting as the Board of Health under the provisions of Minnesota Statute Chapter 145A, and all amendments or additions thereto.
- 2.2 Department means the Countryside Public Health (CPH) Environmental Health Department staff or their designee.
- 2.3 Hotel or Motel means a building, structure, enclosure, or other establishment that meets the definition of a Hotel or Motel as defined in Minnesota Statute, Chapter 157, and all amendments or additions thereto.
- 2.4 Lodging Establishment means a hotel, motel, lodging house, bed & breakfast, resort, or other establishment that meets the definition of Lodging Establishment as defined in Minnesota Statute, Chapter 157, and all amendments or additions thereto.
- 2.5 Mail means a mailing by United States First Class Mail with return receipt requested directed to the recipient's last known address. A return of such mailing for any purpose shall not void the notice.
- 2.6 Notice means a written instrument delivered personally, mailed to the last known address of the responsible party entitled to notice, or posting the notice at the entry to the establishment.

- 2.7 Resort means a building, structure, enclosure, or other establishment that meets the definition of a Resort as defined in Minnesota Statute, Chapter 157, and all amendments or additions thereto.
- 2.8 Rooming Unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping purposes.
- 2.9 Vacation Home Rental means a single-family dwelling and/or related structure that is rented out for a period of time less than 30 consecutive days, for a charge.

SECTION III – LICENSES

- 3.1 Licenses Needed It shall be unlawful for any person to operate a lodging establishment within Big Stone County without a valid license issued by the Countryside Public Health, Environmental Health Department. Issuance and retention of a license is dependent upon compliance with the requirements of this ordinance. Licenses are specific to each lodging establishment and are not transferable between establishments, persons or locations. The license must be posted at the establishment. The regular license shall run on a calendar year from January 1st to the next December 31st. The seasonal license shall run from May 1st to the next April 30th. Licenses expire at 11:59 p.m. on the last day the license is in effect.
- 3.2 Application for License.
- A. Any person desiring to operate a lodging establishment shall make a written application on forms provided by the Department.
 - B. 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 description of the lodging establishment; and a signature of the applicant or applicants. The Department may require such additional information as it may find necessary.
 - C. Application for a new lodging establishment and the appropriate license fee shall be submitted to the Department at least ten (10) days prior to the desired date of operation.
 - D. Renewal applications and the appropriate license fee shall be submitted to the Department on or before the expiration date of the current year's license. Penalties shall not accrue until after expiration of the current year's license.
 - E. Operation of a lodging establishment without a license is a violation of this ordinance.
 - F. The Board is authorized to collect annual license fees and all other related fees. The amount of the annual license fee, any penalties or other fees required shall be specified by resolution of the Board and may be adjusted from time to time as the

Board deems appropriate. Fees paid shall be retained by the Board regardless of whether there is approval or denial of the license.

- G. If an application is made for the calendar year whereby the license begins on or after October 1st of that year, the license fee for new applicants or new operators shall be one-half of the appropriate annual license fees, plus any penalty which may be required. The provision for one-half of the license fee shall apply to any new applicant or licensee applying on or after February 1st for seasonal licenses.

SECTION IV – INSPECTION

4.1 Inspection and Correction.

- A. The Department shall classify establishments by risk category and inspect all lodging establishments to assure compliance with the requirements of this ordinance at a frequency as specified in Minnesota Statute 157.20 and all amendments and additions thereto.
- B. The person or entity operating a lodging establishment shall, upon request of the Department, and after proper identification, permit access to all areas of the facility for inspection. Further, the operator shall provide such documents and records required to ensure compliance with the provisions of this ordinance.
- C. Whenever an inspection of a lodging establishment is made, the findings shall be recorded on an inspection report form. One copy shall be provided to the operator of the facility. The inspection report is a public document and shall be available to the public unless the report is a part of a pending litigation, or unless there are scheduled follow up inspections.
- D. The inspection report form shall specify a specific and reasonable period of time for correction of the violation, except certain violations may require immediate action or suspension of operations of the lodging establishment as public safety may require.

4.2 Suspension of License.

- A. Licenses may be suspended temporarily by the Department, at any time for:
 - 1. Failure by the holder to comply with the requirements of the ordinance.
 - 2. Failure to timely comply with any notice requiring corrective action.
 - 3. Failure to comply with Minnesota Statutes 327.10 through 327.76, Minnesota Statute 157.177, and Minnesota Rules 4625.0100 through 4625.2200, and as amended, and any additions thereto.
- B. A license holder or operator shall be provided notice that the license has been suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for an appeal is filed with the Department.

