

**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

INDEX

Section I	General Provisions
Section II	Definitions
Section III	Licenses
Section IV	Inspection
Section V	Plan Review
Section VI	Standards
Section VII	Sex Trafficking Prevention Training
Section VIII	Variance
Section IX	Embargo, Condemnation and Tagging
Section X	Repeal of Previous Ordinance
Section XI	Effective Date

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

**BIG STONE COUNTY
STATE OF MINNESOTA**



**AN ENVIRONMENTAL HEALTH ORDINANCE PROVIDING
FOR THE REGULATION OF MANUFACTURED HOME PARKS
AND RECREATIONAL CAMPING AREAS WITHIN BIG
STONE COUNTY IN CONSORTIUM WITH CHIPPEWA, LAC
QUI PARLE, SWIFT, AND YELLOW MEDICINE COUNTIES
AS COUNTRYSIDE PUBLIC HEALTH**

EFFECTIVE: July 1, 2022

INDEX

Section I	General Provisions
Section II	Definitions
Section III	Licenses
Section IV	Inspection
Section V	Plan Review
Section VI	Standards for Manufactured Home Parks & Recreational Camping Areas
Section VII	Standards for Special Event Recreational Camping Areas
Section VIII	Variance
Section IX	Local License Prohibited
Section X	Local Law Enforcement
Section XI	Repeal of Previous Ordinance
Section XII	Effective Date

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 manufactured home parks and recreational camping areas; 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 327 and Minnesota Rules 4630.0200 to 4630.2210 relating to rules and standards for manufactured home parks and recreational camping areas.

- 1.3 Jurisdiction. This ordinance shall be applicable in Big Stone County to all manufactured home parks and recreational camping areas as defined in Minnesota Statute 327.14, 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 Minn. Stat. 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 Dependent Site means any recreational camping area sites which do not have sewer connections and are dependent upon a central facility for this utility.
- 2.4 Independent Site means any recreational camping area sites that are provided with individual sewer connections.
- 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 Manufactured Home means a structure that meets the definition of a manufactured home as defined in Minnesota Statute, Chapter 327.31, and all amendments or additions thereto.

- 2.7 Manufactured Home Park means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located that meets the definition of a manufactured home park as defined in Minnesota Statute, Chapter 327.14, and all amendments or additions thereto.
- 2.8 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.
- 2.9 Recreational Camping Area means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation, that meets the definition of a recreational camping area as defined in Minnesota Statute, Chapter 327.14, and all amendments or additions thereto.
- 2.10 Recreational Camping Vehicle means any vehicular, portable structure or temporary dwelling used for travel, recreation, and vacation that meets the definition of a recreational camping vehicle as defined in Minnesota Statute, Chapter 327.14, and all amendments or additions thereto.
- 2.11 Special Event Recreational Camping Area means a recreational camping area which operates no more than two times annually and for no more than 14 consecutive days.

SECTION III – LICENSES

- 3.1 Licenses Required It shall be unlawful for any person to operate a manufactured home park, recreational camping area, or special event recreational camping area 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 manufactured home park, recreational camping area, or special event recreational camping area and are not transferable between establishments, persons or locations. The license must be conspicuously displayed 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. Licenses for special event recreational camping areas are specific to the special event time period.
- 3.2 Application for License.
- A. Any person desiring to operate a manufactured home park, recreational camping area or special event recreational camping area 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 manufactured home park, recreational camping area, or special event recreational camping area 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 manufactured home park, recreational camping area, or special event recreational camping area 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 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 manufactured home park, recreational camping area, or special event recreational camping area 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 for a manufactured home park or recreational camping area 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.

3.3 License Categories are as follows:

- A. Category A site means any manufactured home park or recreational camping area that meets one or more of the following conditions:
 - 1. has a public swimming pool;
 - 2. draws its drinking water from a surface water supply; or
 - 3. has 50 or more sites.
- B. Category B site means any manufactured home park or recreational camping area that is not a category A site.

SECTION IV – INSPECTION

4.1 Inspection and Correction.

- A. The Department shall classify establishments by license category and inspect all manufactured home parks and recreational camping areas to assure compliance with

the requirements of this ordinance and at a frequency established in Minnesota Rule 4630.2210 and as amended, and any additions thereto.

- B. The person or entity operating a manufactured home park or recreational camping area 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 manufactured home park or recreational camping area 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 manufactured home park or recreational camping area 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 327.14 to 327.28 and Minnesota Rules 4630.0200 to 4630.2210, 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 conditions in the operation of the manufactured home park or recreational camping area which in their judgment may constitute a substantial hazard to the public health, a written notice to the license holder/operator may be issued citing such condition(s), specifying corrective action to be taken, and specifying a 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 manufactured home park or recreational camping area operations be immediately discontinued and persons affected by such action may obtain 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 a request 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 application, the Department staff shall make a re-inspection. If the applicant is in compliance with the requirements of the ordinance and Minnesota Statutes 327.14 to 327.28 and Minnesota Rules 4630.0200 to 4630.2210, and as amended, and any 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/designee. 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 manufactured home park or recreational camping area in Big Stone County, licensed or to be licensed under the provisions of this ordinance, is hereafter constructed or remodeled or conversion 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; construction materials of work areas; 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 manufactured home park or recreational camping area. Plumbing plans and specifications must be submitted to the Minnesota Department of Labor and Industry for approval before 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 manufactured home park or recreational camping area, 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. Submit the required compliance inspection report and letter of approval from the Zoning Department with the construction plans.

