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County of Martin, Minnesota

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ADMINISTRATION PAGE

RESOLUTION REPEAL AND ADOPTION AND ENACTMENT OF THE LODGING ESTABLISHMENT ORDINANCE FOR MARTIN COUNTY, MN

SUBMITTED BY:
SCOTT HIGGINS
COUNTY COORDINATOR

APRIL 17, 2007

ORDINANCE 2007-02

Martin County Lodging Establishment Ordinance

Adopted April 3, 2007

Martin County Lodging Ordinance

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Section I - Purpose and Authority

- 1.1 The purpose of this Ordinance is to establish standards and authority to protect the public health, safety and general welfare of the people of Martin County pursuant to powers granted under Minnesota Statutes Chapter 145A, 157 and 375. The general objectives of this ordinance include the following:
- (1) Provide a minimum standard for the design, construction, operation and maintenance of Lodging Establishments.
 - (2) Correct and prevent conditions that may adversely affect persons utilizing Lodging Establishments; and
 - (3) Meet consumer expectations for the quality and safety of Lodging Establishments.
- 1.2 This Ordinance establishes the minimum standards, as defined in Minnesota Statute 157, Minnesota Rules Chapter 4625 and this Ordinance, for the design, construction, operation and maintenance of Lodging Establishments located in Martin County so that health and safety hazards are minimized. Whenever, and if, this Ordinance conflicts with other applicable laws, regulations and Ordinances, the most restrictive shall prevail.

Section II - Scope

- 2.1 This Ordinance shall be applicable to all Lodging Establishments, as defined in Minnesota Statute 157.15, Minnesota Rules Chapter 4625 and this Ordinance, which are located in Martin County.

Section III - Administration

- 3.1 This Ordinance shall be administered by Human Services of Faribault and Martin Counties, hereinafter referred to as the "Health Authority".

Section IV - Definitions

- 4.1 For the purpose of this Ordinance, definitions of words, phrases, and terms used in this Ordinance shall be those set forth in Minnesota Rules Chapter 4625.0100, and the Martin County Food and Beverage Ordinance. The following words shall have the following meanings:

- (1) **Approved** – Shall mean acceptable to the Health Authority based on a determination of conformity with principles,

practices, and generally recognized standards that protect public health.

- (2) **Bed and Breakfast** - Shall mean a place of lodging that provides not more than eight rooms for rent to no more than 20 guests at a time; is located on the same property as the owner's personal residence; provides no meals, other than breakfast served to persons who rent rooms; and was originally built and occupied as, or was converted to, a single-family residence prior to being used as a place of lodging.
- (3) **Board and Lodging Facility** – Shall mean every building, structure or enclosure, or any part thereof, used as, maintained as, advertised as, or held out to be an enclosure where meals are furnished to five (5) or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.
- (4) **Change or Transfer of Ownership** – Shall mean a legal transaction whereby the ownership of an establishment is changed from one person to another person. This transaction can occur by sale, exchange, repossession, or other legal means.
- (5) **Clean** – Shall mean free from insects, vermin and debris and free from physical, chemical and microbial substances discernable by ordinary sight or touch, by ultraviolet light, or by artificial light.
- (6) **County** – Shall mean Martin County.
- (7) **Director** – Shall mean the Executive Director of Human Services of Faribault and Martin Counties.
- (8) **Good Repair** – Shall mean free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions and similar defects so as to constitute a good and sound condition.
- (9) **Health Authority** – Shall mean Human Services of Faribault and Martin Counties acting under the provisions of Minnesota Statute 145A.04, as the Board of Health.
- (10) **Health Department** – Shall mean the Human Services of Faribault and Martin Counties Community Health Services Program Manager, Public Health Sanitarian and any related personnel acting under the direction of the Health Authority.

