

Adopted by County Board Action  
**County of Kandiyohi**  
**Willmar, Minnesota**

**Environmental Health Licensing Ordinance for:**  
**Food, Beverage and Lodging Establishments**  
**Manufactured Home Parks**  
**Recreational Camping Areas**  
**Youth Camps and**  
**Public Pools**

**ORDINANCE SUMMARY**

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## **Section 1: PURPOSE, APPLICABILITY AND AUTHORITY**

### **1.1 Purpose**

This ordinance establishes standards and regulations for operating, designing, constructing and maintaining food, beverage, and lodging establishments; public pools and related facilities; youth camps; manufactured home parks and recreational camping areas for the purpose of preventing and abating public health risks. The ordinance has been developed to be fair, consistent, and educationally based in order to fit diverse needs of Kandiyohi County.

### **1.2 Applicability**

This ordinance applies to all food and beverage establishments, lodging establishments, public pools and related facilities, youth camps, manufactured home parks and recreational camping areas in Kandiyohi County.

### **1.3 Authority**

Kandiyohi County, in a joint powers agreement with Renville County as the Kandiyohi-Renville Community Health Board, has entered into a delegation agreement with the Minnesota Department of Health to inspect and license regulated establishments and enforce the applicable laws according to Minnesota Statutes 145A.

### **1.4 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. Whenever the Minnesota Department of Health amends regulations or adopts Statutes or Rules, the standards set by the Minnesota Department of Health shall govern and will be considered as a part of the ordinance.

### **1.5 Ordinance Administration**

Kandiyohi County Health and Human Services will administer this ordinance.

### **1.6 Ordinance Compliance Required**

No person may cause or permit a food or beverage establishment, lodging establishment, public pool, youth camp, manufactured home park or recreational camping area to be located, constructed, altered, extended, converted, or operated in Kandiyohi County except in full compliance with the provisions in this ordinance.

## **Section 2: STATUTES AND RULES ADOPTED BY REFERENCE**

The Kandiyohi County Board adopts the following Minnesota Statutes and Rules by reference as part of this ordinance as if fully stated in the ordinance. These Minnesota Statutes and Rules can be found at [www.revisor.mn.gov/statutes](http://www.revisor.mn.gov/statutes).

- 2.1 Food, and Beverage Establishments** as defined in and governed by Minnesota Statutes, Chapter 157 (with the exemption from the fee's section 157.16) and Minnesota Rules, parts 4626.0010 to 4626.1855 except Certification of Food Protection Managers under Minnesota Statutes, Section 157.16, subdivision 2(a), and Minnesota Rules, Part 4626.003, subparts G, H, I, J, K, L, M, N, O.
- 2.2 Lodging Establishments**, as defined in and governed by Minnesota Statutes, Chapter 157 (with exemption from fee's section 157.16) and Minnesota Statutes, Chapter 327, and Minnesota Rules, parts 4625.0100 to 4625.2200.

- 2.3 **Manufactured Home Parks and Recreational Camping Areas**, as defined in and governed by Minnesota Statutes, Sections 327.14 to 327.28, and Minnesota Rules, parts 4630.0200 to 4630.2210.
- 2.4 **Youth Camps**, as defined in and governed by Minnesota Statutes, Sections 144.71 to 144.74, and Minnesota Rules, parts 4630.2300 to 4630.4700.
- 2.5 **Public Pools**, as defined and governed by Minnesota Statutes, Section 144.1222, and Minnesota Rules, parts 4717.0150 to 4717.3970 except Minnesota Rules parts 4717.0310 and 4717.0450 for public swimming pool plan review and approval.
- 2.6 **Variances to Minnesota Rules** for:
- a. Lodging, as specified in Minnesota Rules, part 4717.7000, subpart 1(D)
  - b. Manufactured home parks and recreational camping areas, as specified in Minnesota Rules, part 4717.7000, subpart 1(E)
  - c. Youth camps, as specified in Minnesota Rules, part 4717.7000, subpart 1(F)
  - d. Food establishments, as specified in Minnesota Rules, parts 4626.1690 to 4626.1715.
  - e. Public pools, by the Commissioner of Health as specified in Minnesota Rules part 4717.3975.
- 2.7 **Statutory or Rule Changes**  
Successor or amended statutes and rules apply to this ordinance and are automatically incorporated into this ordinance upon their effective date.