SECTION VI – STANDARDS

- 6.1 All manufactured home parks and recreational camping areas within Big Stone County shall comply with the standards for manufactured home parks and recreational camping areas as set forth in Minnesota Statutes, Chapter 327 and Minnesota Rules 4630.0200 to 4630.2210 and all amendments or additions thereto. Specifically, Minnesota Statutes Chapter 327 and Minnesota Rules 4630.0200 to 4630.2210, inclusive, and amendments or additions, are hereby incorporated herein by reference and made a part of this ordinance.

SECTION VII – STANDARDS FOR SPECIAL EVENT RECREATIONAL CAMPING AREAS

- 7.1 All special event recreational camping areas within Big Stone County shall comply with the standards for special event recreational camping areas as set forth in Minnesota Statutes, Chapter 327.20 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 4630.0400; 4630.0600 subparts 2 to 4; and 4630.0900 to 4630.1700 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 – LOCAL LICENSES PROHIBITED

- 9.1 No municipality may impose any license upon any manufactured home park or recreational camping area, or upon any occupant of a licensed manufactured home park.

SECTION X – LOCAL LAW ENFORCEMENT

- 10.1 Any municipality which enacts or has enacted laws or ordinances relating to the safety and protection of persons and property is empowered to enforce the laws and ordinances within any manufactured home park or recreational camping area located in the municipality, notwithstanding the fact that the park or area may constitute private property.

SECTION XI - REPEAL OF PREVIOUS ORDINANCE

- 11.1 This ordinance repeals and replaces in its entirety all prior manufactured home park or recreational camping area ordinances adopted by these counties.

SECTION XII – EFFECTIVE DATE

- 12.1 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: _____ Date
Pam Rud, Coordinator
Big Stone County



22-01

BIG STONE COUNTY TOBACCO ORDINANCE

Adopted: March 15, 2022
Effective: July 1, 2022

BIG STONE COUNTY TOBACCO ORDINANCE

Table of Contents

Section 1 Purpose1

Section 2 Applicability and Jurisdiction..... 1

Section 3 Definitions and Interpretations.....1

Section 4 County Tobacco Retailer License.....4

Section 5 Basis for Denial of Tobacco Retailer’s License5

Section 6 Licensees Responsible for Actions of Employees6

Section 7 Mandatory Compliance Checks.....6

Section 8 Prohibited Sales6

Section 9 Prohibited Acts7

Section 10 Exceptions and Defenses.....8

Section 11 Administrative Review8

Section 12 Administrative Penalties9

Section 13 Severability and savings Clause.....10

Section 14 Repeal of Prior Ordinances10

Section 15 Effective Date10

BIG STONE COUNTY TOBACCO ORDINANCE

SECTION 1. PURPOSE

Because the County recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 21 violates both state and federal law; and because studies, which are hereby accepted and adopted (i.e. CDC, Minnesota Department of Public Health/ASSIST) have shown high school use of any commercial tobacco product has increased to 27.6% in Minnesota; and because nearly 90% of people who smoke begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Ordinance shall be intended to regulate the sale of tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious effects associated with the use and initiation of tobacco and related licensed products, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statute 144.391.

SECTION 2. APPLICABILITY AND JURISDICTION

This ordinance governs the licensing and regulation of the sale of tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products in the unorganized territory of Big Stone County and in any city or town located in Big Stone County that does not license and regulate retail sales of tobacco, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products in conformance with the minimum requirements of Minn. Stat. § 461. Retail establishments licensed by a city or town are not required to obtain a second license for the same location under this ordinance.

SECTION 3. DEFINITIONS AND INTERPRETATIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural, and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given them:

Subd. 1. Child-resistant packaging. “Child-resistant packaging” shall mean packaging that meets the definition as set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

Subd. 2. Cigar. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, as it may be amended from time to time.

Subd. 3. Compliance Checks. “Compliance Checks” shall mean the system the County uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. Compliance Checks involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance Checks may also be conducted by the county or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to licensed products.

Subd. 4. Electronic Delivery Device. “Electronic Delivery Device” shall mean any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

Subd. 5. Flavored Electronic Delivery Device. “Flavored electronic delivery device” shall mean any electronic delivery device that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to mint, menthol, chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of an electronic delivery device, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored electronic delivery device.

Subd. 6. Indoor Area. “Indoor Area” shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A standard (0.011) gauge window screen is not considered a wall.

Subd. 7. Licensed Products. “Licensed Products” shall mean any tobacco, tobacco related device, electronic delivery device, or nicotine or lobelia delivery product, as they are defined by this section.

Subd. 8. Loosies. “Loosies” shall mean the common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

Subd. 9. Moveable Place of Business. “Moveable Place of Business” shall refer to any form of business whose physical location is not permanent, including, but not limited to, any business operated out of a motorized vehicle, mobile sales kiosk, trailer, or other structure or equipment not permanently attached to the ground.

Subd. 10. Nicotine or Lobelia Delivery Products. “Nicotine or Lobelia Delivery Products” shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Subd. 11. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 12. Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 13. Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of licensed products in any manner where any person shall have access to licensed products without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the licensed products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd 14. Schools. "Schools" shall mean any public or private educational institutions with the purpose of providing academic classroom instruction, trade, craft, computer or other technical training.

Subd. 15. Smoke or Smoking. "Smoke" or "Smoking" shall mean inhaling, exhaling, burning, or carrying any lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking shall include carrying or using an activated electronic delivery device.