- (11) **Hotel or Motel** – Shall mean any building, structure or enclosure, or any part thereof, kept, used as, maintained as, 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.
- (12) **Imminent Health Hazard** – Shall mean a significant threat or danger to health that exists when there is evidence to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation.
- (13) **Licensee** – Shall mean the Person who has been given the authority by the issuance of a license by the County to establish, operate, manage, and/or maintain a facility or activity regulated by County Ordinance or as otherwise designated in the County Ordinance.
- (14) **Lodging Establishment** – Shall mean a Hotel, Motel, Bed and Breakfast, Lodging House, Board and Lodging Facility, Resort or similar facility where sleeping facilities are offered to the public.
- (15) **Lodging House** – Shall mean every building, structure or any part thereof, kept as, used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.
- (16) **Person** – Shall mean any individual, firm, partnership, corporation, association, limited liability company, governmental agency, club or organization of any kind.
- (17) **Program Manager** – Shall mean the Community Health Services Program Manager of Human Services of Faribault and Martin Counties.
- (18) **Remodeling/Remodeled** – Shall mean an addition or change to the physical facility or an equipment installation that results from changes in the services or menu offered to the public. Remodeling does not include redecorating or cosmetic refurbishing.
- (19) **Resort** – Shall mean any building, structure, or enclosure, or any part thereof, located on, or on property neighboring any

lake, stream, or skiing or hunting area for purposes of providing convenient access, thereto, kept as, 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 primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent five or more cottages, rooms or enclosures.

- (20) **Sanitarian** – Shall mean the Public Health Sanitarian of Human Services of Faribault and Martin Counties.
- (21) **Seasonal** – Shall mean an operation that is closed five (5) or more consecutive months of the year or more.
- (22) **Transient Use** – Shall mean that the persons using the facility are not regular boarders and that stays at the facility are temporary and generally less than one (1) week.
- (23) **Usable Floor Space** – Shall mean all floor space in a sleeping room not occupied by closets, toilet rooms, showers or bathrooms.
- (24) **Variance** – Shall mean a modification or variation of the requirements of this Ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.

Section V - Licensing, Fees and Plan Review

- 5.1 It shall be unlawful for any Person to operate a Lodging Establishment, as defined in Minnesota Statutes 157.15, Minnesota Rules 4625, or this Ordinance, within Martin County who does not possess a valid license issued to them by the 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, Person or location to another establishment, Person or location.
- 5.2 The original copy of all licenses obtained for a Lodging Establishment shall be conspicuously posted and available for public inspection. All licenses expire as of December 31 each year.
- 5.3 Any Person desiring to operate a Lodging Establishment shall make written application for a license on forms provided by the Health Department. 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 Lodging establishment, as well as the signature of the applicant or applicants. If a partnership, the names of the partners, together with their address shall be included. Each application for a license, together with the appropriate license fee as described herein, shall be submitted to the Health Department not later than January 31 each year, following expiration of the previous years license, or in the case of a Seasonal or new business, within 30 days of the opening date of such a business. Any Person who operates a Lodging Establishment without submitting a license application and appropriate fee shall be deemed to have violated this Ordinance and shall be subject to prosecution as provided for in this Ordinance.

- 5.4 Proprietors of any Lodging Establishment shall pay an annual license fee at a rate specified by resolution of Human Services of Faribault and Martin Counties. This annual license fee may be adjusted from time to time, as the Health Authority shall deem appropriate. A penalty fee at a rate specified by Human Services of Faribault and Martin Counties shall be added to the amount of the license fee and paid by the proprietor if the annual license fee has not reached the Health Department by the dates specified in section 5.3.
- 5.5 Fees for plan reviews and other services shall be those established by resolution of Human Services of Faribault and Martin Counties. Additional fees may be charged for each additional service, which is separate, distinct or unique as determined by the Health Authority.
- 5.6 Whenever a Lodging Establishment is constructed or Remodeled or whenever an existing structure is converted to use as an establishment which would be licensed under provisions of this Ordinance, properly prepared plans and specifications for each construction, Remodeling or conversion shall be submitted, along with the appropriate plan review fee, to the Health Department for review and Approval at least thirty (30) calendar days prior to the time that construction, Remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout; mechanical, plumbing, and electrical specifications; construction material and location; and equipment specifications and menu. Upon receipt of the plans and specifications, the Health Department will conduct a plan review for the Lodging Establishment. The Lodging Establishment shall be constructed and finished in accordance with the Approved plans.
- 5.7 If the Health Department receives plans and specifications for a Lodging Establishment less than (30) calendar days before construction or Remodeling begins, fifty percent (50%) of the original plan review fee will be assessed for a late fee.

