

**COUNTY OF LAC QUI PARLE
STATE OF MINNESOTA**

ORDINANCE No. _____

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

Effective: _____

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THE COUNTY BOARD OF LAC QUI PARLE 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 Lac qui Parle by regulating the employ of certified food managers for food establishments; by inspecting food establishments regarding said employ; and by providing for the enforcement of the related regulations stated herein.

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 371.59 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, particularly M.S. 157.011 and Minnesota Rules 4626.2000 to 4626.2025, 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 to all food and beverage service establishments, hotels, motels, lodging establishments, and resorts operating in Lac qui Parle County 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 as defined in Minn. Stat. 144.71.

1.4 Compatibility. Where the conditions imposed by any provision of this ordinance are either more restrictive or 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 Community Health Board acting under the provisions of Minn. Stat. 145A.10, as the Board of Health.
- 2.2 Countryside Public Health Community Health means the public health agency under the direction of the Countryside Public Health Community Health Board.
- 2.3 Environmental Health Department means the Countryside Public Health Community Health Board and its Environmental Health staff.
- 2.4 Environmental Health Director means the Countryside Public Health Community Health Board's Environmental Health Director and any related staff acting under the Board's authority.
- 2.5 Notice means a written instrument delivered personally or mailed to the last known address of the person entitled to notice.
- 2.6 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 MANAGER RULES

- 3.1 The rules for certified food managers set forth in Minnesota Rules 4626.2000 to 4626.2025 and all amendments or additions thereto are hereby incorporated in and made a part of this ordinance.

SECTION IV – COMPLIANCE PROCEDURES

- 4.1 It shall be unlawful to violate the provisions of this ordinance.

4.2. Inspection and Correction

- A. The Environmental Health Department shall inspect food and beverage service establishments, hotels, motels, lodging establishments, and resorts to confirm compliance with the provisions of this ordinance.
- B. Owners and operators of food and beverage service establishments, hotels, motels, lodging establishments, and resorts shall, upon request of the Environmental Health Department, exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this ordinance.
- C. Every person holding himself or herself out as a certified food manager shall upon request by the Environmental Health Department, exhibit and allow copying of any records necessary to ascertain compliance with the provisions of this ordinance.
- D. Whenever a compliance check is made, written findings shall be recorded in a report. A copy of the report shall be furnished to the owner, the operator or the certified food manager by mail or in person.
- E. The report shall specify a specific and reasonable period of time for the correction of any violation of this ordinance. Correction of the violations shall be accomplished within the period specified.

SECTION V – ADMINISTRATIVE ENFORCEMENT

- 5.1 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.

- 5.2 A violation of a provision of this ordinance may be subject to an administrative citation and civil penalties.
- 5.3 The owner of any food and beverage service establishments, hotels, motels, lodging establishments, and resorts in violation of this ordinance shall be subject to a civil penalty.
- 5.4 A person holding himself or herself out as a certified food manager in violation of this ordinance shall be subject to a civil penalty.
- 5.5 The Countryside Public Health Community Health Board shall 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.
- 5.6 The Environmental Health Director 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.
- 5.7 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.
- 5.8 Administrative enforcement shall be conducted by the Environmental Health Department or its designee.
- 5.9 Appeals

- A. An appeal may be brought under the provisions of this section to address any objection to the administrative 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 Executive Director of Countryside Public Health and the Environmental Health Director 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 Service, 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 has been cited.

- H. A hearing shall be held within ten 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 Service shall provide five (5) days' written notice of the hearing to the appellant. This notice may be delivered personally or mailed to the appellant's last known address.
- J. At the hearing Countryside Public Health Service shall present a detailed, written statement of findings supporting its action. The appellant, his agent, or attorney shall then be given an opportunity to show cause why the enforcement action taken by Countryside Public Health Service 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 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. An audio recording of the any hearing before the Appeals Board may be made and retained in the office of Countryside Public Health Service for a period of 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 Service for a period of one (1) year after the close of the hearing.

SECTION VI – CRIMINAL ENFORCEMENT

- 6.1 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.
- 6.2 No person shall make a false statement in a document required to be submitted under the provisions hereof.
- 6.3 Upon conviction of any violation of this ordinance a person shall be subject to the statutory penalties for misdemeanors.
- 6.4 Each day that a violation exists shall constitute a separate offense.
- 6.5 Criminal prosecution shall be conducted by the county attorney.

SECTION VII – CIVIL INJUNCTION

- 7.1 Nothing herein shall limit the option of seeking civil relief in an action to enjoin violations of this ordinance.
- 7.2 Injunctive actions shall be conducted by the county attorney.

SECTION VIII – EFFECTIVE DATE

- 8.1 This Ordinance shall be in full force and effect from and after its passage and publication according to law.

LAC QUI PARLE COUNTY

Passed by the Board of Commissioners of Lac qui Parle County, Minnesota the _
day of _____, 2008.

Ivey Vonderharr, Chairperson Date
Board of County Commissioners

Attest: _____
Jacob Sieg Date
County Auditor-Treasurer