Subd. 16. Tobacco or Tobacco Products. "Tobacco" or "Tobacco Products" shall mean any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 17. Tobacco Related Devices. "Tobacco Related Devices" shall mean any pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco related devices shall include accessories or components of tobacco related devices which may be marked or sold separately.

Subd. 18. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses licensed products, upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

SECTION 4. COUNTY TOBACCO RETAILER LICENSE

No person shall sell or offer to sell any licensed product, without first having obtained a license from the county.

Subd. 1. License Application. An application for a license to sell a licensed product shall be made on a form provided by the County. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information deemed necessary. Upon receipt of a completed application, the

County Auditor shall forward the application to the County Board of Commissioners, or its designee for action at its next regularly scheduled meeting. If the County Auditor, or designee, shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. Action on License. The County Board or its designee may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application it deems necessary. If the County Board shall approve the license, the County Auditor or designee shall issue the license to the applicant. If the license is denied, notice of the denial shall be given to the applicant along with the notice of the applicant's right to appeal the decision.

Subd. 3. License Fees. Each application for a tobacco retailer's license shall be accompanied by a fee as set by the Big Stone County Board of Commissioners. Application for licenses issued after June 30 of a calendar year shall be accompanied by a prorated fee.

Subd. 4. License Term. The licensing period begins on January 1. Each license issued shall expire on December 31 of the calendar year, unless sooner if revoked by the County or unless the business with respect to which the license was issued is transferred. In either case, the holder of the license shall immediately surrender it to the County Auditor or designee.

Subd. 5. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty days, but no more than sixty days before the expiration of the current license.

Subd. 6. Issuance as a Privilege and Not a Right. The issuance of a license issued under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Subd. 7. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Ordinance.

Subd. 8. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 9. Transfers. All licenses issued under this Ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

Subd. 10. Revocation or Suspension. Any license issued under this Ordinance may be revoked or suspended as provided in Section 11 of the Ordinance.

Subd 11. Instructional Program. Licensees must complete and ensure that all employees complete a training program on the legal requirements related to the sale of licensed products and the possible consequences of license violations. Any training program must be pre-approved by the county. Licensees must maintain documentation demonstrating their compliance and must provide this documentation to the county at the time of renewal, or whenever requested to do so during the license term.

Subd 12. Proximity to schools. No license will be granted to any person for a retail establishment location that is within 1,000 feet of a school, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a school. This restriction does not apply to an existing license holder who has been licensed to sell licensed products in that same location for at least one year before the date this section was enacted into law.

SECTION 5. BASIS FOR DENIAL OF TOBACCO RETAILER'S LICENSE

The following shall be grounds for denying the issuance or renewal of a license under this Ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean the county must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- A. The applicant is under the age of 21 years.
- B. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.
- C. The applicant has had a license to sell tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products, suspended or revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.

SECTION 6. LICENSEES RESPONSIBLE FOR ACTION OF EMPLOYEES

All licensees under this Ordinance shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises, and the

sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the County from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, state or federal law, or other applicable law or regulation.

SECTION 7. MANDATORY COMPLIANCE CHECKS

All licensed premises shall be open to inspection by the Big Stone County Sheriff's Department or its designee, Countryside Public Health, or other authorized County official during regular business hours. From time to time, but at least once a year, the county shall conduct compliance checks. In accordance with state law, the county will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

SECTION 8. PROHIBITED SALES

Subd. 1. General. It shall be a violation of this Ordinance for any person to sell or offer to sell any licensed products:

- A. By means of any type of vending machine.
- B. By means of loosies as defined in Section 3, Subd. 7 of this Ordinance.
- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intent of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- D. By means of self-service display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. Any retailer selling licensed products at the time this ordinance is adopted must comply with this section within 90 days of the effective date of this ordinance.
- E. By any other means, to any other person, in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

Subd. 2. Legal Age. No person shall sell any licensed product to any person under the age of 21.

A. **Age verification.** Licensees must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection

B. **Signage.** Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the county, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 3. Flavored Products. No person shall sell or offer for sale any flavored electronic delivery device.

Subd. 4. Liquid Packaging. The sale of any liquid, whether or not such liquid contains nicotine, intended for human consumption and use in an electronic delivery device, that is not contained in child-resistant packaging is prohibited. All licensees under this chapter must ensure that any liquid intended for use in an electronic delivery device is sold in child-resistant packaging. Upon request, a licensee shall provide a copy of the certificate of compliance or the full protocol laboratory testing report for the packaging used.

SECTION 9. PROHIBITED ACTS

Unless otherwise provided, the following acts shall be a violation of this Ordinance:

Subd. 1. Illegal Procurement. It shall be a violation of this ordinance for any person 21 years of age or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21. It is also a violation for any person 21 years of age and older to coerce or attempt to coerce a person under the age of 21 to purchase or attempt to purchase any licensed product.

Subd. 2. Use of False Identification. It shall be a violation of this Ordinance for any person to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the

age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subd. 3. Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling licensed products is prohibited.

SECTION 10. EXCEPTIONS AND DEFENSES

Subd. 1. Religious, Spiritual, or Cultural Ceremonies or Practices. Nothing in this ordinance prevents the provision of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

Subd. 2. Reasonable Reliance. It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

SECTION 11. ADMINISTRATIVE REVIEW

Subd. 1. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation. The citation shall provide notice that a hearing must be requested within ten (10) business days of receipt.

Subd. 2. Hearings. If a person accused of violating this Ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The Big Stone County Board or its designee shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this Ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 11 of this Ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred, or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the county in which the alleged violation occurred.

