

WADENA COUNTY
ORDINANCE REGULATING LODGING ESTABLISHMENTS
IN WADENA COUNTY
ORDINANCE #12

by and through

WADENA COUNTY PUBLIC HEALTH DEPARTMENT

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ORDINANCE REGULATING LODGING ESTABLISHMENTS

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ORDINANCE FOR LODGING ESTABLISHMENTS

The County Board of Wadena County adopts:

Section 1. PURPOSE

The purpose of this ordinance is to establish standards for lodging establishments to protect the health, safety and the general welfare of the people of Wadena County pursuant to powers granted under Minnesota Statutes Chapter 145A.

Section 2. LEGAL AUTHORITY

This ordinance is enacted pursuant to Minnesota Statute Chapter 157 which establishes the authority for the State to license establishments and which authorizes the Commissioner of Health to enter into an agreement with counties or cities organized under the provisions of Section 15A.05- 011, 327.10, 327.70 and Rule 4625.157.17 to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections.

Section 3. JURISDICTION

These ordinances shall be applicable to all lodging establishments, such as hotels, motels, lodging hours, and resorts as defined in Minnesota Statutes, Chapter 157 within the legal boundaries of Wadena County.

Section 4. 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.

Section 5. DEFINITIONS

For the purpose of this regulation, the following definitions will apply:

5.1 Approved means acceptable to the Board following its determination as to conformity with departmental standards and established public health practices.

5.2 Basement means that portion of a building between floor and ceiling which is below or partly below grade.

5.3 Board means the Wadena County Board of Commissioners.

5.4 Boarding House means every building or structure or enclosure, or any part thereof, used as, maintained as, or advertised as, or held out to be an enclosure where meals or lunches are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

5.5 Clean means absence of dirt, grease, rubbish, garbage and other offensive, unsightly or extraneous matter.

5.6 Employee means and include any person whose duties include the cleaning, maintenance or housekeeping of any part of the building or buildings or the rendering of service to guests or performing duties of any type in connection with the operation of a lodging house or resort.

5.7 Garbage means all putrescible organic waste resulting from the handling, storage, preparation, or cooking of food, as well as including refuse, such as paper, plastics, and cardboard that are contaminated with putrescible organic waste.

5.8 Good Repair means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

5.9 Grade means the average of the finished ground level at the center of all exterior walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above ground level shall be measured as the sidewalks.

5.10 Public Health Department means the Wadena County Public Health Department, its Director, staff and contracted personnel authorized by the Board to carry out or enforce the provisions of this ordinance.

5.11 Appeals Board shall be appointed by the Board. The members will consist of: two County Commissioners, the Public Health Department Medical Director, a member of the County Public Health Advisory Committee and an owner or operator of a licensed establishment recruited by the Public Health Department. The Appeals Board shall elect its own chair.

5.12 Hotel-Motel means a building structure or enclosure, or any part thereof kept, used as, maintained as, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

5.13 Infestation means the presence within or around a dwelling of any insects, rodents or other pests.

5.14 Lodging House means every building or structure, or any part thereof, kept, used as, maintained as, or advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

5.15 Person includes an individual, partnership, corporation, association, or other legal entity.

5.16 Plumbing Code means the Minnesota Plumbing of the Minnesota Department of Labor and Industry.

5.17 Resort means any building, structure, or enclosure, or any part thereof, located on or on property neighboring any lake, stream, skiing or hunting area for purposed of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and primarily to those seeking recreation, for periods of one day, one week or longer, and having for rent three or more cottages, rooms or enclosures.

5.18 Rooming Unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking.

5.19 Standard means the criteria for compliance of the Board and shall be available on request.

5.10 Usable Floor Space means all floor space in a sleeping room not occupied by closets, toilet rooms, showers, or bathrooms.

