



Olmsted County Code of Ordinances
Chapter 3100 – Environmental Public Health Services Ordinance

Olmsted County MN

As amended by Olmsted County Board Resolution
#00-87 on 9/26/00 and #03-77 on 9/9/03

Updated 12/2/2017; Updated 3/19/2019

Resolution No. 19-53

WHEREAS, Olmsted County Public Health Services (OCPHS) has a Delegation Agreement with the Minnesota Department of Health that charges OCPHS with the duty to inspect, license and regulate public facilities in the County, including food and beverage establishments; and

WHEREAS, OCPHS is required to have a county ordinance that incorporates and aligns with specific statutes and rules including the Minnesota Food Code (Minnesota Rules, Chapter 4626 as amended); and

WHEREAS, the Minnesota Department of Health made certain changes to the Food Code effective January 2019 and the County needs to amend its Environmental Public Health Services Ordinance to align with these recent changes to the Food Code; and

NOW, THEREFORE, BE IT RESOLVED, that the Olmsted County Board of Commissioners does hereby ordain as follows:

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Chapter 3100 – Environmental Public Health Services Ordinance
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Table of Contents

OLMSTED COUNTY ENVIRONMENTAL PUBLIC HEALTH SERVICES ADMINISTRATIVE ORDINANCE4

SECTION 3101 GENERAL PROVISIONS.....5

SECTION 3101.01 TITLE5

SECTION 3101.02 PURPOSE and SCOPE5

SECTION 3101.03 JURISDICTION:.....6

SECTION 3101.04 INTERPRETATION AND APPLICATION6

SECTION 3101.05 DISCLAIMER OF LIABILITY6

SECTION 3101.06 FEES.....7

SECTION 3102 DEFINITIONS, RULES AND WORD USAGE7

SECTION 3102.01 DEFINITIONS.....7

SECTION 3102.02 RULES, WORD USAGE:8

SECTION 3103 ADMINISTRATION9

SECTION 3103.01 Public Health Services Advisory Board RESPONSIBILITIES9

SECTION 3103.02 POWERS AND DUTIES OF DIRECTOR:9

3103.02.01 DUTIES9

SECTION 3103.03 LICENSES AND PERMITS:10

SECTION 3103.04 COMPLIANCE REQUIRED11

SECTION 3104 EXCEPTIONS OR VARIANCES AND APPEALS:12

SECTION 3104.01 POLICY ON EXCEPTIONS or VARIANCES AND APPEALS:12

SECTION 3105 PENALTIES AND ENFORCEMENT AND REMEDIES.....13

SECTION 3106 EFFECTIVE DATE14

OLMSTED COUNTY ENVIRONMENTAL PUBLIC HEALTH SERVICES ADMINISTRATIVE ORDINANCE

1. Repealing Olmsted County Ordinances Chapter 3100 Environmental Services Administrative Ordinance
2. Providing for the inspection, licensing and regulation of programs as delegated by the Minnesota Department of Health, and establishing procedures for administering Olmsted County ordinances including but not limited to:
 - A. public pools,
 - B. youth camps,
 - C. recreational camping areas,
 - D. manufactured home parks,
 - E. public lodging,
 - F. public food and beverage establishments,
 - G. public health nuisances,
 - H. rabies,
 - I. tobacco sales, and
 - J. public non-community transient water systems that are in facilities licensed by Olmsted County Public Health Services.
3. Establishing procedures for administering Minnesota laws covered by delegation agreements where separate procedures are not established by such agreements, and where these procedures are consistent with State law.

SECTION 3101 GENERAL PROVISIONS

SECTION 3101.01 TITLE

This ordinance shall be known and referenced as the Olmsted County Environmental Public Health Services Ordinance.

SECTION 3101.02 PURPOSE and SCOPE

3101.021 This ordinance is enacted to supplement, support, and carry out the purposes of Olmsted County ordinances and State of Minnesota laws for public health protection including but not limited to ordinances regulating the following: public pools, youth camps, recreational camping areas, manufactured home parks, public lodging, public food and beverage establishments, public health nuisances, rabies and public non-community transient water systems that are in facilities licensed by Olmsted County Public Health Services.

3101.022 This ordinance establishes procedures for administering Minnesota laws covered by delegation agreements where separate procedures are not established by such agreements, and where these procedures are consistent with State Law.