Subd. 6. Misdemeanor Prosecution. Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any alleged violation of this Ordinance for persons aged 21 and older. If the county elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

SECTION 12. ADMINISTRATIVE PENALTIES

Subd. 1. Licensees. Any licensee found to have violated this Ordinance, or whose employee shall have violated this Ordinance, shall be charged an administrative fee as follows:

First Offense:	\$ 300.00
Second Offense/at same licensed premise within 24 months:	\$600.00
Third and Subsequent Offense/at same licensed premise within 36 months and the license shall be suspended for not less than thirty (30) days.	\$1000.00

Upon a fourth violation within a 36-month period, the license will be revoked.

Subd. 2. Persons under the age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to noncriminal, non-monetary civil penalties or remedies such as tobacco-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the county determines to be appropriate. The County Board will consult with educators, parents, guardians, persons under the age of 21, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 in the county in the best interest of the underage person. The remedies for persons under 21 who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.

Subd. 3. Employees of Licensees and Other Individuals. Employees and licensees and other individuals, other than persons under the age of 21, regulated by subdivision 2 of this subsection, found to be in violation of this Ordinance shall be charged an administrative fee of \$50.00.

SECTION 13. SEVERABILITY AND SAVINGS CLAUSE

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not invalidate the effectiveness of any other section or provision of this Ordinance.

SECTION 14. REPEAL OF PRIOR ORDINANCES

This Ordinance, upon its adoption, shall repeal the Big Stone County Tobacco Ordinance dated.

SECTION 15. EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

ADOPTION OF ORDINANCE

Passed and approved by the Board of County Commissioners, Big Stone County, Minnesota, this.



Jeff Klages, Chairman

Attest: 

Pam Rud, Coordinator

APPROVED AS TO FORM AND EXECUTION:



Matt Franzese, County Attorney

I, Pam Rud, do hereby certify that this is a true and correct copy of the "BIG STONE COUNTY TOBACCO ORDINANCE" as passed by the Big Stone County Board of Commissioners on.

I further certify that on, the County Commissioners duly approved a Summary of the foregoing Ordinance to be published, pursuant to M.S. 375.51, Subd. 3.



Pam Rud, Coordinator

Date of Publication of Ordinance Summary: 3-21-22

**BIG STONE COUNTY
STATE OF MINNESOTA**



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

EFFECTIVE: July 1, 2022

INDEX

SECTION I	General Provisions
SECTION II	Definitions
SECTION III	Youth Camp Standards
SECTION IV	Variance
SECTION V	Food and Beverage Ordinance; Lodging Ordinance; MHP/RCA Ordinance; Public Pool Ordinance
SECTION VI	Embargo, Condemnation and Tagging
SECTION VII	Plan Review
SECTION VIII	Licenses and Inspection
SECTION IX	Repeal of Previous Ordinance
SECTION X	Effective Date

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 Youth Camps; 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 145A.07, Subd. 1, for the licensing, inspection, reporting, and enforcement duties

authorized under Minnesota Statutes, Chapter 144 and Minnesota Rules 4630.2300 to 4630.4700 relating to rules and standards for youth camps.

- 1.3 Jurisdiction. This Ordinance shall be applicable in Big Stone County to all Youth Camps as defined in Minnesota Statutes, Section 144.71, subdivision 2; and all amendments or additions thereto. These regulations do not apply to those camps defined in Minnesota Statutes, Section 144.71, subdivision 3; 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 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 the Countryside Public Health (CPH) Community Health Board acting as the Board of Health under the provisions on Minnesota Statutes 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 **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.
- 2.4 **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.
- 2.5 **YOUTH CAMP:** Means a parcel or parcels of land with permanent buildings, tents or other structures, together with appurtenances thereon, established or maintained as living quarters, where both food and lodging, or the facilities therefore are provided for ten or more people, operated continuously for a period of five days or more each year for educational, recreational, or vacation purposes, and the use of the camp is offered to minors free of charge or for payment of a fee. This definition does not include cabin and trailer camps, fishing and hunting camps, resorts, penal and correctional camps, industrial

and construction camps, nor does it include homes operated for care or treatment of children and for the operation of which a license is required under the provisions of Minnesota Statutes Chapter 257.

SECTION III - YOUTH CAMP STANDARDS

- 3.1 All youth camps within Big Stone County shall comply with the standards for youth camps as set forth in Minnesota Statutes Sections 144.71 to 144.74 and Minnesota Rules Chapter 4630.2300 to 4630.4700 and amendments and additions thereto, are hereby incorporated herein by reference and made a part of this ordinance. Any reference to the Commissioner shall mean the Countryside Public Health (CPH) Community Health Board and its designated agents, as may be delegated.
- 3.2 An adequate supply of water of a safe, sanitary, and potable quality shall be provided in each youth camp. Water supplies must meet the requirements of Minnesota Rules Chapter 4720 for public water supplies, or Minnesota Rules Chapter 4725 for wells.

SECTION IV - VARIANCE

- 4.1 In any case where, upon application of responsible persons, the Department finds that by reason of exceptional circumstances the strict enforcement of Minnesota Rules Chapter 4630.2300 to 4630.4700 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 Chapter 4717.7000 to 4717.7050.

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

SECTION V - FOOD AND BEVERAGE ORDINANCE; LODGING ORDINANCE; MHP/RCA ORDINANCE; PUBLIC POOL ORDINANCE

- 5.1 The guidelines related to food and beverage establishments of the Big Stone County Food and Beverage Ordinance, as amended from time to time, are hereby incorporated in and made part of this ordinance.
- 5.2 The guidelines related to lodging establishments of the Big Stone County Lodging Ordinance, as amended from time to time, are hereby incorporated in and made a part of this ordinance.
- 5.3 The guidelines related to manufactured home parks and recreational camping areas of the Big Stone County MHP/RCA Ordinance, as amended from time to time, are hereby incorporated in and made part of this ordinance.