Section 6. VARIANCES AND WAIVERS

6. 1. Procedures to request a variance or waiver. A licensee may request that the Public Health Department grant a variance or waiver from the provisions in Section 5-30 of this ordinance. All requests for a variance or waiver must be submitted to the Public Health Department in writing. Each request shall contain:

- A. The specific language in the ordinance from which the variance or waiver is requested;
- B. The reasons for the request;
- C. The alternative measures that will be taken if a variance or waiver is granted;
- D. The length of time for which the variance or waiver is requested; and
- E. Other relevant information necessary to properly evaluate the request for the variance or waiver.

6.2. Criteria for decision. The decision to grant or deny a variance or waiver shall be based on the Public Health Department's evaluation that:

- A. The variance or waiver will not adversely affect the environment;
- B. The alternative measures to be taken, if any, are equivalent to or superior to those prescribed in the ordinance; and
- C. Compliance with the ordinance would impose an undue burden on the applicant.

6.3. Notification of variance. The Public Health Department shall notify the applicant in writing of the decision to grant or deny a variance or waiver. If a variance or waiver is granted, the notification shall specify the period of time for which the variance or waiver will be effective and the alternative measures or conditions, if any, the applicant must meet.

6.4. Effect of alternative measures or conditions. All alternative measures or conditions attached to a variance or waiver have the force and effect of the applicable ordinance and are subject to the issuance of correction orders and penalties as provided by law.

6.5. Renewal. A request for the renewal of a variance or waiver must be submitted in writing before its expiration date. Renewal requests shall contain the information in subpart 1. The Public Health Department shall renew a variance or waiver if the applicant continues to satisfy the criteria in subpart 1, and demonstrates compliance with the alternative measures or conditions imposed when the original variance or waiver was granted.

6.6. Denial, revocation, or refusal to renew. The Public Health Department shall deny, revoke, or refuse to renew a variance or waiver if the Public Health Department determines that the criteria in subpart 1 and 2 are not met. The Public Health Department shall notify the applicant in writing of the decision to deny, revoke, or refuse to renew the variance or waiver. The notice must describe the reasons for the denial, revocation, or refusal to renew, and inform the applicant of the right to appeal the decision.

6.7. Appeal Procedure. An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested hearing case under the Administrative Procedure Act, Minnesota Statutes, Chapter 14. The applicant shall submit, within 15 days after receiving the Public Health Department's decision, a written request for a hearing. The request for a hearing shall state, in detail, the reasons why the decision of the Public Health Department should be reversed or modified. At the hearing, the applicant bears the burden of proving that the applicant has satisfied the criteria specified in 6.1.

Section 7. PLAN REVIEW OF FUTURE CONSTRUCTION

7.1 Whenever a lodging establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a lodging establishment under Minnesota Statutes, section 157.03, properly prepared plans and specifications for the construction, remodeling, or conversion must be submitted to the Public Health Department for review and approval before construction, remodeling, or conversion is begun. The plans and specifications must indicate the proposed layout, arrangement, construction materials of work areas, and the type and model number of proposed fixed equipment and facilities. The plans and specifications, submitted and drawn to scale, must be legible and complete in all details. Plumbing specifications need to be submitted directly to the Minnesota Department of Labor and Industry.

7.2 The Public Health Department shall approve the plans and specifications if they meet the requirements of Section 5-30 and report the findings within 30 days of the date that plans are received.

7.3 The facility must be constructed and finished in conformance with the approved plans.

7.4 The Public Health Department shall inspect the lodging establishment before the start of operation to determine compliance with the approved plans and specifications.

Section 8. SANITATION REQUIREMENTS

The construction, operation, maintenance, and equipment of lodging establishments shall be regulated as follows in Section 5-30.

Section 9. BUILDING REQUIREMENTS

9.1 Every building structure, or enclosure used to provide lodging accommodations for the public shall be kept in good repair, and so maintained as to promote the health, comfort, safety, and well-being of persons accommodated.

9.2 Identification of each unit. The entrance door to every lodging unit shall be plainly marked on the outside.

9.3 Fuel Oil Supply Systems. All fuel oil containers shall be mounted upon a stand or rack constructed of a noncombustible material.