Those laws referenced above include but are not limited to the following:

- A. Minnesota Statutes, Chapter 145A Delegation Powers and Duties
- B. Minnesota Statutes, Chapter 157 and Minnesota Statutes, Chapter 327, Minnesota Rules, parts 4626.0010 to 4626.0033, subpart F., and parts 4626.0035 to 4626.1855 (Food, Beverage and Lodging Establishments), and Minnesota Rules, parts 4625.0100 to 4625.2355 (Lodging Establishments);
- C. Minnesota Statutes, Sections 327.14 to 327.28, and Minnesota Rules, parts 4630.0200 to 4630.2210 (Manufactured Home Parks and Recreational Camping areas);
- D. Minnesota Statutes, Sections 144.71 to 144.74, and Minnesota Rules, parts 4630.2300 to 4630.4750. (Youth Camps);
- E. Minnesota Statutes, Section 144.1222, and Minnesota Rules, parts 4717.0150 to 4717.0275; 4717.0375; 4717.0650 to 4717.3970 (Public Pools).
- F. Minnesota Statutes Sections 144.381 to 144.387 and Minnesota Rules, parts 4720.5100, 4720.5110, subpart 1, and 4720.5120 (Non-community Wellhead Protection) and 4720.5130.
- G. Variances to Minnesota Rules for:

1. Lodging, as specified in Minnesota Rules, part 4717.7000, subpart 1 (D);
2. Manufactured home parks and recreational camping areas, as specified in Minnesota Rules, part 4717.7000, subpart 1 (E);
3. Youth camps, as specified in Minnesota Rules, part 4717.7000, subpart 1 (F); and
4. Food establishments, as specified in Minnesota Rules, parts 4626.1690 to 4626.1715.

H. All future revisions thereof, are hereby adopted by reference and made part of this Ordinance.

SECTION 3101.03 JURISDICTION:

This ordinance shall apply to all incorporated municipalities and unincorporated areas within the boundaries of Olmsted County. Where a municipality (city or township) with jurisdiction has lawfully passed environmental public health ordinances to regulate and enforce in an equivalent or more restrictive manner, the Director shall coordinate regulation and enforcement with that municipality.

SECTION 3101.04 INTERPRETATION AND APPLICATION

3101.041 In their interpretation and application, the provision of Olmsted County's environmental public health ordinances shall be held to be the minimum requirements to protect public health, safety, and welfare.

3101.042 Where the conditions imposed by any provision of environmental public health ordinances are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail.

3101.043 Should any court of competent jurisdiction declare any section of this ordinance or any other environmental public health ordinance to be invalid, such decision shall not affect the validity of the ordinance as whole or any part thereof other than the provision declared invalid.

SECTION 3101.05 DISCLAIMER OF LIABILITY

3101.051 The County's environmental public health ordinances are intended to provide reasonable minimum standards for design, construction, maintenance, and operation, to protect public health.

3101.052 Design, construction, maintenance, or operation in accordance with the provisions of the County's environmental public health ordinances does not guarantee adequate capacity, function or protection of health and safety.

3101.053 The County's ordinances do not create a liability on the part of, or a cause of action against, Olmsted County or any employee thereof for any damages that may result from reliance on the County's environmental public health ordinances.

SECTION 3101.06 FEES

Fees for the administration of the County's environmental public health ordinances may be established and amended periodically by resolution at the County Board.

SECTION 3102 DEFINITIONS, RULES AND WORD USAGE

For the purpose of the County's Environmental Public Health ordinance, the following terms or words shall be interpreted as follows:

SECTION 3102.01 DEFINITIONS

3102.01.01 Citation: An order to a responsible party to appear at the County Violation Bureau to enter a plea of 1) not guilty and request a court hearing, or 2) guilty and pay a fine established by the courts for violation of environmental public health ordinance in lieu of a civil notice of violation issued pursuant to the County Administrative Enforcement and Appeals Procedure Ordinance.

3102.01.02 County: Olmsted County, Minnesota.

3102.01.03 County Board: The elected Board of Commissioners for the County of Olmsted.

3102.01.04 Delegation Agreement: The properly executed delegation of responsibility to Olmsted County by the State of Minnesota, of public health enforcement obligations of the State as provided in Minnesota Statutes and Rules.

3102.01.05 Director: The Director of Public Health Services and respective designees operating under authority of the County Board to administer public health programs and services for Olmsted County.

3102.01.06 Environmental Management Team: The Administrative staff appointed by the County Board and/or County Administrator to manage the environmental programs and services for Olmsted County.

3102.01.07 Environmental Public Health Ordinance: An ordinance adopted by Olmsted County or Minnesota's Statutes and Rules administered under authority of Minnesota Statutes Chapters 145A and amendments thereto.