- 5.8 An existing Lodging Establishment that has been out of business for more than thirty (30) calendar days is considered a new establishment when re-opening with the same ownership and is subject to a pre-licensing inspection.

Section VI - Inspections

- 6.1 The Health Department shall inspect licensed Lodging Establishments as frequently as necessary to ensure compliance with this Ordinance, but not less often than the minimum frequency established by Minnesota Statute 157.20.
- 6.2 The Person operating a Lodging Establishment shall, upon request of the 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 ensure compliance with the provisions of this Ordinance. No Persons shall interfere with or hinder the Health Department in the performance of its duties, or refuse to permit the Health Department to make such inspections.
- 6.3 The Health Department shall inspect each Lodging Establishment prior to issuing a license for a new establishment or Change of Ownership. A license shall not be issued until the corrections required by the Health Department as a result of the pre-licensing inspection have been made to the satisfaction of the Health Department.
- 6.4 Each inspection report may be posted by the Health Department upon an inside wall of the Lodging Establishment, not in a public area, and such inspection report shall not be defaced or removed by any person except the Health Department. The posting of the inspection report on the inside wall of the establishment shall constitute service of an official notification by the Health Department. The Health Department may, in lieu of posting such reports, deliver it in person to the Licensee or his authorized agent, or deliver by certified or registered mail. A copy of the inspection report shall be filed with the records of the Health Department with the name of the operator and owner.
- 6.5 The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it, except when the report forms are part of pending investigations.
- 6.6 All Licensees, owners or operators of Lodging Establishments having a report posted in the establishment or having received a report giving

notification of one or more violations of this Ordinance shall correct or remove each violation in a reasonable length of time determined by the Health Department. The length of time for the correction or removal of each such violation shall be noted on the inspection report. The failure to remove or correct each such violation within the time period noted on the inspection report shall constitute a separate violation of this Ordinance.

Section VII - Standards for Health and Safety

- 7.1 Minnesota Rules Chapter 4625, in effect on the effective date of this Ordinance, and all future revisions thereof, are hereby adopted by reference and made part of this Ordinance.
- 7.2 The requirements contained in this Ordinance are intended to be comparable to the Minnesota Department of Health rules and are intended to meet the minimum requirements set forth by the Minnesota Department of Health. Whenever the Minnesota Department of Health amends rules or adopts new rules setting different standards than the ones established in this Ordinance, the rules set by the Minnesota Department of Health shall govern and will be considered in the enforcement procedures as part of this Ordinance.
- 7.3 Food service operations within a Lodging Establishment shall also comply with the applicable requirements of the Martin County Food and Beverage Ordinance.
- 7.4 Public pools within a Lodging Establishment shall comply with Minnesota Rules Chapter 4717. Minnesota Rules Chapter 4717, in effect on the effective date of this Ordinance, and all future revisions thereof, are hereby adopted by reference and made part of this Ordinance.

Section VIII - Compliance Procedures

- 8.1 The Health Department may suspend licenses temporarily at any time for failure by the Licensee to comply with the requirements of this Ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this Ordinance, that Licensee or operator may be notified in writing that the license upon service of notice is immediately suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for appeal is filed within five (5) working days with the Health Department by the Licensee.

- 8.2 Notwithstanding the other provisions of this Ordinance, whenever the Sanitarian finds insanitary or other conditions(s) in the operation of the Lodging Establishment which, in their judgment, may constitute an Imminent Health Hazard, they can without warning, notice or hearing, issue a written notice to the Licensee or operator citing such condition(s), 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 the license is immediately suspended, and all Lodging and/or Food and/or Beverage operations are to be immediately discontinued. Any Person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Department, shall be afforded an appeal before the Appeals Board as soon as the Appeals Board may be convened.
- 8.3 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. Within ten (10) working days following receipt of a written request, including a statement signed by the applicant that in their opinion the condition(s) causing suspension of the license has/have been corrected, the Sanitarian shall make a reinspection. If the applicant is in compliance with the requirements of this Ordinance and Minnesota Rules Chapter 4625, the license shall be reinstated.
- 8.4 For serious or repeated violations of any of the requirements of this Ordinance or Minnesota Rules Chapter 4625, the license may be permanently revoked after an opportunity for a hearing before the Appeals Board has been provided. Prior to such action, the Health Department shall notify the license holder in writing, advising that the license shall be permanently revoked at the end of a five (5) day period.