Section 10. FLOOR REQUIREMENTS

The floors of all guest rooms, hallways, bathrooms, store rooms, and all other spaces used or traversed by guests shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair. Cleaning of floors shall be so done as to minimize the raising of dust and the exposure of guests thereto. The requirements of this part shall not prevent the use of rugs, carpets, or natural stone which can be kept clean. Abrasive strips for safety purposes may be used wherever deemed necessary to prevent accidents.

Section 11. WALLS AND CEILING REQUIREMENTS

The walls and ceilings of all rooms, halls, and stairways shall be kept clean and in good repair. Studs, joists, or rafters shall not be left exposed except when suitably finished and kept clean.

Section 12. SCREENING REQUIREMENTS

When flies, mosquitoes, and other insects are prevalent, all outside doors, windows, and other outer openings shall be screened; provided that such screening shall not be required for rooms deemed by the Public Health Department to be located high enough in the upper stories of the buildings as to be free of such insects, or in such areas where other effective means are provided to prevent their entrance.

Section 13. LIGHTING AND VENTILATION REQUIREMENTS

All rooms and areas used by patrons and guests and all other rooms or spaces in which lighting and ventilation, either natural or artificial, are essential to the efficiency of the business operation shall be kept well lighted and ventilated.

An area shall be considered well ventilated when excessive heat, odors, fumes, vapors, smoke, or condensation is reduced to a negligible level and barely perceptible to the normal senses. During seasons when weather conditions require tempering of makeup air, adequate equipment shall be provided to temper the makeup air. Every gas-fired or oil-fired room heater and water heater shall be vented to the outside air.

Section 14. SPACE REQUIREMENTS

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of usable floor space, and every room occupied for sleeping purposes by more than one person shall contain not less than 60 square feet of usable floor space for each occupant thereof. Under no circumstances shall there be provided less than 400 cubic feet of air space per occupant. Beds shall be spaced at least three feet apart when placed side by side. No sleeping quarters shall be provided in any basement having more than half its clear floor to ceiling height below the average grade of the adjoining ground.

Section 15. BEDDING AND LINEN REQUIREMENTS

All beds, bunks, cots, and other sleeping places provided for guests in lodging establishments shall be supplied with suitable pillow slips and under and top sheets. All bedding including mattresses, quilts, blankets, pillows, sheets, spreads, and all bath linen shall be kept clean. No bedding including mattresses, quilts, blankets, pillows, bed and bath linen shall be used which are worn out or unfit for further use. Pillow slips, sheets, and bath linen after being used by one guest shall be washed before they are used by another guest, a clean set being furnished each succeeding guest. For any guest occupying a guest room for an extended period of time, a fresh set of sheets and pillow slips shall be furnished at least once each week, and at least two clean towels shall be furnished each day, except that the proprietor will not be responsible for the sheets, towels, pillow slips, and bath linen furnished by a guest.

Section 16. ROOM FURNISHING REQUIREMENTS

All equipment, fixtures, furniture, and furnishings, including windows, draperies, curtains, and carpets, shall be kept clean and free of dust, dirt, vermin, and other contaminants, and shall be maintained in good order and repair.

Section 17. TOILET REQUIREMENTS

Every lodging establishment shall be equipped with adequate and conveniently located toilets for employees and guests. Toilets and bathtubs or showers will be available on each floor when not provided in each individual room. Toilet, lavatory, and bath facilities shall be provided in the ratio of one toilet and one lavatory for every ten occupants, or fraction thereof, and one bathtub or shower for every 20 occupants, or fraction thereof. Toilet rooms shall be well ventilated by natural or mechanical methods. The doors of all toilet rooms serving the public and employees shall be self-closing. Toilets and bathrooms shall be kept clean and in good repair and shall be well lighted and ventilated. Handwashing signs shall be posted in each toilet room used by employees. Every resort shall be equipped with adequate and convenient toilet facilities for its employees and guests. If privies are provided they shall be separate buildings and shall be constructed, equipped, and maintained in conformity with approved standards.

