

Brown County Ordinance #2014-04

Providing for the Regulation of Lodging Establishments, Boarding Establishments, Hotels, Motels and Resorts

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Statutes and Rules referenced in this Ordinance can be accessed to read or download at this website:
<https://www.revisor.mn.gov/pubs/>

BE IT AND IT IS HEREBY RESOLVED by the Brown County Board of Commissioners, State of Minnesota, under authority provided in Minnesota Statutes, Chapters 145A, 157, and 375 that:

An Ordinance providing for the inspection and licensing of hotels, motels, lodging establishments, and resorts; regulating their design, construction, operation, and maintenance, and providing for the administration and enforcement thereof; be and herby is established as follows:

Section 1: Purpose and Authority

1.1 The purpose of this Ordinance is to establish standards for all lodging establishment, boarding establishment, hotel, motel and resorts and to protect the health, safety, and general welfare of the people of Brown County, pursuant to the powers granted under Minnesota Statutes, Chapters 145A, 157, and 375, including the following general objectives:

- a. To provide a minimum standard for the design, construction, operation, and maintenance of lodging establishment, boarding establishment, hotel, motel and resorts;
- b. To correct and prevent conditions that may adversely affect persons utilizing lodging establishments; and
- c. To meet consumer expectations for the quality and safety of lodging establishment, boarding establishment, hotel, motel and resorts.

1.2 This Ordinance establishes the minimum standards, as defined in Minnesota Statutes, Sections 327.10 to 327.13; Minnesota Rules, Parts 4625.0100 to 4625.2200; and this Ordinance; for the design, construction, operation and maintenance of lodging establishment, boarding establishment, hotel, motel and resorts located in Brown County, so that health and safety hazards are minimized. Whenever, and if, this Ordinance conflicts with other applicable laws, regulations and ordinances, the most restrictive shall prevail.

1.3 Minnesota Statutes, Chapter 327 and Minnesota Rules, Chapter 4625, 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 2: Scope

This Ordinance shall be applicable to all lodging establishment, boarding establishment, hotel, motel and resorts defined in Minnesota Statutes, Chapter 157.15; Minnesota Rules Chapter 4625.0100; and this Ordinance which are located in Brown County, Minnesota.

Section 3: Administration

This Ordinance shall be administered by the Brown-Nicollet Environmental Health Department, hereinafter referred to as the “Regulatory Authority.”

Section 4: Definitions

Words, phrases and terms used in this Ordinance shall be given the same meaning as those set forth in Minnesota Statutes, Section 157.15; Minnesota Rules, Part 4625.0100; and this Ordinance. The following definitions shall apply in the interpretation and the enforcement of this Ordinance:

- 4.1 **Appeals Board** shall consist of the Chairperson and Vice Chairperson of the Brown-Nicollet Community Health Board or their designated appointees, and the Environmental Health Director or a designated agent.
- 4.2 **Approved** shall mean acceptable to the Regulatory Authority following its determination as to conformity with departmental standards and established public health practices.

- 4.3 **Bed and Breakfast** shall mean an owner occupied establishment which offers lodging and breakfast, without a limitation on the number of rooms offered. If breakfast is offered to more than (ten) 10 persons, a commercial kitchen is required.
- 4.4 **Board** shall mean the Brown-Nicollet Community Health Board acting under the provisions of Minnesota Statutes, Section 145A, as the Board of Health.
- 4.5 **Boarding Establishment** shall mean a food and beverage establishment where food or beverages, or both are furnished to five (5) or more regular boarders, whether with or without sleeping accommodations, for periods of one (1) week or more.
- 4.6 **Clean** shall mean free from insects, vermin, and debris; and free from physical, chemical and microbial substances discernible by ordinary sight or touch, by ultraviolet light, or by artificial light; absence of dirt, grease, rubbish, garbage and other offensive, unsightly, or extraneous matter.
- 4.7 **Commissioner of Health** shall mean the Minnesota Commissioner of Health.
- 4.8 **County** shall mean Brown County.
- 4.9 **Environmental Health Department** shall mean the Brown-Nicollet Community Health Board and its environmental health staff
- 4.10 **Environmental Health Director** shall mean the Brown-Nicollet Community Health Board's Environmental Health Director and any related staff acting under the Board's authority.
- 4.11 **High Risk Establishment** shall mean any hotel, motel, lodging establishment, boarding establishment, or resort that has a public swimming pool, as provided for in the Brown County Regulation of Public Swimming Pools Ordinance, or draws its drinking water from a surface water supply.
- 4.12 **Hotel or Motel** shall mean a building or structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one (1) week.
- 4.13 **Imminent Health Hazard** shall mean a significant threat or danger to health that exists when there is evidence to show that a product, practice, circumstance, or event creates a situation or condition that requires immediate correction or cessation of operation.
- 4.14 **Licensee** shall mean the person who has been given the authority by the issuance of a license by the County to establish, operate, manage, and/or maintain a facility or activity regulated by Ordinances or as otherwise designated in the County Ordinance.
- 4.15 **Lodging Establishment** shall mean a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one (1) week or more, and having five (5) or more beds to let to the public.
- 4.16 **Low risk Establishment** shall mean any lodging establishment, boarding establishment, hotel, motel, or resort that is not a high risk or medium risk establishment.

