

DATE July 6, 2010
MOTION
BY COMMISSIONER Hegberg

DEPARTMENT
SECONDED BY
COMMISSIONER

Public Health & Environment
Weik

**RESOLUTION ADOPTING WASHINGTON COUNTY
LODGING ESTABLISHMENT ORDINANCE NO. 181**

WHEREAS, the Minnesota Local Public Health Act MINN. STAT. CHAPT. 145A., imposes upon the counties the responsibility of protecting and promoting the health of its citizens through the prevention of disease, injury, disability and preventable death, and

WHEREAS, the counties are to advance this mandate through the promotion of effective coordination and use of community resources and by the extension of health services into the community, and

WHEREAS, MINN. STAT. § 145A.03 requires counties to undertake the responsibility of a board of health or establish a board of health; and

WHEREAS, Washington County Department of Public Health and Environment is the county agency given responsibility by the Washington County Board of Health to administer the County's statutory mandate; and

WHEREAS, MINN. STAT. § 145A.04 authorizes counties to enforce laws, regulations and ordinances attendant to the local Board of Health; and

WHEREAS, MINN. STAT. § 145A.05 authorizes county boards to adopt ordinances to regulate actual or potential threats of public health consistent with the Minnesota Local Public Health Act; and

WHEREAS, the Minnesota Department of Health currently regulates and has enforcement authority over lodging establishments; and

WHEREAS, the Minnesota Department of Health wishes to delegate this oversight authority to Washington County through a delegation agreement; and

WHEREAS, on July 6, 2010, the Washington County Board of Commissioners conducted a public hearing pursuant to MINN. STAT. § 375.51, to adopt the Washington County Lodging Establishment Ordinance, Ordinance No 181.

NOW, THEREFORE, BE IT RESOLVED, that the Washington County Board of Commissioners hereby adopts the Washington County Lodging Establishment Ordinance No. 181.

BE IT FURTHER RESOLVED, that the Washington County Lodging Establishment Ordinance attached hereto shall be effective upon and after the publication of this ordinance according to law and the execution of a delegation agreement.

ATTEST:

James R. Schuy

COUNTY ADMINISTRATOR

Will Pulkrabek

CHAIRMAN, COUNTY BOARD

	YES	NO
HEGBERG	<u> x </u>	___
KRIESEL	<u> x </u>	___
PETERSON	<u> x </u>	___
PULKRABEK	<u> x </u>	___
WEIK	<u> x </u>	___

**WASHINGTON COUNTY - LODGING ESTABLISHMENT ORDINANCE
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Lodging Establishment Ordinance for Washington County

Section 1 Purpose and Authority

- 1.1** The purpose of this Ordinance is to establish standards and authority to protect the public health, safety, and general welfare of the people of Washington County pursuant to powers granted under Minnesota Statutes, Chapters 145A, 157, 327, and 375 as now constituted and from time to time amended. The general objectives of this Ordinance include the following:
- (1) Provide a minimum standard for the design, construction, operation and maintenance of Lodging Establishments;
 - (2) Correct and prevent conditions that may adversely affect persons utilizing Lodging Establishments; and
 - (3) Meet consumer expectations for the quality and safety of Lodging Establishments.
- 1.2** This Ordinance establishes the minimum standards, as defined in Minnesota Statutes, Chapter 157 and 327, Minnesota Rules, Chapter 4625, and this Ordinance, for the design, construction, operation and maintenance of Lodging Establishments located in Washington 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** A Lodging Establishment that meets the definition of a Public Water Supply must comply with Minnesota Rules, Chapter 4720 and the Safe Drinking Water Act (Minnesota Statutes, sections 144.381 to 144.387).

Section 2 Scope

- 2.1** This Ordinance shall be applicable to all Lodging Establishments, as defined in Minnesota Statutes, section 157.15, within the scope of, Minnesota Rules, part 4625.0200, and this Ordinance, which are located in Washington County.

Section 3 Administration

- 3.1** This Ordinance shall be administered by the Washington County Department of Public Health and Environment, hereinafter referred to as the “Department” or the “Health Authority.”
- 3.2** All of the provisions of the Washington County Administrative Ordinance shall apply as if fully set forth herein.