Section 18. WATER SUPPLY

A safe, adequate supply of water shall be provided. The water supply system shall be located, constructed, and operated in accordance with the Public Health Department. The temperature of hot water which is provided in any public area or guest room, including but not limited to lavatories, bathtubs, or showers, shall not exceed 130 degrees Fahrenheit (approximately 55 degrees Celsius).

Section 19. HAND-WASHING REQUIREMENTS

All lavatories for public use or furnished in guest rooms at lodging establishments shall be supplied with hot and cold running water and with soap. Scullery sinks should not be used as hand-washing sinks.

In the case of separate housekeeping cabins at resorts not supplied with running hot water, equipment shall be provided for heating water in the cabin.

Individual or other approved sanitary towels or warm-air dryers shall be provided at all lavatories for use by employees or the public.

Section 20. EATING UTENSILS AND DRINKING VESSELS PROVIDED IN GUEST ROOMS

After each usage, all multi-use eating utensils and drinking vessels shall be thoroughly washed in hot water containing a suitable soap or synthetic detergent, rinsed in clean water, and effectively subjected to a bactericidal process approved by the Public Health Department. Approved facilities for manual dishwashing shall consist of a three-compartment sink with stacking and drain boards at each end. All mechanical dishwashing machines shall conform to Standard Number 3 of the National Sanitation Foundation dated April 1965.

All dishes, glasses, utensils, and equipment after washing and bactericidal treatment shall be permitted to drain and air dry.

Single-service utensils or vessels must be handled in a sanitary manner. Such utensils may not be reused.

Section 21. SEWAGE DISPOSAL

All sewage wastes shall be disposed of in an approved public sewerage system or in a sewer system which is designed, constructed, and operated in accordance with the rules of the Minnesota Pollution Control Agency parts 7080.0010 to 7080.0240 and local Planning and Zoning Ordinances.

Section 22. WASTE DISPOSAL

Prior to removal, all garbage and refuse in storage shall be kept in watertight, nonabsorbent receptacles which are covered with close-fitting, fly-tight lids. All garbage, trash, and refuse shall be removed from the premises frequently to prevent nuisance and unsightly conditions, and shall be disposed of in a sanitary manner. All garbage receptacles shall be kept clean and in good repair.

Section 23. INSECT AND RODENT CONTROL

Every lodging establishment shall be so constructed and equipped to prevent the entrance, harborage, or breeding of flies, roaches, bedbugs, rats, mice, and all other insects and vermin. Specific means necessary for the elimination of such pests such as cleaning, renovation, or fumigation shall be used. The Public Health Department may order the facility to hire an exterminator licensed by the state to exterminate pests when:

A. The infestation is so extensive that it is unlikely that a nonprofessional can eradicate the pests effectively; or

B. The extermination method of choice can only be carried out by a licensed exterminator; or

C. Upon reinspection, it is found that an establishment has not been brought into compliance with a prior order to rid the establishment of pests.

Section 24. PERSONNEL HEALTH AND CLEANLINESS

No person shall resume work after visiting the toilet without first thoroughly washing his hands.

Personnel of lodging establishments may be required to undergo medical examination to determine whether or not they are cases or carriers of a communicable disease.

Section 25. CLEANLINESS OF PREMISES

The premises of all lodging establishments shall be kept clean and free of litter or rubbish.

Section 26. MINNESOTA CLEAN INDOOR AIR ACT

The person in charge of lodging establishments shall make adequate provisions to meet the requirements of the Minnesota Clean Indoor Air Act, Minnesota Statutes, sections 144.411 to 144.417, and chapter 4620.

Section 27. FIRE PROTECTION

All lodging establishments shall provide suitable fire escapes which shall be kept in good repair and accessible at all times. Hallways shall be marked and exit lights provided; fire extinguishers shall be provided and shall be recharged annually and kept accessible for use. No sleeping quarters shall be maintained in rooms which do not have unobstructed egress to the outside or to a central hall leading to a fire escape. All fire protection measures shall be in accordance with requirements of the state fire marshal.