Section IX - Appeals Board

- 9.1 The Appeals Board shall consist of six (6) members of the Human Services of Faribault and Martin Counties Board such that a minimum of two (2) members from Faribault County and two (2) members from Martin County are included. The chairman of the Human Services Board will be the Appeals Board Chairman and will be included as one of the six (6) members.
- A. Request for Hearing – Any person affected by a notice of suspension, revocation or denial of a Variance, shall be granted a hearing on the matter before the Appeals Board upon filing in the office of the Health Authority, written petition requesting such a hearing and setting forth a brief statement on the grounds therefore. Said

petition shall be filed within ten (10) working days after the notice was served.

- B. Date of Hearing – The hearing requested shall be held not more than ten (10) working 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 (10) day period, if in their judgment a good and sufficient reason exists for such postponement.
- C. Notice of Hearing – The Health Department shall cause five (5) working days written notice of the hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioners or petitioner's last known address.
- D. 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 denial of Variance issued by the Health Department should be modified or withdrawn. The Program Manager or County Attorney shall present a detailed written statement of their findings and recommendation(s) to the Appeals Board at the time of the hearing.
- E. Decisions of the Appeals Board – The Appeals Board, within three (3) working days after such hearing, shall sustain, modify or withdraw the notice of suspension, revocation or denial of Variance depending upon its findings. A copy of the decision 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 therefrom in any court or competent jurisdiction as provided by the laws of the state.
- F. Record of Proceedings – The proceedings of each hearing held before the Appeals Board pursuant to petition, including the findings and the recommendation(s) of the Program Manager or County Attorney shall be recorded and reduced to writing and entered as a public record in the office of the Director. Such record shall include a copy of every notice or order or writing issued in connection with the matter.

- G. Notices not Appealed – Any notice served pursuant to the provisions of this Ordinance shall automatically become final if a written petition for a hearing is not filed with the Health Department within ten (10) working days after the notice is served.

Section X - Variances

- 10.1 The Health Authority may grant a Variance from this Ordinance if it is deemed that the strict enforcement of any provision of the standards of the Ordinance would be unreasonable and impractical or not feasible under the circumstances. The Health Authority may permit a Variance upon such conditions as it may prescribe for management consistent with the general purposes and intent of the applicable Ordinance and of all other applicable state and local regulations and laws.
- 10.2 In no case shall a Variance be granted unless the following findings are made:
- (1) The conditions are unique to the property, applicant or Licensee; and
 - (2) The granting of the Variance will not be contrary to public interest or damaging to the rights of other Persons or properties in the same area or district; and
 - (3) The granting of the Variance will not be contrary to the policy and intent of the Ordinance or detrimental to the public health, safety and welfare.
- 10.3 No Variance shall be granted simply because there are no objections, or because those who do not object outnumber those who object.
- 10.4 In the event that the Health Authority denies the request for a Variance, the applicant may request a hearing before the Appeals Board on said Variance as specified in Section 9.1 of this Ordinance. The request shall be in writing stating the grounds upon which the request is based and served personally or by registered or certified mail on the Health Department by midnight of the tenth (10th) County working day following the Health Authority's denial of the Variance. If the applicant/Licensee fails to request a hearing with the specified time period, any opportunity for a hearing is forfeited and the Health Authority's decision is final.