3102.01.08 Exception: The equivalent of a variance in this ordinance, intended to apply only to an individual case, and not to all similar fact situations encountered by the County in the future

3102.01.09 Imminent Hazard: An actual or potential immediate threat to the health, safety, or wellbeing of humans or livestock, or environmental degradation.

3102.01.10 License: Authorization to conduct business services that may be limited to a specific period of time, specific_person, and/or a specific site in Olmsted County.

3102.01.11 Licensee: 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 ordinances.

3102.01.12 Permit: A certificate, approval, registration, or similar form of permission that may be limited to a specific site and/or a specific period of time to establish a use, construct a structure or operate a specific business, structure, or vehicle.

3102.01.13 Person: A firm, association, organization, partnership, trust, company, corporation, municipality, agency, or an individual.

3102.01.14 Public Health Services: The services of Olmsted County government that are authorized under Minnesota Statutes Chapter 145A, Community Health Services Act.

3102.01.15 Public Health Services Advisory Board: The Olmsted County Public Health Services Advisory Board, organized and appointed by the County Board to provide community input on public health issues.

3102.01.16 Structure: A combination of materials forming a construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

3102.01.17 Variance: The equivalent of an exception in this ordinance, intended to apply only to an individual case, and not to all similar fact situations encountered by the County in the future.

SECTION 3102.02 RULES, WORD USAGE:

3102.02.01 Masculine and Feminine Gender: The masculine gender includes the feminine and neuter genders.

3102.02.02 Normal Work Days: The days that County departments are open to the public for business.

3102.02.03 Shall and May: "Shall" is mandatory and not discretionary; "may" is permissive.

3102.02.04 Singular and Plural: Words used in the singular include the plural, and the plural includes the singular.

3102.02.05 Tenses: Words used in the present tense include the future.

SECTION 3103 ADMINISTRATION

SECTION 3103.01 Public Health Services Advisory Board RESPONSIBILITIES: The Public Health Services Advisory Board shall a) review and recommend to the County Board County policy for public health programs and public services b) review and recommend to the

County Board the budget for the Public Health Department, and c) carry out other assignments authorized by action of the County Board. Nothing in this section prohibits the Public Health Services Advisory Board from appointing subcommittees, task forces, or advisory councils to help the Board carry out these responsibilities.

SECTION 3103.02 POWERS AND DUTIES OF DIRECTOR: The Director shall have the following powers and duties in addition to specific powers and duties addressed in other sections of this ordinance and in addition to any other powers and duties that the Director may now have or hereafter be given.

3103.02.01 DUTIES: The Director shall:

3103.02.011 Administer assigned environmental public health ordinances and Minnesota laws covered by delegation agreements.

3103.02.012. Issue permits and licenses as required by the terms of the ordinance.

3103.02.013 Conduct inspections of construction activities and other operations to determine compliance with the terms of environmental public health ordinances.

3103.02.014 Maintain permanent and current records of public health permits, licenses, complaints, enforcement actions, exceptions, appeals, ordinances and amendments to ordinances as required by law.

3103.02.015 Request the County Attorney to institute in the name of the County any appropriate action or proceedings to enforce the conditions of a contract or otherwise to enforce a public health ordinance.

3103.02.016 Coordinate the administration of public health ordinances with other ordinances enforced by the County and with the administrative activities of other jurisdictions and the State of Minnesota.

3103.02.017 Be authorized to provide or require consultation and education services and a report of findings in conjunction with the inspection of a place or a business that is licensed consistent with this ordinance. The purpose of these services is to assist the licensee or other person(s) in charge to a) identify conditions that pose a health or safety risk and/or are not consistent with law; and b) assure resolution of those conditions.

3103.02.018 Be authorized to gather information about a case of environmental condition(s) that appear to be a public health nuisance. In the absence of a County Ordinance or Minnesota Law that defines those environmental conditions that are a "public health nuisance," the information can be presented for Public Health Services Advisory Board action. In such cases the Public Health Services Advisory Board shall determine that the condition(s) are or are not a public health nuisance, based on the information presented. When a Director determines that it is in the best interest of the community and county to take prompt action, the director is authorized to determine whether the condition(s) is a public health nuisance, document the findings leading to such decision, and take corrective action(s) allowed by law, without waiting for the Public Health Services Advisory Board to review and act. Such action shall be reported at the next Public Health Services Advisory Board meeting.