### Section 3: **DEFINITIONS**

- 3.1 **County** means the county of Kandiyohi.
- 3.2 **County Board** means the Kandiyohi County Board of Commissioners and their authorized representatives.
- 3.3 **Board** means the Kandiyohi-Renville Community Health Board or designee authorized by the County Board to carry out or enforce any provision of a county public health ordinance.
- 3.4 **Health Department** means the Public Health Staff of Kandiyohi and Renville Counties under the jurisdiction of the Kandiyohi-Renville Community Health Board.
- 3.5 **License** includes the whole or part of any permit, certificate, approval, registration or similar form of permission or renewal required by county public health ordinance of state law administered by the county for the operation of any business, service or facility.
- 3.6 **Licensee** means the person who has been given the authority by the issuance of a license by the county to establish, operate and/or maintain a facility or activity regulated by county public health ordinances.

- 3.7 **Person** means any individual, firm, partnership, public or private corporation, municipality or other organization, receiver, trustee assignee or agent and with respect to acts prohibited or required herein shall include employees or licenses.

**Section 4: LICENSURE**

**4.1 License Required**

No person shall operate a food or beverage establishment, lodging establishment, special event food stand, special event camping area, manufactured home park, recreational camping area, youth camp, or public pool within the County unless a license of the applicable type has been obtained from the Health Department pursuant this ordinance. The Board will honor licenses issued by the Minnesota Department of Health or Agriculture.

**4.2 Application for License**

Application for license shall be made to the Board on forms furnished by the Health Department and shall set forth the general nature of the business, location, and such general information as the Board may require.

**4.3 Term of License**

Licenses shall be renewed on an annual basis. No person shall operate within the County unless and until a license for current year of the applicable type has been obtained pursuant to this regulation. The license shall be maintained and conspicuously displayed at all times. The license is not transferable or refundable.

**4.4 License Categories and Fees**

The license category determines the applicable license fee. These categories and fees shall be determined by the Board annually. Other fees shall also be determined by the Board annually.

**Section 6: PLAN REVIEWS**

- 6.1 Whenever a food, beverage or lodging establishment, manufactured home park, camping area, or youth camp is constructed, converted, or remodeled, properly prepared plans and specifications must be submitted to the Health Department for review and approval before construction, remodeling or conversion has begun. The plans and specifications shall be indicated in the proposed layout, arrangement, plumbing specifications, construction materials of work areas and the type and model number of proposed fixed equipment and facilities. The plans and specifications shall be drawn to scale, legible, and complete in all details.

- 6.2 Whenever a pool is constructed, converted, or remodeled, properly prepared plans and specifications must be submitted along with the appropriate fee to the Minnesota Department of Health for review and approval before construction, remodeling or conversion has begun.

- 6.3 A Plan Review will not be initiated or completed without payment. Plan Review Fees are determined annually by the Board.
- 6.4 The Health Department will review and comment on the submitted plans within thirty (30) days of receipt.
- 6.5 The Health Department shall approve the plans if they meet the specifications and requirements of these rules.
- 6.6 The facility shall be constructed and finished in conformance with the approved plans.
- 6.7 The Health Department shall inspect the food, beverage or lodging establishment, manufactured home park, camping area, or youth camp prior to the start of operation, to determine compliance with the approved plans and specifications. The Minnesota Department of Health will inspect pools before opening to determine compliance with the approved pool plans and specifications.

**Section 7: INSPECTIONS**

- 7.1 It shall be the duty of the Health Department to make routine inspections as determined by State Statute or Rule. The person operating the establishment or facility shall permit access to all parts of the establishment or facility at any reasonable time for purpose of inspection and shall exhibit and allow copying of any records necessary to ascertain compliance with this regulation.
- 7.2 The inspection frequency of establishments or facilities shall be based on the degree of health risk and /or Minnesota Statute / Rule. Frequency may be more often, but not less often than these standards.
- 7.3 The Health Department will provide an inspection report of conditions found during the inspection to the licensee or the person in charge. The Health Department will issue an order for correction of the violations found.

**Section 8: ENFORCEMENT ACTIONS**

**8.1 Operating Without a License**

If any person is found to be operating without a license, they shall immediately be ordered to cease operations. A full inspection, completed proper paperwork, and paid license fee and fine are required before re-opening. The fine for operating without a license will be determined by the Board annually.