- 4.17 **Medium Risk Establishment** shall mean any lodging establishment, boarding establishment, hotel, motel, or resort that has twenty-five (25) or more units.
- 4.18 **Person** shall mean an individual, firm, corporation, partnership, association, or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.
- 4.19 **Regulatory Authority** shall mean the Brown-Nicollet Environmental Health Department, its Director or other designated agent.
- 4.20 **Remodeling** shall mean an addition or change to the physical facility or an equipment installation that results from changes in the services offered to the public. Remodeling does not include redecorating or cosmetic refurbishing.
- 4.21 **Resort** shall mean a building, structure, enclosure, or any part thereof located on, or on property neighboring, any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one (1) day, one (1) week, or longer, and having for rent five (5) or more cottages, rooms or enclosures.
- 4.22 **Seasonal** shall mean on operation which is closed five (5) or more consecutive months of the year.
- 4.23 **Variance** shall mean any modification or variation to the requirements of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.

Section 5: Licensure

- 5.1. It shall be unlawful for any person to operate a hotel, motel, lodging establishment, boarding establishment, resort, or similar facility within Brown County who does not possess a valid license issued by the Environmental Health Department as required by this regulation. Only a person whose establishment complies with the requirements of this Ordinance, shall be entitled to receive and retain such a license. Licenses shall not be transferable from person or place.
- 5.2 The license shall be maintained and shall be conspicuously displayed at all times.
- 5.3 Any person desiring to operate a hotel, motel, lodging establishment, boarding establishment, resort, or similar facility shall make written application for a license on forms provided by the Environmental Health Department. Such application shall include: the applicant's full name and address; whether such applicant is an individual, firm, partnership or corporation; the location and type of proposed lodging establishment, boarding establishment, hotel, motel and resort; as well as the signature of the applicant(s); along with all State of Minnesota required information. 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 Environmental Health Department not later than December 31, each year, following expiration of the previous year's license or transfer of ownership. In the case of a new business, the application for a license and fee shall be submitted ten (10) days prior to the opening date of such a business. Any person who operates a lodging establishment, boarding establishment, hotel, motel and resort without submitting a license application and appropriate

fees shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance. Licenses shall be renewed on an annual basis.

- 5.4 Any hotel, motel, lodging establishment, boarding establishment, resort, or similar facility shall pay an annual license fee based on the number of sleeping rooms at a per-room rate specified by the Board. Such rates may be changed by the Board as it 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 proprietor if the annual license fee has not reached the Environmental Health Department by the dates specified in Section 5.3 of this Ordinance. When opening after October 1, and before January 1, a new business or new operator is only required to pay one-half (1/2) of the normal annual fee.

Section 6: Inspection and Correction

- 6.1 The Regulatory Authority shall inspect licensed establishments as defined in this Ordinance as frequently as necessary to ensure compliance with this Ordinance, but not less often than the minimum frequency established by Minnesota Statutes, Section 157.20.
- 6.2 The person operating a hotel, motel, lodging establishment, boarding establishment, or resort shall, upon request of the Environmental 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 compliance with this regulation.
- 6.3 Whenever an inspection and review of the hotel, motel, lodging establishment, boarding establishment, or resort is made, the findings shall be recorded on an inspection/review form. Correction orders shall be recorded, with one (1) copy of the correction orders 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 part of on-going investigations or pending litigations.
- 6.4 The inspection report form shall specify a specific, appropriate, and reasonable period of time for correction of the violations. Correction of the violations shall be accomplished within the period specified. Failure to make corrections within the time period specified shall result in one (1) or more of the following enforcement actions, established in policy, being taken by the Environmental Health Department:
- a. Re-inspection of the establishment, and required payment of a re-inspection fee, as set by the Board. Failure to pay the re-inspection fee within thirty (30) days of notification will result in an additional late payment fee.
 - b. In-Office Hearing to discuss violations, correction orders, and other compliance requirements. Location, time, and participants shall be determined by the Brown-Nicollet Environmental Health staff. An In-Office Hearing Fee shall be set by the Board. Failure to pay the In-Office Hearing Fee within thirty (30) days of notification will result in an additional late payment fee.

Section 7: Emergency Orders

- 7.1 Whenever the Regulatory Authority finds that an emergency exists which requires immediate action to protect the public health, it may, without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as the Regulatory Authority deems necessary to meet the emergency. Notwithstanding the other provisions of this regulation, such order shall be effective immediately.
- 7.2 Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Regulatory Authority shall be afforded a hearing in the manner prescribed in Section 9 of this Ordinance. After such hearing, the Appeals Board shall continue such order in effect, modify it, or revoke it.