3103.02.02 AUTHORITY: The Director is authorized to carry out the following activities on behalf of the County as the Director may deem appropriate in administering environmental public health ordinances:

3103.02.021 The Director may enter into contracts or agreements with persons establishing conditions for approval of an exception, license, permit, or service.

3103.02.022 Until the Director has approved all related plans or permits, the Director may withhold issuance of permits that will allow construction, remodeling, alteration, demolition, or change in use of a building, structure, facilities, sewage treatment system or well.

SECTION 3103.03 LICENSES AND PERMITS:

3103.03.01 LICENSE AND PERMITS AUTHORIZED: Where a license or permit is not required by Minnesota law, rule or delegation agreement, the County Board may, by resolution, require a license and/or permit.

3103.03.02 ACTION ON LICENSE OR PERMIT APPLICATION: Applications for initial license or permit and renewal or extension of license or permit shall be reviewed by the Director and one of the following actions communicated to the applicant: a) approval; b) approval with written conditions; c) hold pending additional information; d) hold pending correction of other violations of environmental public health law, permits, or license by the applicant or property holder, or e) denial.

3103.03.03 HOLD PENDING CORRECTION OF VIOLATION ON OTHER PROPERTY: In the event a violation notice has been issued under this ordinance related to another property or permitted activity, the Director may withhold approval of construction, maintenance or operating permits for contractors, operators, or property owners involved, until the violation has been corrected.

3103.03.04 FALSE INFORMATION: Submission of false information may constitute grounds for denying issuance of an initial or renewal license or permit, and may be grounds for the Director to suspend an issued license or permit.

3103.03.05 ALTERATION OF CONDITIONS FOR LICENSE AND PERMIT:

Construction, operation, or maintenance authorized by a license or permit shall not be altered or modified until the proposal has been reviewed and accepted by the Director.

3103.03.06 LICENSE TRANSFERABILITY: Licenses are not transferable from person to person, except as authorized by ordinance, law, or the Director.

3103.03.07 PERMIT TRANSFERABILITY: Permits specific to a site are transferable except as prohibited by ordinance, law, or the Director.

3103.03.08 EXPIRATION OF LICENSE AND PERMIT: Construction, operating, and maintenance license and permits shall expire one year from the date of issuance except where longer periods of time are authorized by ordinance.

3103.03.09 LICENSE OR PERMIT RENEWALS: Applicants shall present the required license or permit renewal application, including all required information and fees, no later than 30 days before the expiration of their current license or permit. Additional fees may be assessed for applications being presented for processing after the date due and for delays in processing of applications due to the applicant's failure to provide the required information or fees.

3103.03.10 INTERFERING WITH THE DIRECTOR: Whenever a licensee, permittee, or their staff causes (or allows) actions on or off the premises of the license or permit site that interfere with the lawful responsibilities of the director or are threatening to the safety of the director, such actions may be grounds for the director to act to suspend the applicable license or permit and seek its revocation according to the provisions of this ordinance.

SECTION 3103.04 COMPLIANCE REQUIRED

3103.04.01 DUTY: It shall be the duty of all property owners, contractors, subcontractors, and other persons to operate in accordance with the provisions of this and other applicable environmental ordinances or laws.

3103.04.02 ACCOUNTABILITY: Any property owner, contractor, subcontractor, or other person performing work in violation of the provisions of environmental public health ordinances shall be held accountable for violations, whether or not a permit is required or obtained for the work.

3103.04.03 VIOLATIONS: Construction, reconstruction and operations being carried out a) without required license, permit, authorization, or b) not in conformance with applicable ordinances, rules, standards, license, or permit conditions are prohibited.

SECTION 3104 EXCEPTIONS OR VARIANCES AND APPEALS:

SECTION 3104.01 POLICY ON EXCEPTIONS or VARIANCES AND APPEALS:

3104.01.01 POLICY: Except as otherwise provided by Minnesota law, the procedures which must be followed in the event an appeal of the Director's action or decision is sought shall be governed by the Olmsted County Enforcement and Appeals Procedure Ordinance set forth in Chapter 4000 of the Olmsted County Code of Ordinances.

3104.01.02 CIRCUMSTANCES FOR EXCEPTIONS OR VARIANCES: There are two circumstances under which a licensee may apply for an exception or variance. These include (1) circumstances in which the owner contends that characteristics of an individual property make strict adherence to the requirements of an environmental public health ordinance difficult, unreasonably expensive, or impractical; and (2) circumstances in which an owner alleges that the staff administering environmental public health ordinances has misinterpreted or misapplied ordinance provisions.