Section 4 Definitions

- 4.1** For the purpose of this Ordinance, definitions of words, phrases, and terms used in this Ordinance shall be those set forth in Minnesota Statutes, Chapter 157, Minnesota Rules, Chapter 4625, and the Washington County Food Code Ordinance. The following words

shall have the following meanings:

- (1) **Approved** shall mean acceptable to the Health Authority following the Health Authority's determination as to conformity with established public health practices.
- (2) **Bed and Breakfast** shall mean a private home where sleeping accommodations are offered for one or more nights for Transient Use to no more than ten (10) persons; in addition, a breakfast meal is served on the premises.
- (3) **Boarding Establishment** shall mean a food and beverage service 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 week or more.
- (4) **Change or Transfer of Ownership** shall mean a legal transaction whereby the ownership of an establishment is changed from one person to another person. This transaction can occur by sale, exchange, repossession, or other legal means.
- (5) **Clean** shall mean the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.
- (6) **County** shall mean Washington County.
- (7) **County Board** shall mean the Washington County Board of Commissioners.
- (8) **Department** shall mean the Washington County Department of Public Health and Environment and shall be synonymous with the term "Health Authority."
- (9) **Good Repair** shall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.
- (10) **Health Authority** shall mean the Washington County Department of Public Health and Environment, its Director or other designated agent. The use of the term "Health Authority" shall be synonymous with the term "Department."
- (11) **Hotel or Motel** shall mean any 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 and furnishing accommodations for periods of less than one week.
- (12) **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 that requires immediate correction or cessation of operation.

- (13) **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 County Ordinances or as otherwise designated in the County Ordinance.
- (14) **Lodging Establishment** shall mean a building, structure, enclosure, or any part thereof use 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 week or more, and having five or more beds to let to the public.
- (15) **Person** shall mean an individual, firm, partnership, corporation, association, or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.
- (16) **Public Water Supply** shall have the meaning given to “public water system” in the Federal Safe Drinking Water Act.
- (17) **Public Water System** shall mean a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “non-community water system.”
- (18) **Remodeling** shall mean an addition or change to the physical facility or an equipment installation that results from changes in the services or menu offered to the public. Remodeling does not include redecorating or cosmetic refurbishing.
- (19) **Resort** shall mean any 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 day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.
- (20) **Seasonal** shall mean an operation which is closed five (5) or more consecutive months of the year or more.
- (21) **Transient Use** shall mean that the persons using the facility are not regular boarders and that stays at the facility are temporary and generally for less than one (1) week.

- (22) **Usable Floor Space** shall mean all floor space in a sleeping room not occupied by closets, toilet rooms, showers or bathrooms.
- (21) **Variance** shall mean a 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 Licensing and Fees

- 5.1** No Person shall operate a lodging establishment, as defined in Minnesota Statutes, section 157.15 of the Washington County Food Code Ordinance, or this Ordinance, unless a license for the current year of the applicable type shall have been obtained pursuant to this Ordinance from the Health Authority.
- 5.2** Only a Person who complies with the requirements of this Ordinance shall be entitled to receive a license. Licenses shall not be transferable as to Person or place. The original copy of all licenses obtained for a lodging establishment shall be conspicuously located for public inspection.
- 5.3** Fees for licenses, plan reviews and other services shall be those established by the County Board. Additional fees may be charged for each additional service which is separate, distinct or unique, as determined by the Health Authority.
- 5.4** Lodging Establishments that Change Ownership or otherwise begin operations at various times during the year shall have their license fees prorated as follows:
- (1) Seventy-five percent (75%) of the total required license fees for establishments beginning operations on or after April 1, but before July 1;
 - (2) Fifty percent (50%) of the total required license fees for establishments beginning operations on or after July 1, but before October 1;
 - (3) Twenty-five percent (25%) of the total required license fees for establishments beginning operations on or after October 1, but on or before December 31.
- This proration of license fees is applicable only to the total required license fee. It does not include any required plan review fees or other fees which may be applicable. Proration of fees does not apply to Lodging Establishments that operate on a Seasonal basis.
- 5.5** If the Health Authority receives plans and specifications for a Lodging Establishment less than thirty (30) calendar days before construction or Remodeling begins, fifty percent (50%) of the original plan review fee will be assessed for a late fee.
- 5.6** Licenses are valid through December 31 annually. License renewal applications shall be received by the Health Authority by December 1 of each year.
- 5.7** The application for licenses shall be made on forms furnished by the Health Authority and shall set forth the general nature of the business, the location, and other information as the Health Authority may require. The issuance of such licenses and their

maintenance, termination and administration shall be in accordance with and subject to all conditions of the Washington County Administrative Ordinance relative to the general requirements for licenses in Washington County.