Section 28. PLUMBING AND SWIMMING POOLS

28.1 All new plumbing in lodging establishments and all plumbing reconstructed or replaced after January 1, 1968, shall be designed, constructed, and installed in conformity with chapter 4715 of the Minnesota Plumbing Code.

28.2 All swimming pools and other artificial recreational bathing facilities shall be located, constructed, and operated in compliance with parts 4717.0100 to 4717.3900.

Section 29. SANITARY DISPENSING OF ICE

29.1 Scope of rule. Any lodging establishment which makes ice available in public areas, including but not limited to lobbies, hallways, and outdoor areas shall restrict access to such ice in accordance with the following provisions.

29.2 Newly constructed structures. After the effective date of parts 4625.0100 to 4625.2300, any newly constructed lodging establishment which installs ice-making equipment, and any existing lodging establishment which installs or replaces ice-making equipment, shall install only automatic dispensing, sanitary ice-making and storage equipment in areas to which the public has access. Any such establishment may install open-type ice bins only if the ice therefrom is dispensed in the manner provided in subpart 3.

29.3 Existing structures. After December 31, 1984, any existing lodging establishment which has not converted to automatic dispensing ice-making and storage shall no longer permit unrestricted public access to open-type ice bins, and shall dispense ice to guests only by having employees give out prefilled, individual sanitary containers of ice, or by making available prefilled, disposable, closed bags of ice.

Section 30. REGISTRATION

30.1 Establishment Operator Duties. Persons operating a lodging establishment with overnight stopping accommodations for transient guests shall provide and keep thereat a suitable guest register. Upon the arrival of such guests, the operator shall require the guest to register both the name and address of all members of their party and the make of the party's motor vehicle along with the vehicle's license identification numbers/letters, the state issuing the licensing plate.

30.2 Guest, Registration. Every person, upon arriving at any lodging establishment, applying for guest accommodations shall furnish to the operator or other attendant in charge the information necessary to complete registration.

30.3 Registration Records, Inspection. The registration records shall be open to the inspection to all State and local law enforcement officers.

30.4 Violation. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

Section 31. ADDITIONAL LICENSE REQUIRED FOR BOARD AND LODGING ESTABLISHMENTS; SPECIAL SERVICES

31.1 Definitions

- A. **Supportive services** means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, and dressing, grooming, or bathing. Supportive services also include providing reminders to residents to take medication that are self administered or providing storage for medications if requested.
- B. **Health supervision services** means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in bathing or with walking devices.

31.2 Registration. A board and lodging establishment that provides supportive services or health supervision services must register with the Commissioner of Health. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the rules required by sections 144B.01 to 144B.17 are effective.

31.3 Restriction on the provision of services. Effective September 1, 1989, and until one year after the rules required under sections 144B.01 to 144B.17 are adopted, a board and lodging establishment registered under subdivision 2 may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.

31.4 Residential care home license required. Upon adoption of the rules required by sections 144B.01 to 144B.17, a board and lodging establishment registered under 31.2. that provides either supportive care or health supervision services must obtain a residential care home license from the commissioner within one year from the adoption of those rules.

31.5 Services that may not be provided in a board and lodging establishment. A board and lodging establishment may not admit or retain individuals who:

- A. Would require assistance from the facility staff because of the following needs: incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or

- B. Require a level of care and supervision beyond supportive services or health supervision services.

31.6 Certain individuals may provide services. This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.

31.7 Exemption for establishments with a human services license. This section does not apply to a board and lodging establishment that is licensed by the Commissioner of Human Services under chapter 245A.

31.8 Violations. The Public Health Department may revoke the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

Section 32. INITIAL AND RENEWAL LICENSE FEES, LICENSE EXPIRATION DATES

32.1 General. It shall be unlawful for any individual, firm, corporation or partnership to operate a lodging establishment within the County who does not possess a valid license issued by the Public Health Department as required by this ordinance. Only a person who complies with the requirements of this ordinance shall be entitled to receive and retain such a license. Licenses shall not be transferable from one establishment or person to another establishment or person. A valid license shall be posted in every lodging establishment.

