

# CLAY COUNTY ORDINANCE 2015- 3

**The Clay County Board hereby ordains as follows:**

**TITLE:** This Section shall be known as the Clay County Lodging Establishment Ordinance.

**REPEALER:** Clay County Ordinance 2011-3, Part I, Subpart B is hereby repealed in its entirety. The following shall be incorporated in the appropriate chapter of the Clay County Code in its place.

## **Section I: PURPOSE.**

**1.1 Purpose.** This Ordinance is enacted to establish standards for the regulation of lodging and accommodation establishments to protect the health, safety, and general welfare of the people and patrons of Clay County pursuant to powers granted under Minnesota Statutes and subsequent recodifications and/or amendments and other applicable legislation, as may be adopted from time to time.

**1.2 Objectives.** The principal objectives of this Ordinance are as follows:

- A. To provide local governance to promote health, safety, and wellness to citizens and patrons of lodging establishments.
- B. To correct and prevent conditions that may adversely affect persons utilizing lodging establishments.
- C. To provide and enforce standards for the design, construction, operation, and maintenance of lodging establishments following requirements set forth by adopted legislation.
- D. To provide education to lodging establishment workers and operators on risk factors contributing to health and safety issues in lodging establishments.
- E. To meet consumer expectations of the health and safety of lodging establishments.

## **Section II: SCOPE.**

The scope of this ordinance applies to lodging establishments within the jurisdiction of the Health Authority and as described in Minnesota Statutes Chapter 157.15.

## **Section III: DELEGATED AUTHORITY.**

Promulgated in Minnesota Statutes Chapter 145A.07, the commissioner of health has entered into an agreement with Clay County, a member of the Partnership 4 Health community health

board, to delegate all or part of the licensing, inspection, reporting, and enforcement duties authorized under 145A.04, subdivision 6 and MN Statutes Chapter 157.

## **Section IV: STATE HEALTH DEPARTMENT RULES ADOPTED.**

Pursuant to Minnesota Statutes 145A.01 – 145A.11, Chapter 157, Chapter 327, 375.51 - 375.55 and Minnesota Rules 4625.0100 – 4625.2300 inclusive relating to lodging establishments, including all subsequent amendments thereto, are hereby adopted by Clay County by reference. Reference in Minnesota Statutes 375.51 - 375.55, Chapter 157, Chapter 327, 375.51 - 375.55, and Minnesota Rules 4625 to Board, Commissioner of Health, or Board of Health shall be to the Clay County Board of Commissioners and their authorized representatives.

## **Section V: DEFINITIONS.**

For the purpose of this ordinance the following words shall have the following meaning:

**Subsection 1:** "County" shall mean Clay County.

**Subsection 2:** "Health Authority" shall mean the Clay County Public Health Department and its designated employees, agents, or contractors, as the Clay County Board may designate.

**Subsection 3:** As stated in Minnesota Statutes Chapter 157.15, "lodging establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

**Subsection 4:** As stated in Minnesota Statutes Chapter 157.15, "Hotel or motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

**Subsection 5:** As stated in Minnesota Statutes Chapter 157.15, "Resort" means a building, structure, enclosure, or any part thereof located on, or on property neighboring, any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

## **Section VI: ADMINISTRATION.**

**6.1 Administrative Ordinance.** Except where otherwise specified, this Ordinance is subject to all provisions of Clay County Administrative Ordinance 2010-3 Part 2.

**6.2 License Required.** It is unlawful for any person to operate or permit the operation of a lodging establishment, regardless of whether a fee is charged for such use, unless the County has issued a valid license from the Health Authority which is in full force and effect. Licensing of lodging establishments shall be done pursuant to Clay County Administrative Ordinance 2010-3 Part 2 and active Resolution. Only a person who complies with the requirements of this Ordinance shall be entitled to hold a license.

**6.3 General Licensing.** The application for such licenses as described in this Ordinance shall be made on forms furnished by the Health Authority and shall describe the general nature of the business, the location, and any other information deemed necessary by the Health Authority.

**6.4 Fees.** Fees for licenses, late fees, and service fees as shown in the fee schedule, issued hereunder shall be those established by an active resolution of the Clay County Board of Health.

**6.5 License Expiration.** Licenses issued pursuant to this Ordinance shall commence and expire on the dates indicated on the license certificate. All lodging establishment licenses shall be issued for the applicable license year.

**6.6 Transfer and Display of License.** A license shall not be transferable as to person or place. A valid, original license certificate issued from the Health Authority shall be located onsite and posted so that it is clearly visible to the public.

## **Section VII: INSPECTION OF LODGING ESTABLISHMENTS.**

The Health Authority shall inspect every lodging establishment as required based upon risk level established by and described in Minnesota Statute 157.20 and as frequently as deemed necessary to ensure compliance with this ordinance.

**7.1 Access to Premises and Records.** The person in charge of the establishment shall, upon request of the Health Authority and after providing proper Clay County identification, permit access to all parts of the establishment at any reasonable time for the purpose of inspection as often as deemed necessary by the Health Authority.

**7.2 Interference with Health Authority.** No person shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make inspections of the establishment.