- 5.4 The guidelines related to public pools and other artificial recreational bathing facilities of the Big Stone County Ordinance Regulating Public Pools, as amended from time to time, are hereby incorporated in and made part of this ordinance.

SECTION VI - EMBARGO, CONDEMNATION AND TAGGING

- 6.1 The Environmental Health Department staff or their designee may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of this ordinance.

SECTION VII - PLAN REVIEW

- 7.1 When a youth camp 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 youth camp, it shall submit to the Department all required plans, specifications and materials, and comply with the requirements of this ordinance. Plans and the fee specified by the Board shall be submitted at least thirty (30) days prior to beginning construction, remodeling, or conversion of an establishment. The plans and specifications must include, but are not limited to:
- A. Completed plan review applications on forms provided by the Department. All plan review fees must be submitted with the application. The plans and specifications shall be drawn to scale and shall be legible and complete in all details.
 - B. A legal description of the site, lot, field or tract of land upon which the applicant proposes to operate and maintain a youth camp.
 - C. The source of all the following:
 - 1. Water supplies
 - 2. Sewage treatment methods
 - 3. Disposal of garbage and refuse
 - 4. The method of fire and storm protection
 - D. Drawings for new construction or alteration, including food service facilities, lodging facilities, MHP/RCA facilities, buildings, wells, plumbing and sewage treatment systems.
 - E. Drawings must show the layout of sleeping rooms, room size, maximum occupancy, exits to hallways or outdoors, fire escapes, window locations and describing ventilation and heating equipment, and floor and wall finishes, and must receive approval by the Department before such work may begin. A general site plan, drawn to scale, must show all buildings, existing and proposed.

- 7.2 Approval. The Department shall approve the plans and specifications only if they meet the requirements of this ordinance, Minnesota Rules Chapter 4626, Minnesota Rules Chapter 4625, Minnesota Rules Chapter 4630, and any other applicable Federal, State or Local laws and regulations.
- A. The establishment shall be constructed and finished in conformance with the approved plans.
 - B. The licensee must obtain an inspection from the Department prior to the start of the operation. Construction must be completed and approved before operation can begin.
 - C. The licensee is responsible for obtaining written approval for the proposed construction from any other agency or official that may have authority over elements of such proposed construction, including, but not limited to, the Minnesota State Fire Marshall, the Minnesota Department of Labor and Industry Plumbing Division, or the appropriate county, city, or township officials.

SECTION VIII - LICENSES AND INSPECTIONS

- 8.1 Licenses needed. It shall be unlawful for any person to operate a youth camp within Big Stone County without a valid license issued by the Department, as required by this ordinance. Issuance and retention of a license is dependent upon compliance with the requirements of this ordinance, and all other applicable Big Stone County Ordinances. Licenses are specific to each youth camp and are not transferable between establishments, persons, or locations. The license must be conspicuously displayed 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.
- 8.2 Application for License.
- A. Any person desiring to operate a youth camp shall make 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 youth camp, as well as a signature of the applicant or applicants. The Department may require such additional information as it may find necessary.
 - C. Application for a new youth camp 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 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 youth camp without a license is a violation of this ordinance.

- F. Countryside Community Health 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 Countryside Community Health Board and may be adjusted from time to time as the Board deems appropriate. Fees paid shall be retained by the Countryside Community Health Board regardless of whether there is approval or denial of the license.
- G. If an application is made for a 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.

8.3 Inspection and Correction.

- A. The Department shall inspect youth camps annually to assure compliance with the requirements of this ordinance.
- B. The person or entity operating a youth camp shall, upon request of the Department, and after proper identification, permit access to all areas of the youth camp for inspection. Further, the operator shall provide such documents and records to ensure compliance with the provisions of this ordinance.
- C. Further, operators shall furnish or permit sampling, free of charge, samples which may be needed by the Department for laboratory analysis.
- D. Whenever an inspection of a youth camp is made, the findings shall be recorded on an inspection report form. One copy shall be provided to the operator of the youth camp. 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.
- E. 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 youth camp as public safety may require.

8.4 Suspension of License.

- A. Licenses may be suspended temporarily by the Environmental Health Department staff or their designee, 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 Statute 144.71 to 144.74 and Minnesota Rules 4630.2300 through 4630.4700, 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 timely with the Environmental Health Department.
 - C. Notwithstanding the other provisions of this ordinance, whenever the Environmental Health Department staff or their designee find conditions in the operation of the youth camp which in their judgment may constitute a substantial hazard to the public health, a written notice to the license holder/operator may be issued citing such condition(s), specifying corrective action to be taken, and specifying a 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 youth camp operations be immediately discontinued and persons affected by such action may obtain review of this action by filing a written petition for appeal with the Environmental Health Department.
 - D. Any person whose license has been suspended may at any time make a request 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 Environmental Health Department staff or their designee shall make a reinspection. If the applicant is in compliance with the requirements of the ordinance and Minnesota Statutes 144.71 to 144.74 and Minnesota Rules 4630.2300 to 4630.4700, and as amended, and any additions thereto; the license shall be reinstated.

8.5 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 Environmental Health Department staff 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 Environmental Health Department.