Section XI - Enforcement

- 11.1 An Person 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 not to exceed the maximum allowed under the Misdemeanor Statutes or by imprisonment not to exceed the maximum allowed under the Misdemeanor Statutes or both. Each day that a violation continues shall constitute a separate offense. Such persons may be enjoined from continuing such violations.
- 11.2 In the event of a violation, or a threat of a violation, of this Ordinance, the County Attorney may take appropriate action to enforce this Ordinance, including application of injunctive relief, action to compel performance, or other appropriate action in Court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.
- 11.3 The Health Department may, in lieu of, or in addition to issuance of a citation, order the Licensee, owner or operator to appear for an informal hearing at a location and time prescribed by the Health Department. The Licensee, owner or operator must be given written notice at least 24 hours in advance of the informal hearing and such notice shall specify the Ordinance violations to be discussed. Failure to appear shall constitute a violation of this Ordinance.

Section XII - Severability

- 12.1 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.

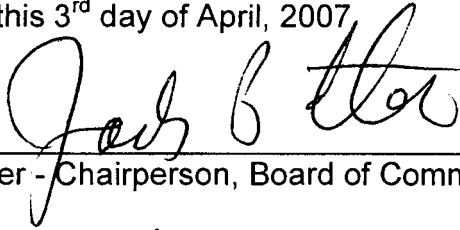
Section XIII - Effective Date

- 13.1 This Ordinance shall be effective upon passage by the Martin County Board of Commissioners and publication according to law.

Section XIV - Repeal of Previous Ordinance

14.1 This Ordinance, adopted April 3, 2007 hereby repeals and replaces in its entirety the Martin County Lodging Ordinance adopted in 1978.

Adopted this 3rd day of April, 2007,

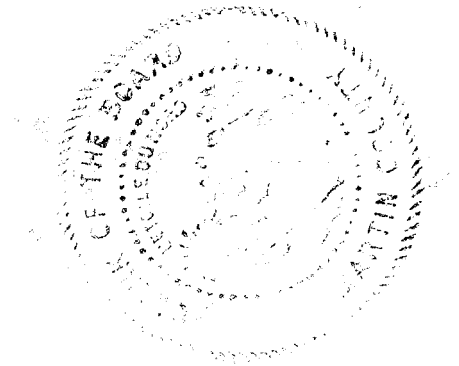


Jack Potter - Chairperson, Board of Commissioners

Attest:



Scott Higgins - Clerk of Board or Martin County Coordinator



R-#24/'07

ORDINANCE 2007-02

REPEAL AND ADOPTION AND ENACTMENT OF THE LODGING ESTABLISHMENT ORDINANCE FOR MARTIN COUNTY, MN

WHEREAS, the Martin County Board of Commissioners desire to repeal the existing Lodging Establishment Ordinance adopted on June 26, 1978, and proposing to adopt and reestablish a new Lodging Establishment Ordinance to set forth the minimum standards and procedures for all lodging establishments in Martin County, MN, and

WHEREAS, notice of the public hearing to be held by the Martin County Board of Commissioners on the proposed LODGING ESTABLISHMENT ORDINANCE was published as required by law, and

WHEREAS, the Martin County Board of Commissioners has held a public hearing and took testimony from the public with respect to the proposed LODGING ESTABLISHMENT ORDINANCE for Martin County during the Board of Commissioners regular meeting on April 3, 2007, and

WHEREAS, the Martin County Board of Commissioners have determined that the proposed LODGING ESTABLISHMENT ORDINANCE serves the best interest of the County in the protection, safety, comfort, health, convenience, and general welfare of the citizens of Martin County, MN, and

NOW THEREFORE BE IT RESOLVED, upon on a motion by Commissioner Pierce, seconded by Commissioner Donnelly, that the Martin County Board of Commissioners does hereby ordain the following LODGING ESTABLISHMENT ORDINANCE and that this Ordinance shall be in effect after its approval and publication as required by law.

Passed and approved the 3rd day of April 2007.

BOARD OF COMMISSIONERS
MARTIN COUNTY, MN

Jack Potter
Jack Potter, Chair

ATTEST: Scott Higgins
Scott Higgins, County Coordinator

Commissioners Pierce, Donnelly, Schmitke
Roll Call AYES: Bolet + Potter NAYS: NONE
duly passed and adopted date this 3rd day of April, 2007.

Said resolution was