32.2 Application. Any person desiring to operate a lodging establishment shall make written application for a license on forms provided by the Public Health Department. Such application shall include: the applicant's full name and address and whether such applicant is an individual, firm or corporation, and if a partnership, the names of the partners, together with their addresses shall be included: the location and type of a proposed hotel, motel, lodging establishment or resort establishment; and the signature of applicant or applicants. Each application for a license, together with the appropriate license fee shall be submitted to the Public Health Department not later than December 31 of the year preceding the year for which the application is made; or in the case of a new or seasonal business, not later than the opening date of the business.

32.3 License renewals. License renewals shall be obtained on an annual basis. License renewal application shall be submitted to the Public Health Department on forms provided by it no later than December 31 of the year preceding the year for which application is made; or in the case of a seasonal business, not later than the opening date of such a business.

32.4 Expiration date. Initial and renewal lodging establishment licenses shall be issued for the calendar year for which application is made and shall expire on December 31 of such year.

32.5 Initial & Renewal fee schedule. Initial and renewal license applications shall be accompanied by the applicable fee as determined by the County Board. Such rates may be changed by resolution of the Board from time to time as they shall deem appropriate.

32.6 Penalty fee. A penalty specified by resolution of the Board shall be added to the amount of the license fee and paid by the proprietor if the application has not reached the Public Health Department as specified in Section 29.2 or 29.3. Any person who operates a hotel, motel, lodging establishment or resort without submitting an application and appropriate fee shall be deemed to have violated this ordinance and shall be subject to prosecution as provided in this ordinance.

32.7 Reduced license fee. From and after October 1 of each year, the license fee for new establishments or operators shall be one-half of the appropriate annual license fee plus any penalty which may be required.

Section 33. INSPECTION

33.1 General. The person operating a lodging establishment shall, upon request of the Public 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 check compliance with this ordinance.

Whenever an inspection of a lodging establishment is made, the findings shall be recorded. One copy of the report form shall be furnished to the person in charge of the establishment. The report form is a public document that shall be made available for public disclosure to any person who requests it. The inspection report form shall summarize the requirements of this part and shall set forth a weighted point value for each requirement. The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified.

33.2 Frequency. The frequency of inspections shall be made based on degree of hazard to the public. A high-risk establishment is required to be inspected at least once a year. A medium-risk establishment must be inspected at least once every 18 months. A low-risk establishment must be inspected at least once every two years.

For purposes of clarification, the levels of risk are defined as follows:

High-risk Establishment means any lodging establishment that has a swimming pool.

Medium-risk Establishment means any lodging establishment with 25 or more units.

Low-risk Establishment means any lodging establishment that is not a high-risk or medium-risk establishment.

Section 34. SUSPENSION OF LICENSE

34.1 Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this ordinance, the license holder or operator will be notified in writing that the license will be suspended within 10 days unless either of the following conditions are met:

- A.** A written request for a hearing before the Appeals Board, or
- B.** Written request for a re-inspection including a statement by the applicant that in their opinion the conditions causing possible suspension of the license have been corrected. The Public Health Department upon receipt of the request shall make a re-inspection within 10 days.

Section 35. IMMEDIATE SUSPENSION

Notwithstanding the other provisions of this ordinance, whenever the Health Department finds unsanitary or other conditions in the operation of a lodging establishment which in its judgment constitute a substantial hazard to the public health, it may without warning, notice or hearing, issue a written notice to the license holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and if deemed necessary, such order shall state that the license is immediately suspended, and all lodging operations to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith.

Section 36. REVOCAION OF LICENSE

For serious or repeated violations of any of the requirements of this ordinance or Board compliance standards, the license may be permanently revoked after an opportunity for a hearing before an Appeals Board. Prior to such action, the Public Health Department shall notify the license holder in writing and advising that the license shall be permanently revoked at the end of five (5) days period. A license may be suspended for cause pending its revocation or a hearing relative thereto.