8.6 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 Countryside Public Health

Board, a County Commissioner, the Countryside Public Health Administrator, and the Environmental Health 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 Countryside Public Health 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 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 Environmental Health Department within ten (10) days after the date of mailing.

8.7 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 Countryside Public Health Community Health 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 Environmental Health Department staff 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 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 Environmental Health 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 Countryside Public Health may refer the violation 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 IX REPEAL OF PREVIOUS ORDINANCE

- 9.1 This ordinance repeals and replaces in its entirety, all prior youth camp ordinances.

SECTION X EFFECTIVE DATE

- 10.1 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

BIG STONE COUNTY
FOOD AND BEVERAGE ORDINANCE



AN ENVIRONMENTAL HEALTH ORDINANCE PROVIDING FOR THE REGULATION
OF FOOD AND BEVERAGE WITHIN BIG STONE COUNTY IN CONSORTIUM WITH
CHIPPEWA, LAC QUI PARLE, SWIFT AND YELLOW MEDICINE COUNTIES AS
COUNTRYSIDE PUBLIC HEALTH

Effective: July 1, 2022

INDEX

Section I General Provisions2

Section II Definitions3

Section III Adoption of Food & Beverage Establishment Standards4

Section IV Embargo, Condemnation, and Tagging5

Section V Plan Review of Future Construction5

Section VI Procedure When Infection is Suspected5

Section VII Compliance Procedures.....6

Section VIII Repeal of Previous Ordinance 14

Section IX Effective Date 15

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 restaurants and places of refreshment and similar food service; 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 Laws, Chapter 157 relating to rules and standards for food and beverage service establishments, hotels, motels, lodging establishments, and resorts.

1.3 Jurisdiction. This ordinance shall be applicable in Big Stone County to all food and beverage establishments such as restaurants, boarding houses, and places of refreshment as defined in Minnesota Statutes 157.15, Subd. 5, and all amendments or additions thereto, and shall also 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 Minn. Stat. 157.22 and all amendments or additions thereto. This ordinance shall also apply to youth camps in Big Stone County as defined in Minn. Stat. 144.71.

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 Environmental Health Department means the Countryside Public Health (CPH) Environmental Health staff or their designee.
- 2.3 Notice means a written instrument delivered personally or mailed to the last known address of the person entitled to notice or posting the notice at the entry to the establishment.
- 2.4 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 reason shall not void the notice.

SECTION III

ADOPTION OF FOOD & BEVERAGE ESTABLISHMENT STANDARDS

- 3.1 The standards for Food & Beverage Establishments set forth in Minnesota Rules Chapter 4626 and all amendments or additions thereto are hereby incorporated in and made part of this ordinance; except Minnesota Statutes 157.16, Subd. 2a and Minnesota Rules part 4626.0033, Subparts G, H, I, J, K, L, M, N and O. In such rules as are a part of this ordinance, the references to the Commissioner shall mean the Countryside Public Health (CPH) Community Health Board and its designated agents.

SECTION IV – EMBARGO, CONDEMNATION, AND TAGGING

- 4.1 The Environmental Health Department staff or their designee may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of this ordinance.

SECTION V – PLAN REVIEW OF FUTURE CONSTRUCTION

- 5.1 When an 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 Environmental Health Department all required plans, specifications and materials, and comply with the requirements of this ordinance. Plans and the fee specified by the Community Health Board shall be submitted at least thirty (30) days before beginning construction, extensive remodeling, or conversion of a food establishment. All plumbing plans and specifications must be submitted to the Minnesota Department 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 food or beverage service 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. Submit the required compliance inspection report and letter of approval from the Zoning department with the plans.

SECTION VI – PROCEDURE WHEN INFECTION IS SUSPECTED

- 6.1 When the Environmental Health Department staff, has reasonable cause to suspect the possibility of disease transmission from a food or beverage service establishment employee, the Environmental Health Department shall secure an illness or morbidity history of the suspected employee, and/or make other investigations as may be required, and take appropriate action. The Environmental Health Department may require any or all of the following measures:
- 1) The immediate exclusion of the employee(s) from all food service

establishments;

- 2) The immediate closure of the food service establishment concerned until, in the opinion of the Environmental Health Department staff, no further danger of disease outbreak exists;
- 3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- 4) Adequate medical and laboratory examinations of the employee, or other employees, and their body discharges; and
- 5) Collection of samples of food(s) and beverage(s) from the establishment for laboratory examination.

SECTION VII – COMPLIANCE PROCEDURES

7.1 Licenses Needed. It shall be unlawful for any person to operate a food and/or beverage service establishment within Big Stone County without a valid license issued by the Environmental Health Department. Issuance and retention of a license is dependent upon compliance with the requirements of this ordinance. Licenses are not transferable between establishments, persons or locations. The license must be posted in the establishment. The regular license year shall run from January 1 to the next December 31. The seasonal license year shall run from May 1 to the next April 30. The school license year shall run from July 1 to the next June 30. Licenses expire at 11:59 p.m., on the last day the license is in effect.

7.2 Application for License.

- A. Any person desiring to operate a food service establishment shall make

written application for a license on forms provided by the Environmental Health 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 type of proposed food service establishment, as well as the signature of the applicant or applicants. If a partnership, the names of the partners, together with their addresses, shall be included. The Environmental Health Department may require such additional information as it may find necessary.
- C. Applications for a new business and the appropriate license fee shall be submitted to the Environmental Health Department ten (10) days prior to the proposed opening date of the business.
- D. Renewal applications and the appropriate license fee shall be submitted to the Environmental Health 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 food service establishment without a license is a violation of this ordinance.
- F. The amount of the annual license fee to be paid by proprietors of food and/or beverage establishments shall be specified by resolution of the Countryside Community Health Board. This fee may be adjusted from time to time as the Board deems appropriate.
- G. The Community Health Board shall set a civil penalty fee to be paid by any proprietor who fails to file the application and pay the annual license fee by the due date.