**Re-inspections**

- 8.2 Re-inspections will be scheduled if the food, beverage or lodging establishment or facility, manufactured home park, campground, youth camp or swimming pool when violations are

repeated with little progress on corrective action. The number of violations, and the progress or willingness to correct violations will help determine if a re-inspection is required.

- 8.3 A re-inspection fee will be charged. The fee will be determined by the Board annually.
- 8.4 Regardless of the number or type of violations on an inspection, the Health Department may reinspect at an interval that is less than is required by law.

### **In-office Hearings**

- 8.5 In-office Hearings may be scheduled in the following situations:
  - A. Violations are repeated for two or more inspections.
  - B. Violations are repeated over the course of one or more years.
  - C. The manager/owner demonstrates unwillingness to correct violations.
  - D. Administrative assistance is needed to secure compliance.
- 8.6 The purpose of the in-office hearing is for the Health Department and Licensee to provide facts and concerns, and to mutually agree to corrective actions and timelines.
- 8.7 The scheduling of an In-office Hearing will be confirmed in writing, including a list of specific violations. Copies of the letter will be sent to the district commissioner, the county board chair, the county attorney, and other parties as deemed appropriate.
- 8.8 The In-office Hearing will be held at the County office.
- 8.9 An in-office hearing fee will be assessed to cover the costs of conducting the hearing. If no payment is received as of 31 days after the date of the hearing, the establishment or facility will be closed. To be reopened, a re-inspection will be done and a re-inspection fee will be charged. In-office hearing fees are set annually by the Board. All current and outstanding fees must be paid in full before reopening can be considered.

### **Other Enforcement Options**

- 8.10 Other enforcement actions may be taken:
  - A. Requiring education and/or demonstration of competence for establishment or facility personnel (i.e. staff food safety seminars).
  - B. Requiring Standard Operating Procedures.
  - C. Requiring maintenance schedules by establishment or facility staff to insure regular sanitation and routine cleaning (i.e. sanitizing checklists and cleaning calendars).

### **Penalties**

- 8.11 **Misdemeanor:**
  - A. Any person who violates or fails to comply with any of the provisions in this ordinance shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine.

- B. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

### **8.12 Injunctive Relief**

The Health Department in consultation with the county attorney may institute appropriate actions or proceedings, including injunctive relief to prevent, restrain, correct or abate a violation or threatened violation of this ordinance.

## **Section 9: NOTICE OF SUSPENSION**

- 9.1 Whenever the Health Department finds that conditions or practices exist which are in violation of any provision of this regulation, the Health Department shall give notice in writing to the operator of such business; that unless such conditions or practices are corrected within a reasonable period to be determined by the Health Department, the operator's license will be suspended. At the end of such period, the Health Department shall re-inspect. If conditions or practices have not been corrected, notice shall be delivered by certified mail or personally served by the County Sheriff's Office to the operator that the license has been suspended. Upon receipt of notice of suspension of the license, such operator shall immediately cease operation.
- 9.2 Nothing in this section shall be construed to prevent the Health Department from suspending or revoking a license only as to such portion of the premises that do not comply with the provisions of this regulation and permitting the continued operation of the remaining portions of such premises which do comply.

## **Section 10: IMMINENT HEALTH THREATS**

- 10.1 If a violation exists which is an imminent health threat, the Health Department may immediately suspend the operator's license. The Health Department must give notice to the establishment or facility in writing. Upon receipt of the notice, the operator shall immediately cease operation. The operator's license shall be reinstated after correction of imminent health threat. Imminent health threats include, but are not limited to:
  - A. Evidence of sewage backup in the building or property such as in a food preparation or storage area, hotel room, or public dressing room.
  - B. Lack of potable, hot or cold water under pressure to the extent that hand washing, utensil washing, food preparation or toilet facilities are not operational.
  - C. Lack of electricity or gas service to the extent that hand washing, utensil washing, food preparation, lighting or toilet facilities are not operational.
  - D. Evidence of an ongoing foodborne or waterborne illness caused by the operation of the establishment.
  - E. Evidence of severe rodent or insect infestation.
  - F. The presence of any condition that poses an imminent risk of substantial harm to the public health, safety or welfare.