3104.01.03 EXCEPTIONS OR VARIANCES FROM STATE AGENCY RULES: A licensee may request that the Olmsted County Public Health Department grant an exception or variance consistent with the provisions contained in Minnesota Rules Part 4717.7000 subp 1 D-F and subp. 2; Minnesota Rules Part 4626.1690 for food and beverage establishments, Minnesota Rules, Part 4625.2355 for lodging establishments, Minnesota Rules, Part 4630.1801 for manufactured home parks and recreational camping areas, and Minnesota Rules Part 4630.4750 for youth camps as adopted in Section 3101.02 of this Ordinance. All requests for an exception or variance must be submitted to the Department in writing. Each request shall contain:

- a) The specific language in the rule, as adopted in Section 3101.02 of this ordinance, from which the exception or variance is requested;
- b) the reasons for the request;
- c) the alternative measures that will be taken if an exception or variance is granted;
- d) the length of time for-which the exception or variance is requested;

- e) a statement that the party applying for the exception or variance will comply with the terms of the exception or variance if granted, and;
- f) other relevant information necessary to properly evaluate the request for the exception or variance.

3104.01.031 CRITERIA FOR DECISION: The decision to grant or deny an exception or variance shall be based on the Department's evaluation that:

- a) The exception or variance will not adversely affect the public's health or safety;
- b) the alternative measures to be taken, if any, are equivalent or are superior to those prescribed in this ordinance, and
- c) compliance with this ordinance would impose an undue burden on the applicant.

3104.01.032 NOTIFICATION OF VARIANCE: The Department shall notify the applicant in writing of the decision to grant or deny an exception or variance. If an exception or variance is granted, the notification shall specify the period of time for which the exception or variance will be effective and the alternative measures or conditions, if any, the applicant must meet.

3104.01.033 EFFECT OF ALTERNATIVE MEASURES OR CONDITIONS: All alternative measures or conditions attached to an exception or variance have the force and effect of this ordinance and are subject to the issuance of correction orders and penalties as provided by law.

3104.01.034 RENEWAL: A request for the renewal of an exception or variance must be submitted in writing before its expiration date. Renewal requests shall contain the information in Section 3104.01.03. The Department shall renew an exception or variance if the applicant continues to satisfy the criteria in Section 3104.01.031 and demonstrates compliance with the alternative measures or conditions imposed when the original exception or variance was granted.

3104.01.035 DENIAL, REVOCATION, OR REFUSAL TO RENEW: The Department shall deny, revoke, or refuse to renew an exception or variance if the Department determines that the criteria in Section 3104.01.03 and 3104.01.031 are not met. The Department shall notify the applicant in writing of the decision to deny, revoke; or refuse to renew the exception or variance. 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.

SECTION 3105 PENALTIES AND ENFORCEMENT AND REMEDIES

Section 3105.01.01 – VIOLATIONS AND APPEALS PURSUANT TO COUNTY ADMINISTRATIVE ENFORCEMENT AND APPEALS ORDINANCE - Where violations

of this Ordinance occur, the Department shall pursue enforcement consistent with the Policies and Procedures set forth in the County's Administrative Enforcement and Appeals Procedure Ordinance.

3105.01.02 VIOLATION MISDEMEANOR: In the event the Department opts not to issue a civil notice of violation pursuant to the County's Administrative Enforcement and Appeals Procedure Ordinance, any person who violates an environmental public health ordinance, allows a violation to exist on property under his control, or fails to take action to abate the existence of the violation when notified or ordered by the Director, shall be guilty of a petty misdemeanor, misdemeanor, or gross misdemeanor, as established in the applicable ordinance and law. Upon conviction, punishment shall be as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

3105.01.03 AUTHORIZATION FOR ACTION TO ABATE NUISANCES: Actions to make corrections of public nuisance or public health nuisance at County expense must be authorized by the Environmental Management Team. A follow up report of the corrective action and costs will be made to the Public Health Services Advisory Board.

SECTION 3106 EFFECTIVE DATE

This ordinance shall be in full force and effect upon adoption and publication pursuant to Minnesota law.

Dated this day of 19th day of March, 2019.

OLMSTED COUNTY BOARD OF COMMISSIONERS

/s/ Kenneth Brown, Chairperson
Kenneth Brown, Chairperson

ATTEST:

/s/ Lisa Morris
Lisa Morris-Helmstetler, Deputy Clerk to the County Board

Adopted

End of Chapter 3100 – Environmental Services Administrative Ordinance