**7.3 Removal and Correction of Violations.** The licensee, owner, or operator of the establishment, upon receipt of a report giving notification of one or more violations of this

Ordinance, shall correct or remove each violation in the length of time determined by the Health Authority. The length of time for the correction or removal of each such violation shall be noted on the inspection report provided by the Health Authority to the establishment. Failure to remove or correct each violation within the specified time period may constitute a separate violation of this Ordinance and further action by the Health Authority. The Health Authority may issue orders to halt construction or remodeling, or to take corrective measures to ensure compliance with this Ordinance.

## **Section VIII: CONSTRUCTION AND PLAN REVIEW.**

All persons who hereafter construct, remodel or convert buildings or facilities for use as a lodging or boarding facility shall conform and comply in their construction or alteration with the requirements of this ordinance. Plans and specifications for such construction remodeling or alteration which shall show layout; mechanical, plumbing, and electrical specifications; construction materials; and location and type of equipment and facilities shall be filed by its owner in the Office of the Health Authority. The lodging establishment shall be constructed and finished in conformance with the approved plans. The Health Authority, in partnership with other State and Local officials, shall inspect the lodging establishment as frequently as deemed necessary during construction to ensure that construction occurs in conformance with the approved plans. The regulatory authority shall conduct a final inspection prior to the start of operations and issuance of an approved license.

**8.1 Plan Submission.** The license applicant or licensee shall submit properly prepared plans to the Health Authority under the provisions of Minnesota Rules, Chapter 157. The plans, specifications, application, and plan review fee shall be submitted to the Health Authority at least 30 days before beginning construction or remodeling.

**8.2 Approval Required.** The establishment shall be constructed in conformance with plans approved by the Health Authority. The jurisdiction shall not issue a building permit for a lodging establishment or remodeling or alteration permit for such an establishment until the Health Authority has approved such plans.

**8.3 Construction Inspections.** The Health Authority shall inspect the establishment as frequently as necessary during construction to ensure that construction occurs in conformance with this Ordinance. The licensee shall not begin operations until the Health Authority has conducted a final inspection and approved issuance of the license.

**8.4 Interference with Health Authority.** No person shall interfere with or hinder the Health Authority in the performance of its duties, or refuse to permit the Health Authority to make inspections of the establishment.

## **Section IX: PENALTY.**

**9.1 Penalty.** Any person violating a provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punishable pursuant to Clay County Ordinance 2010-3 Part 2.

**9.2 Administrative Citations.** Whenever the Health Authority discovers a violation of this Ordinance, a citation may be issued to the person alleged to have committed the violation. The citation shall be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

**9.3 Re-inspection.** If violation(s) found during an establishment inspection are deemed a potential public health or safety risk, a re-inspection of the establishment may be performed by the Health Authority. A re-inspection service fee, as defined in resolution, may be assessed to a licensed establishment after a re-inspection is completed.

## **Section X: GROUNDS FOR EMERGENCY CLOSURE.**

**10.1 Grounds for Emergency Closure.** If any of the following conditions exist, the operator may be ordered to discontinue or close all or portions of the lodging establishment until such time as the Health Authority confirms the correction of the violation:

- A. Failure to possess a current license required by this Ordinance;
- B. Evidence of septic system failure in proximity to or related to operations of the lodging establishment;
- C. Lack of potable water related to operations of the lodging establishment;
- D. Acceptable toilet facilities are not present, sanitary, easily accessible, or operational to the lodging establishment;
- E. Significant damage to the establishment operation, shelters, or site services due to tornado, fire, flood, or other disaster;
- F. Evidence of an infestation of rodents or other vermin within structures or buildings related to the operation of the establishment;
- G. Any violation or combination of violations deemed by the Health Authority to be an immediate or potentially serious health, safety, or security concern to patrons of the lodging establishment; and
- H. Anytime a public health nuisance, as defined in Minnesota Statutes, Section 145A.02 subdivision 17, exists.

## Section X: VARIANCES.

**10.1 Determination and Notice.** When a licensee or applicant requests a variance under Minnesota Rules, Chapter 4717.7000, subpart 1(D), on the form provided by the Health Authority, from a provision of this Ordinance or Minnesota Rules, Chapter 4625, the Health Authority will issue a written determination regarding that variance request. The administrative review of the variance will be issued to the licensee or applicant within ten County working days of the completion of the review.

## Section XI: SEPARABILITY.

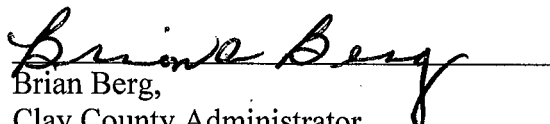
If any provision or application of any provision of this Ordinance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance.

**EFFECTIVE DATE:** After passage by the Clay County Board of Commissioners, this Ordinance shall be effective the date of enactment.

Adopted by the Clay County Board of Commissioners this 14 day of July, 2015.

  
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Grant Weyland,  
Chairman, Clay County Board of Commissioners

ATTEST:

  
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Brian Berg,  
Clay County Administrator