- H. All fees paid shall be retained by the Community Health Board regardless of whether there is approval or denial of the license.
- I. 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 on or after February 1st for the seasonal licenses or on or after April 1st for the school year licenses.

7.3 Inspection and Correction.

- A. The Environmental Health Department shall classify establishments by risk category and inspect food, beverage, and lodging establishments to assure compliance with the requirements of this ordinance at a frequency as specified in Minnesota Statute 157.20 and all amendments or additions thereto.
- B. The person operating a food establishment 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 sources of foods or other compliance with the provisions of this ordinance.
- C. Every person engaged in the operation of a food establishment, as herein defined, shall upon request, furnish reasonable samples free of charge to the Environmental Health Department for laboratory analysis.
- D. Whenever an inspection of a food service establishment is made, the

findings shall be recorded on an inspection report form. One copy of the inspection report form shall be furnished to the person in charge of the establishment. 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.

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

7.4 Suspension of License.

- A. Licenses may be suspended temporarily by the Environmental Health staff or their designee, at any time for:
 - i. failure by the holder to comply with the requirements of this ordinance;
 - ii. failure to timely comply with any notice requiring corrective action;
 - iii. failure to comply with any provision of Minnesota Rules Chapter 4626.
- 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 appeal is filed with the Environmental Health Department.
- C. Notwithstanding the other provisions of this ordinance, whenever the Environmental Health Department staff or their designee finds unsanitary or other condition(s) in the operation of a food establishment which, in

their judgement, may constitute a substantial hazard to the public health, a written notice to the license holder 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 all food and/or beverage operations be immediately discontinued. Any person affected by such action may obtain a review of this action by filing a written petition for appeal with the Environmental Health Department.

- D. Any person whose license or permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the license. The request for reinspection shall be made in writing and shall include a summary of the applicant's remedial action and a statement by the applicant that the condition(s) causing suspension of the license has/have been corrected. Within ten (10) days following receipt of a request for reinspection, the Environmental Health Department staff or their designee shall make a reinspection. If the applicant is in compliance with the requirements of this ordinance and Minnesota Rules Chapter 4626 the license shall be reinstated

7.5 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 Environmental Health Department staff or their designee 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 Environmental Health Department.

7.6 Appeals.

- A. An appeal may be brought under the provisions of this section to address any objection to the enforcement of this ordinance.
- B. 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.
- C. Appeals shall be presided over by an Appeals Board.
- D. The membership of the Appeals Board shall consist of the Chairperson of the Countryside Public Health Board, a County Commissioner, the Countryside Public Health Administrator, and the Environmental Health Department staff for Countryside Public Health. Any of these members may designate an alternative to serve on the Appeals Board.
- E. The Appeals Board shall be chaired by the Chairperson of the Countryside Public Health Board.
- F. The Appeals Board shall have the power to affirm, reverse, or modify the enforcement action of Countryside Public Health, its departments and its agents.
- G. 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.
- H. 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 judgement, a good and sufficient reason exists for such postponement.

- I. Countryside Public Health shall provide five (5) days written notice of the hearing to the appellant.
- J. 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 judgement, due process requires or other good and sufficient reason exists for such continuance.
- K. 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 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.
- L. 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.
- M. The terms of any notice served pursuant to the provision of this ordinance shall become final if a written petition for a hearing is not filed with the

Environmental Health Department with ten (10) days after the date of mailing.

7.7 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 Countryside Public Health Community Health 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 Environmental Health 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 for 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 fee of 10 percent of the fine amount may be imposed.

6. Administrative enforcement shall be conducted by the Environmental Health 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 Countryside Public Health may refer the violation to law enforcement 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

**BIG STONE COUNTY
PUBLIC POOLS ORDINANCE**



**AN ORDINANCE PROVIDING FOR THE REGULATION OF
PUBLIC POOLS WITHIN BIG STONE COUNTY IN
CONSORTIUM WITH CHIPPEWA, LAC QUI PARLE, SWIFT,
AND YELLOW MEDICINE COUNTIES**

AS

COUNTRYSIDE PUBLIC HEALTH

EFFECTIVE: July 1, 2022

INDEX

Section I	General Provisions
Section II	Definitions
Section III	Public Pool Standards
Section IV	Embargo, Condemnation, and Tagging
Section V	Plan Review of Future Construction
Section VI	Licenses
Section VII	Repeal of Previous Ordinance
Section VIII	Effective Date

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 public pools, regulating their operation and maintenance, and providing for the enforcement of the regulations herein throughout the county.
- 1.2 Legal Authority. Countryside Public Health is a joint powers board of health organized under Minnesota Statutes Section 145A.03 and Minnesota Statutes Section 471.59 by Big Stone, Chippewa, Lac Qui Parle, Swift, and Yellow Medicine Counties. This ordinance is enacted pursuant to Minnesota Statutes Section 145A.05 and Minnesota Statutes Section 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 Statutes Section 145A.07, Subd. 1, for the licensing, inspection, reporting, and enforcement duties authorized under Minnesota Laws Chapter 144 relating to rules and standards for public pools. Countryside Community Health Board is authorized to enforce this ordinance.
- 1.3 Jurisdiction. This ordinance shall be applicable in Big Stone County to all public pools as defined in Minnesota Statute 144.1222, 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 Environmental Health Department means the Countryside Public Health (CPH) Community Health Board and its Environmental Health staff or their designee.