Section 8: Notice of Suspension

- 8.1 Whenever, upon inspection of any hotel, motel, lodging establishment, boarding establishment, or resort; the Regulatory Authority finds that conditions or practices exist that are in violation of any provision of this Ordinance, the Environmental Health Department shall give notice in writing to the operator of such business that unless such conditions or practices are corrected within a reasonable period to be determined by the Regulatory Authority, the operator's license will be suspended. At the end of such period, the Regulatory Authority shall re-inspect such hotel, motel, lodging establishment, boarding establishment, or resort, and if it finds that such conditions or practices have not been corrected, it shall give notice in writing to the operator that the latter's license has been suspended. Upon receipt of notice of suspension of the license, such operator shall immediately cease operation and no person shall occupy for sleeping purposes any unit therein except the owner's quarters when existing in the same building.
- 8.2 Nothing in this section shall be construed to prevent the Regulatory Authority from suspending or revoking a license only as to such portion of the premises that do not comply with the provisions of this regulation and permitting the continued operation of the remaining portions of such premises which do comply.
- 8.3 Any person whose license to operate a hotel, motel, lodging establishment, boarding establishment, or resort has been suspended, or who has received notice from the Environmental Health Department that his/her license is to be suspended unless existing conditions or practices be corrected, may request and shall be granted a hearing on the matter before the Appeals Board and the procedure provided by Section 9 of this Ordinance; provided that if no petition for such hearing is filed within ten (10) business days following the day on which such license was suspended, such licenses shall be deemed to have been revoked.

SECTION 9: Appeals Procedure

Appeals shall be heard by the Appeals Board.

- 9.1 **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 the Environmental Health Director, a written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten (10) business days after the notice was served.

- 9.2 Date of Hearing. The hearing requested shall be held not more than ten (10) business 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) business day period, if in the Chairperson's judgment a good and sufficient reason exists for such postponement.
- 9.3 Notice of Hearing. The Environmental Health Director shall cause five (5) business days written notice of the hearing to be given to the petitioner(s) by personal service or by mailing said notice to the petitioner(s)'s last known address.
- 9.4 Proceedings. At such hearing the petitioner(s), 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 Environmental Health Director should be modified or withdrawn. The Environmental Health Director shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
- 9.5 Decisions of the Appeals Board. The Appeals Board, within three (3) business 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(s). Any person aggrieved by the decision of the Appeals Board may seek relief in any court of competent jurisdiction as provided by the laws of the State of Minnesota.
- 9.6 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 Environmental Health Director shall be recorded and reduced to writing and entered as a public record in the office of the Environmental Health Director. Such record shall include a copy of every notice, order, or writing issued in connection with the matter.
- 9.7 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 Environmental Health Department within ten (10) business days after the notice is served.

Section 10: Review of Construction Plans

- 10.1 Whenever a hotel, motel, lodging establishment, boarding establishment, or resort is constructed or extensively remodeled; properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Regulatory Authority for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, plumbing specifications, construction materials of work areas, and the type and model number of the proposed equipment for the facility. The plans and specifications shall be submitted in duplicate and drawn to scale, shall be legible and complete in details.
- 10.2 The Environmental Health Department shall approve the plans and specifications if they meet the requirements of these rules.
- 10.3 The facility shall be constructed and finished in conformance with the approved plans.
- 10.4 The Environmental Health Department shall inspect every lodging establishment, boarding establishment, hotel, motel and resort prior to the start of operation, to determine compliance with the approved plans and specifications.

10.5 Plans and Plan Review Fee, specified by the Board, shall be submitted at least thirty (30) days before beginning construction or extensive remodeling.

Section 11: Severability

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

Section 12: Penalties

Any person, firm, or corporation who violates any of the provisions hereof or who fails to comply with any of the provisions hereof or who makes any false statement in any document required to be submitted under the provisions hereof, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed ninety (90) days or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.

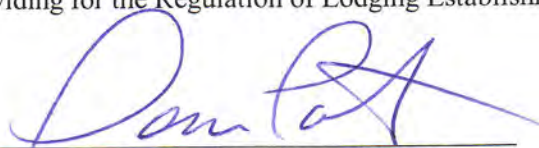
Section 13: Variances

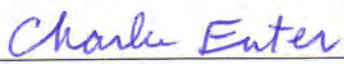
13.1 A variance from this Ordinance may be granted if it is deemed that the strict enforcement of any provision of the standards of the Ordinance would cause unnecessary hardship or that strict conformity with the standards would be unreasonable and impractical, or not feasible under the circumstances. The Regulating Authority may permit a variance upon such conditions as it may prescribe for management consistent with the general purposes and intent of the applicable Ordinance and of all other applicable state and local regulations and laws.

13.2 Variances will be granted in accordance with the procedures defined in Minnesota Rules, Part 4625.2355; the Brown-Nicollet Program Policies Variances Section; and this Ordinance.

SECTION 14: Effective Date

This Ordinance, adopted 12-23-2014 hereby repeals and replaces in its entirety the Brown County Ordinance Providing for the Regulation of Lodging Establishments dated June 1, 2010.

Signature: 
Chairperson, Brown County Board of Commissioners

Attest: 
Brown County Administrator

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