Section 37. APPEAL FROM — SUSPENSION OR REVOCATION OF LICENSE

Any person whose license to operate a hotel, motel, lodging house or resort has been suspended or revoked, or has received notice from the Public Health Department that his license is to be suspended or revoked unless existing conditions or practices are corrected may request and shall be granted a hearing on the matter before the Appeals Board by the procedure provided in this ordinance. If no petition for such hearing is filed within ten days following the day on which such license was suspended, such license shall be deemed to have been suspended. If no petition for such hearing is filed within ten days following the day on which such license was revoked, such license shall be deemed to have been revoked.

Section 38. APPEALS BOARD

38.1 Request for Hearing. Any person affected by a notice of suspension or revocation,

or emergency order which has been issued or served shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Health Department written petition requesting such hearing and setting forth a brief statement on the grounds therefore. Said petition shall be filed within ten days after the notice was served.

38.2 Date of Hearing. The hearing requested shall be held not more than ten days after the date on which the petition was filed. The Chairman of the Appeals Board may postpone the date of the hearing for a reasonable time beyond such ten day period if, in his judgment, a good and sufficient reason exists for such postponement.

38.3 Notice of Hearing. The Public Health Department shall cause five days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner's last known address.

38.4 Proceedings. At such hearing, the petitioner, their agent or attorney shall be given an opportunity to be heard and to show cause why the notice of suspension, revocation, or emergency order issued by the Public Health Department should be modified or withdrawn. The Public Health Department shall present a detailed written statement of his findings and decision to the Appeals Board at the time of the hearing.

38.5 Decisions of the Appeals Board. After such hearing, the Appeals Board shall sustain, modify, or withdraw the notice of suspension, revocation or emergency order, depending upon its findings as to whether the licensed establishment is being operated in compliance with the provisions of this regulation. A copy of the decisions of the Appeals Board shall be served by mail to the petitioner or petitioners. Any person aggrieved by the decision of the Appeals Board may seek relief there from in any court of competent jurisdiction as provided by the laws of the state.

38.6 Record of Proceedings. The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the decision of the Public Health Department, shall be recorded and reduced to writing and entered as a public record in the office of the Public Health Department. Such record shall include a copy of every notice, order, or writing issued in connection with the matter.

38.7 Notices not Appealed. Any notice served pursuant to the provisions of this regulation shall automatically become final if written petition for a hearing is not filed with the Public Health Department within ten days after notice is served.

Section 39. MINNESOTA DEPARTMENT OF HEALTH

The requirements contained in this ordinance are intended to be comparable to the Minnesota Department of Health Standards and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. If the Minnesota Department of Health amends its rules or adopts new rules setting higher sanitary standards than the ones established in this ordinance, the standards set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedure as part of this ordinance.

Section 40. OTHER AGENCIES

Other state and/or local agencies should be contacted in order to comply with other environmental related laws and/or rules not included in this ordinance.

Section 41. PENALTY

11.1 **Administrative Penalties** Administrative penalties are used as a tool for orders compliance enforcement. See Administrative Penalties Policy and Fees.

11.2 **Criminal Penalties** Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of up to one thousand dollars (\$1,000.) and/or by imprisonment of ninety (90) days in jail. Each day that a violation continues shall constitutes a separate offense. Such persons may be enjoined from continuing such violations.

Section 42. EFFECTIVE DATE

42.1 **Repeal** This ordinance, effective July 1, 2010, hereby repeals and replaces in its entirety the Wadena County Lodging Ordinance of 1-1-1993.

42.2 **Effective date** This ordinance shall be in full force and effect effective July 1, 2010.

Attest:

By:

 6/17/10
Charlene (Char) West Date
Wadena County Auditor/Treasurer

 6/17/10
Bill Stearns, Chair Date
Wadena County Board of Commissioners

Board of Commissioners
Resolution Dated 6/17/10