- 2.3 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.
- 2.4 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.

SECTION III – PUBLIC POOL STANDARDS

- 3.1 All public pools within Big Stone County shall comply with the standards for public pools as set forth in Minnesota Statute 144.1222 and in Minnesota Rules 4717.0150 through 4717.3970 and all amendments or additions thereto. Specifically, Minnesota Statutes 144.1222 and Minnesota Rules 4717.0150 through 4717.3970, inclusive, and amendments or additions, are hereby incorporated herein by reference and made a part of this ordinance; except Minnesota Rule 4717.0310 and Rule 4717.0450. Any reference to the Commissioner shall mean the Countryside Public Health (CPH) Community Health Board and its designated agents, as may be delegated.

SECTION IV – EMBARGO, CONDEMNATION, AND TAGGING

- 4.1 The Environmental Health Department staff or their designee may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of this ordinance.

SECTION V – PLAN REVIEW OF FUTURE CONSTRUCTION

- 5.1 The Commissioner of the Minnesota Department of Health has jurisdiction over pool construction. When a public pool in Big Stone County licensed or to be licensed under the provisions of this ordinance, is hereafter constructed or remodeled, the entity shall submit to the Commissioner of the Minnesota Department of Health all required specifications and materials.

SECTION VI – LICENSES

- 6.1 Licenses Needed. It shall be unlawful for any person to operate a public pool within Big Stone County without a valid license issued by the Environmental Health Department. Issuance and retention of a license is dependent upon compliance with the requirements of this ordinance. Licenses are specific to each public pool and are not transferable. The license must be posted at the pool. The regular license shall run on a calendar year from January 1st to December 31st of that year. For seasonal public pools a license shall run from May 1st to the next April 30th. The school license year shall run

from July 1st to the next June 30th. Licenses expire at 11:59 p.m. on the last day the license is in effect.

6.2 Application for License.

- A. Any person desiring to operate a public pool shall make a written application on forms provided by the Environmental Health 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 public pool; and a signature of the applicant or applicants. The Environmental Health Department may require such additional information as it may find necessary.
- C. Application for a new public pool and the appropriate license fee shall be submitted to the Environmental Health 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 Environmental Health 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 public pool without a license is a violation of this ordinance.
- F. Countryside Community Health 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 Countryside Community Health Board and may be adjusted from time to time as the Board deems appropriate. Fees paid shall be retained by the Community Health 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 or on or after April 1st for school year licenses.

6.3 Inspection and Correction.

- A. The Environmental Health Department shall classify establishments by risk category and inspect public pools to assure compliance with the requirements of this ordinance at a frequency defined in Minnesota Statute 157.20 and all amendments or additions thereto.

- B. The person or entity operating a public pool shall, upon request of the Environmental Health Department, and after proper identification, permit access to all areas of the public pool for inspection. Further, the operator shall provide such documents and records required to ensure compliance with the provisions of this ordinance.
- C. Further, operators shall furnish or permit sampling, free of charge, samples which may be needed by the Environmental Health Department for laboratory analysis.
- D. Whenever an inspection of a public pool is made, the findings shall be recorded on an inspection report form. One copy shall be provided to the operator of the public pool. 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.
- E. 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 public pool as public safety may require.

6.4 Suspension of License.

- A. Licenses may be suspended temporarily by the Environmental Health Department staff or their designee, 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 Statute 144.1222 and Minnesota Rules 4717.0150 through 4717.3970, 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 timely with the Environmental Health Department.
- C. Notwithstanding the other provisions of this ordinance, whenever the Environmental Health Department staff or their designee find conditions in the operation of the public pool which, in their judgment, may constitute a substantial hazard to the public health, a written notice to the license holder/operator may be issued citing such condition(s) specifying corrective action to be taken and 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 public pool operations be immediately discontinued and persons affected by such action may obtain review of this action by filing a written petition for appeal with the Environmental Health 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 application for reinspection shall be in writing and include a summary of the applicant's remedial action and that the condition(s) causing suspension of license have been corrected. Within ten (10) days following receipt of the application, the Environmental Health Department staff or their designee shall make a reinspection. If the applicant is in compliance with the requirements of the ordinance, the license shall be reinstated.

6.5 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 Environmental Health Department staff 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 Environmental Health Department.

6.6 Appeals.

- A. An appeal may be brought under the provisions of this section to address any objection to the enforcement of this ordinance.
- B. 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.
- C. Appeals shall be presided over by an Appeals Board.
- D. The membership of the Appeals Board shall consist of the Chairperson of the Countryside Public Health Board, a County Commissioner, the Countryside Public Health Administrator, and the Environmental Health Department staff for Countryside Public Health. Any of these members may designate an alternate to serve on the Appeals Board.
- E. The Appeals Board shall be chaired by the Chairperson of the Countryside Public Health Board.
- F. The Appeals Board shall have the power to affirm, reverse or modify the enforcement action of Countryside Public Health, its departments and its agents.
- G. 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.

- H. 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.
- I. Countryside Public Health shall provide five (5) days written notice of the hearing to the appellant.
- J. 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.
- K. 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/designee. 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.
- L. 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.
- M. 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 Environmental Health Department within ten (10) days after the date of mailing.

6.7 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 or other designee.
- 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 Countryside Public Health Community Health 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 Environmental Health Department staff 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 Environmental Health 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 Countryside Public Health may refer the violation to 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.