- C. Notwithstanding the other provisions of this ordinance, whenever the Department finds unsanitary or other conditions in the operation of the lodging establishment which in their judgment may constitute a substantial hazard to the public health, a written notice to the license holder and/or operator may be issued citing such condition(s), specifying corrective action to be taken, and specifying the time period within which such action must be completed. If deemed necessary, such order shall state that the license is immediately suspended and may require that the lodging establishment operations be immediately discontinued and persons affected by such action may obtain a review of this action by filing a written petition for appeal with the Department.
- D. Any person whose license has been suspended may at any time make an application for reinspection for the purpose of reinstatement of the license. The request for reinspection shall be in writing and include a summary of the applicant's remedial action and a statement that the condition(s) causing suspension of the license have been corrected. Within ten (10) days of receiving the request, the Department staff shall make a re-inspection. If the applicant is in compliance with the requirements of this ordinance and Minnesota Statutes, Chapter 157 and 327 and Minnesota Rules 4625.0100 to 4625.2355 and all amendments or additions thereto, the license shall be reinstated.

4.3 Revocation of License. For serious or repeated violations of any of the requirements of this ordinance, the license may be permanently revoked. Prior to such action, the Department shall notify the license holder in writing, advising that the license shall be permanently revoked five (5) days after the issuance of said notice. The license holder shall be advised at the same time that a hearing before the Appeals Board will be provided if a written request for appeal is filed with the Department.

4.4 Appeals.

- A. An appeal may be brought under the provisions of this section to address any objection to the enforcement of this ordinance. Any affected person may pursue an appeal where the enforcement of a provision of this ordinance causes undue hardship or is believed to be unreasonable, impractical or not feasible.
- B. Appeals shall be presided over by an Appeals Board. The membership of the Appeals Board shall consist of the Chairperson of the Board, a County Commissioner, the Countryside Public Health Administrator, and the Department staff. Any of these members may designate an alternate to serve on the Appeals Board. The Appeals Board shall be chaired by the Chairperson of the Board.
- C. The Appeals Board shall have the power to affirm, reverse, or modify the enforcement action of Countryside Public Health, its departments and its agents.
- D. An Appeal shall be commenced by a request to the Appeals Board for a hearing. Such requests shall be filed with the Countryside Public Health Office in Benson,

Minnesota. The request shall be in the form of a written petition and shall set forth a statement of the issues. Said petition shall be filed within thirty (30) days after the enforcement issue arises.

- E. A hearing shall be held within ten (10) days after the date on which the appeal was filed. The Chairperson of the Appeals Board may postpone the date of the hearing for a reasonable time if, in the chairperson's judgment, a good and sufficient reason exists for such postponement.
- F. Countryside Public Health shall provide five (5) days written notice of the hearing to the appellant.
- G. At the hearing, Countryside Public Health shall present a detailed, written statement of findings supporting the decision of Countryside Public Health. The appellant, their agent, or attorney shall then be given an opportunity to show cause why the enforcement action taken by Countryside Public Health should be reversed or modified. The hearing may be continued if, in the chairperson's judgment, due process requires or other good and sufficient reason exists for such continuance.
- H. The Appeals Board shall render its decision in the form of findings and conclusions set forth in writing within three (3) days after the close of the hearing. A copy of the decision of the Appeals Board shall be served by mail or in person on the appellant. Any person aggrieved by the decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of this State.
- I. A recording may be made of any hearing before the Appeals Board and, if so, it shall be retained in the office of Countryside Public Health for a period of not less than one (1) year after the close of the hearing. All written records relating to an appeal shall likewise be retained in the office of Countryside Public Health for a period of not less than one (1) year after the close of the hearing.
- J. The terms of any notice served pursuant to the provisions of this ordinance shall become final if a written petition for a hearing is not filed with the Department within ten (10) days after the date of mailing.

4.5 Enforcement.

- A. Nothing herein shall limit the ability to seek release in district court in an action to enjoin violations of this ordinance.
- B. Injunctive actions shall be conducted by the county attorney for the county where the enforcement is to take place.
- C. No person shall make a false statement in a document required to be submitted under the provisions hereof.
- D. Each day that a violation exists shall constitute a separate offense.