- 5.8** Late penalty fees for Lodging Establishments shall be assessed as described in the Administrative Ordinance.
- 5.9** An existing Lodging Establishment that has been out of business for more than thirty (30) calendar days is considered a new establishment when re-opening with the same ownership and is subject to a pre-licensing inspection.
- 5.10** A license granted by the Department means that the requirements of the Department for conducting the licensed business have been met. There may be additional legal requirements, including requirements from other governmental entities that must be met in order to conduct the business. The granting of a license by the Department does not exempt the business from any additional legal requirements, nor does it mean those requirements have been met.

Section 6 Inspections

- 6.1** The Health Authority shall inspect licensed Lodging Establishments as frequently as necessary to ensure compliance with this Ordinance, but not less than the minimum frequency established by Minnesota Statutes 157.20.
- 6.2** The Health Authority shall have the right to enter and have access to the Lodging Establishment 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.
- 6.3** The Health Authority shall inspect each Lodging Establishment prior to issuing a license for a new establishment or Change of Ownership. A license shall not be issued until the corrections required by the Health Authority, as a result of the pre-licensing inspection, have been made to the satisfaction of the Health Authority.
- 6.4** Each inspection report may be posted by the Health Authority upon an inside wall of the Lodging Establishment, not in a public area, and such inspection report shall not be defaced or removed by any person except the Health Authority. The posting of the inspection report on the inside wall of the establishment shall constitute service of an official notification by the Health Authority. The Health Authority may, in lieu of posting such reports, deliver it in person to the Licensee or his authorized agent, or deliver it by certified or registered mail. A copy of the inspection report shall be filed with the records of the Health Authority with the name of the operator and owner.
- 6.5** All Licensees, owners or operators of Lodging Establishments having a report posted in the establishment or having received a report giving notification of one or more violations of this Ordinance shall correct or remove each violation in the length of time determined by the Health Authority. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or

correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this Ordinance.

Section 7 Standards for Health and Safety

- 7.1** 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.
- 7.2** Whenever a Lodging Establishment is constructed or Remodeled or whenever an existing structure is converted to use as an establishment which would be licensed under the provisions of this Ordinance, properly prepared plans and specifications for each construction, Remodeling or conversion shall be submitted, along with the appropriate plan review fee, to the Health Authority for review and approval at least thirty (30) calendar days prior to the time that construction, Remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout; mechanical, plumbing, and electrical specifications; construction materials and location; equipment specifications; and menu. The plans and specifications shall be submitted in the form requested by the Department. The Lodging Establishment shall be constructed and finished in accordance with the approved plans.
- 7.3** A Lodging Establishment that meets the definition of a Public Water Supply must comply with Minnesota Rules, Chapter 4720 and the Safe Drinking Water Act (Minnesota Statutes, sections 144.381 to 144.387).
- 7.4** Food service operations within a Lodging Establishment shall also comply with the Washington County Food Code Ordinance. Public Pools within a Lodging Establishment shall comply with the Washington County Public Pool Ordinance. Lodging establishments that have a Subsurface Sewage Treatment System shall also comply with the Washington County Subsurface Sewage Treatment System Ordinance.

Section 8 Variances

- 8.1** 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 Department 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.
- 8.2** Variances will be granted in accordance with the procedures defined in the Washington County Administrative Ordinance and Minnesota Rules, part 4717.7000, subpart 1 (D).

Section 9 Enforcement

- 9.1** Any Person who violates a provision of this County Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided by law. A separate

offense shall be deemed committed upon each day during or on which a violation occurs or continues.

- 9.2** In addition to any other remedy provided by law, in the event of a violation or a threat of a violation of this Ordinance, the Health Authority 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.
- 9.3** The Health Authority may, in lieu of or in addition to issuance of a citation, order the Licensee, owner or operator to appear for an informal hearing at the Washington County Government Center, located at 14949 62nd Street North, Stillwater, Minnesota, at the time and date prescribed by the Health Authority. The Licensee, owner or operator must be given written notice at least twenty four (24) hours in advance of the informal hearing and such notice shall specify the Ordinance violations to be discussed. Failure to appear shall constitute a violation of this Ordinance.
- 9.4** Citations may be issued by the Health Authority and the Health Authority may suspend, summary suspend and revoke licenses in accordance with the Washington County Administrative Ordinance.

Section 10 Severability

- 10.1** If any provision or application of any provisions of this Ordinance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance.

Section 11 Effective Date

- 11.1** This Ordinance shall be effective upon passage by the County Board and publication according to law.