**Section 11: EMERGENCY ORDERS**

- 11.1 Whenever the Health Department finds that an emergency exists which requires immediate action to protect the public's health, the Health Department may, without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as it deems necessary to meet the emergency. Notwithstanding the other provisions of this regulation, such order shall be effective immediately.
- 11.2 Emergencies may include, but are not limited to: storms such as wind, ice or snow, tornadoes, floods, fires, power outages, chemical spills and bioterrorism events.
- 11.3 In the case of emergencies, special orders/conditions may be established. Examples include but are not limited to the following:
- A. Alternative water supplies,
  - B. Alternative refrigeration options,
  - C. Alternative sanitizing procedures,
  - D. Alternative hand washing,
  - E. Closure of the food or beverage establishment or facility.

**Section 12: REVOCAION OF LICENSE**

- 12.1 For serious or repeated violations of any of the requirements of this ordinance, the license may be permanently revoked. 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. A license may be suspended for cause pending its revocation or hearing relative thereto.

**Section 13: APPEAL FROM SUSPENSION OR REVOCATION OF LICENSE**

- 13.1 Any person whose license to operate an establishment or facility has been suspended or revoked, or who has received notice from the Health Department that the license is to be suspended or revoked may request and shall be granted a hearing on the matter before the County Board by the procedure provided by Section 14 of this ordinance. If no petition for such hearing is filed within ten (10) days of receipt of the notice by certified mail or personally delivered by the County Sheriff's Office, such license shall be deemed to have been revoked.

**Section 14: APPEALS BOARD**

- 14.1 The Appeals Board shall be the County Board.
- 14.2 Any person affected by any notice or emergency order which has been issued and serviced as provided in Sections 8, 9, 10, 11 or 12 shall be granted a hearing on the matter before the County Board upon filing in 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 (10) days after the notice was received.



- A. Date of Hearing: The hearing requested shall be held not more than ten (10) days after the date on which the petition was filed. The Chairperson of the County Board may postpone the date of the hearing for a reasonable time beyond such ten (10) day period, if in the chairperson's judgment a good and sufficient reason exists for such postponement.
- B. Notice of Hearing: The Health Department shall cause five (5) days written notice of the hearing to be given to the petitioner(s) by personal service or by mailing to the petitioner's establishment or facility.
- C. Proceedings: At such hearing, the petitioner, his agent or attorney shall be given an opportunity to be heard and to show just cause why the notice of alleged violation or emergency order issued by the Health Department should be modified or withdrawn. The Health Department shall present a detailed written statement of findings and decision to the County Board at the time of the hearing.
- D. Decisions of the County Board: After such hearing, the County Board shall sustain, modify or withdraw the notice of alleged violation or emergency order, depending upon its findings as to whether the provisions of this regulation have been complied with. If the County Board sustains or modifies such notice or emergency order, it shall be deemed to be an order. A copy of the decisions of the County Board shall be served by mail to the petitioner(s).
- E. Record of Proceedings: The proceedings of each hearing held before the County Board pursuant to petition shall be recorded and entered as a public record in the office of the Health Department. Such record shall include a copy of every notice or order or stay or writing issued in connection with the matter. Any person aggrieved by the decision of the County Board may seek relief from any court of competent jurisdiction as provided by the laws of the State.
- F. Stays: The County Board may stay enforcement of an order for a reasonable length of time if immediate enforcement of the order would result in extreme hardship to the person(s) affected.
- G. Notice Not Appealed: Any notice served pursuant to the provisions of this regulation shall automatically become an order if written petition for a hearing is not filed with the Health Department within ten (10) days after the notice was served.

**Section 15: OTHER TERMS**

**15.1 Severability**

A determination that any provision of this ordinance is invalid, illegal or unenforceable does not affect the enforceability of any other provision.

**15.2 Ordinance Repeal**

The enactment of this ordinance repeals and replaces Kandiyohi County Ordinance 10-001 adopted on October 1, 2013. Any license, permit, or variance granted by the department remains in effect and continues to be subject to the standards, plans or conditions in effect at the time the license, permit or variance was granted.

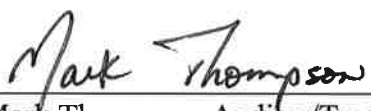
**15.4 Effective Date**

This ordinance shall be effective on and after the date of publication.

AMENDED

Date at Willmar, Minnesota, the 15<sup>th</sup> day of February, 2022

  
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George "Corky" Berg, Chairman  
Kandiyohi County Board of Commissioners

  
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Mark Thompson, Auditor/Treasurer  
Kandiyohi County Auditor/Treasurer