E. Administrative Enforcement.

1. The use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for ordinance violations.
2. A violation of a provision of this ordinance may be subject to an administrative citation and civil penalties.
3. The Board may adopt by resolution a schedule of fines for offenses initiated by administrative citation. Said schedule shall be modified by said Board as it deems appropriate.
4. The Department may issue a written administrative citation upon belief that a violation of this ordinance has occurred. The citation must be delivered in person or by mail to the person responsible for the violation. The citation must state the nature of the offense, the name of the issuing officer, the amount of the fine, and the manner of paying the fine.
5. The person responsible for the violation shall pay the fine within thirty (30) days after issuance of the citation. Payment of the fine constitutes admission of the violation. A late payment of ten percent (10%) of the fine amount may be imposed.
6. Administrative enforcement shall be conducted by the Department or its designee.
7. Appeal from a citation shall be made in accordance with the appeal provisions provided hereinabove.
8. Upon a failure to pay an administrative fine noted above within the above said 30 days, the citation may be dismissed and the violation may be referred to the prosecuting attorney for criminal prosecution.

F. Criminal Enforcement.

1. Criminal prosecution shall be conducted by the county attorney for the county where the enforcement is to take place.
2. Whoever fails to comply with any of the provisions hereof shall be guilty of a misdemeanor.

3. Upon conviction of any violation of this ordinance, a person shall be subject to the statutory penalties for misdemeanors.

SECTION V – PLAN REVIEW

- 5.1 When a lodging establishment in Big Stone County, licensed or to be licensed under the provisions of this ordinance, is hereafter constructed or remodeled, or when an existing structure is converted for use as a licensed establishment, it shall submit to the Department a complete set of plans, specifications and materials, and comply with the requirements of this ordinance. The plans and specifications shall show the layout; arrangement; mechanical, plumbing and electrical specifications; material finishes; and location, size and type of equipment and facilities. The plans must be drawn to scale and must be complete and legible in all details. Plans and the fee specified by the Board shall be submitted at least thirty (30) days before beginning construction, extensive remodeling, or conversion of a lodging establishment. Plumbing plans and specifications must be submitted to the Minnesota Dept. of Labor and Industry for approval prior to beginning construction.
- 5.2 If an existing structure that is on an individual sewage treatment system is to be converted or expanded for use as a lodging establishment, the individual sewage treatment system must have a compliance inspection and the change of use must be approved by the County of residence Zoning Department if required. Submit the required compliance inspection report and letter of approval from the Zoning Department with the construction plans.

SECTION VI – STANDARDS

- 6.1 All hotels, motels, lodging establishments, and resorts within Big Stone County shall comply with the standards for hotels, motels, lodging establishments, and resorts as set forth in Minnesota Statutes, Chapter 157 and 327 and Minnesota Rules 4625.0100 to 4625.2355 and all amendments or additions thereto. Specifically, Minnesota Statutes, Chapter 157 and 327 and Minnesota Rules 4625.0100 to 4625.2355, inclusive, and amendments or additions, are hereby incorporated herein by reference and made a part of this ordinance.

SECTION VII – SEX TRAFFICKING PREVENTION TRAINING

- 7.1 All hotels, motels, lodging establishments, and resorts within Big Stone County shall comply with the Sex Trafficking Prevention Training requirements as set forth in Minnesota Statutes, Chapter 157.177 and all amendments or additions thereto, are hereby incorporated herein by reference and made a part of this ordinance.

SECTION VIII – VARIANCE

8.1 In any case where, upon application of responsible persons, the Department finds that by reason of exceptional circumstances the strict enforcement of Minnesota Rules parts 4625.0400 to 4625.0600; 4625.0900; 4625.1200 to 4625.1600; 4625.2000 except the last sentence; and 4625.2200 would cause undue hardship and would be unreasonable, impractical or not feasible, the Department in its discretion may permit a variance therefrom. The Department shall grant a variance only to these sections according to the procedures set forth in Minnesota Rules, Section 4717.7000 to 4717.7050.

Such variances may be reviewed periodically and rescinded or altered as necessary to protect the public health or eliminate nuisance conditions.

SECTION IX - EMBARGO, CONDEMNATION, AND TAGGING

9.1 The Department may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of this ordinance.

SECTION X – REPEAL OF PREVIOUS ORDINANCE

10.1 This ordinance repeals and replaces in its entirety all prior hotel, motel, lodging establishment, resort, or vacation home rental ordinances adopted by this county.

SECTION XI – EFFECTIVE DATE

11.1 This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the Board of Commissioners of Big Stone County, Minnesota the _____ day of _____, 2022.

Jeff Klages, Chairman Date
Big Stone County Board of Commissioners

Attest: _____
Pam Rud, Coordinator Date
Big Stone County