

**COUNTY OF YELLOW MEDICINE
STATE OF MINNESOTA**

**AN ORDINANCE PROVIDING FOR THE REGULATION OF
PUBLIC POOLS WITHIN YELLOW MEDICINE COUNTY IN
CONSORTIUM WITH BIG STONE, CHIPPEWA, LAC QUI
PARLE AND SWIFT COUNTIES**

AS

COUNTRYSIDE PUBLIC HEALTH SERVICE

“YELLOW MEDICINE COUNTY PUBLIC POOL ORDINANCE”

EFFECTIVE: _____

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THE COUNTY BOARD OF COMMISSIONERS OF YELLOW MEDICINE 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 Yellow Medicine by licensing and inspecting public pools, regulating their operation and maintenance; and providing for the enforcement of the regulations herein throughout the County.
- 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 144 relating to rules and standards for public pools. Countryside Community Health Board is authorized to enforce this ordinance.
- 1.3 Jurisdiction. This ordinance shall be applicable in Yellow Medicine County to all public pools as defined in Minnesota Statute 144.1222, and all amendments or additions thereto.
- 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 (CPH) Community Health Board acting as the Board of Health under the provisions of Minn. Stat. 145A.10, and all amendments or additions thereto.

- 2.2 Environmental Health Department means the Countryside Public Health (CPH) Community Health Board and its Environmental Health staff.
- 2.3 Environmental Health Director means the Countryside Public Health (CPH) Community Health Board's Environmental Health Director and any related staff acting under the Board's authority.
- 2.4 Notice means a written instrument delivered personally, mailed to the last known address of the responsible party entitled to notice, or posting the notice at the entry to the establishment.
- 2.5 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 purpose shall not void the notice.

SECTION III – PUBLIC POOL STANDARDS

- 3.1 All public pools within Yellow Medicine County shall comply with the standards for public pools as set forth in Minnesota Statute 144.1222 and in Minnesota Rules 4717.0150 through 4717.3970 and all amendments or additions thereto. Specifically, Minnesota Statutes 144.1222 and Minnesota Rules 4717.0150 through 4717.3970, inclusive, and amendments or additions, are hereby incorporated herein by reference and made a part of this ordinance. Any reference to the Commissioner shall mean the Countryside Public Health (CPH) Community Health Board and its designated agents, as may be delegated.

SECTION IV – EMBARGO, CONDEMNATION, AND TAGGING

- 4.1 General. The Environmental Health Director may condemn and cause to be removed, embargo, and/or tag any item deemed to be in violation of this ordinance.

SECTION V – PLAN REVIEW OF FUTURE CONSTRUCTION

- 5.1 General. The Commissioner of the Minnesota Department of Health has jurisdiction over pool construction. When a public pool in Yellow Medicine County, licensed or to be licensed under the provisions of this ordinance, is hereafter constructed or remodeled, the entity shall submit to the Commissioner of the Minnesota Department of Health all required specifications and materials.

SECTION VI – LICENSES

- 6.1 Licenses Needed. It shall be unlawful for any person to operate a public pool within Yellow Medicine County without a valid license issued by the Environmental Health Department. Issuance and retention of a license is dependent upon compliance with the requirements of this ordinance. Licenses are specific to each public pool. The license must be posted at the pool. The regular license shall run on a calendar year from January 1st to December 31st of that year. For seasonal public pools a license shall run from May 1st to the next April 30th. The school license year shall run from July 1st to the next June 30th. Licenses expire at 11:59 p.m. on the last day the license is in effect.
- 6.2 Application for License.
- A. Any person desiring to operate a public pool shall make a written application on forms provided by the Environmental Health Department.
 - B. 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 description of the public pool, as well as a signature of the applicant or applicants. The Environmental Health Department may require such additional information as it may find necessary.
 - C. Application for a new public pool and the appropriate license fee shall be submitted to the Environmental Health Department at least ten (10) days prior to the desired date of operation.
 - D. Renewal applications and the license fee shall be submitted to the Environmental Health Department on or before December 1 prior to the expiration of the current year's license. Penalties shall not accrue until after expiration of the current year's license.
 - E. Applications for renewal of schools and affiliated establishments shall apply for license no later than June 1 each year. Penalties shall not accrue until after expiration of the current year's license.
 - F. Applicants for the renewal of seasonal licensed establishments shall apply no later than April 1 each year. Penalties shall not accrue until after expiration of the current year's license.
 - G. Countryside Community Health Board is authorized to collect annual license fees and all other related fees. The amount of the annual license fee, any penalties or other fees required shall be specified by resolution of the Countryside Community Health Board and may be adjusted from time to time as the Board deems appropriate. Fees paid shall be retained by the Community Health Board regardless of whether there is approval or denial of the license.

H. If an application is made for the calendar year whereby the license begins on or after October 1st of that year, the license fee for new applicants or new operators shall be one-half of the appropriate annual license fees, plus any penalty which may be required. The provision for one-half of the license fee shall apply to any new applicant or licensee applying on or after February 1st for seasonal licenses or on or after April 1st for school year licenses.

6.3 Inspection and Correction.

- A. The Environmental Health Department shall inspect public pools to assure compliance with the requirements of this ordinance.
- B. The person or entity operating a public pool shall, upon request of the Environmental Health Department, and after proper identification, permit access to all areas of the public pool for inspection. Further, the operator shall provide such documents and records required to ensure compliance with the provisions of this ordinance.
- C. Further, operators shall furnish or permit sampling, free of charge, samples which may be needed by the Environmental Health Department for laboratory analysis.
- D. Whenever an inspection of a public pool is made, the findings shall be recorded on an inspection report form. One copy shall be provided to the operator of the public pool. The inspection report is a public document and shall be available to the public unless the report is a part of a pending litigation, or unless there are scheduled follow up inspections.
- E. The inspection report form shall specify a specific and reasonable period of time for correction of the violation, EXCEPT certain violations may require immediate action or suspension of operations of the public pool as public safety may require.

6.4 Suspension of License.

- A. Licenses may be suspended temporarily by the Environmental Health Director, or staff, at any time for:
 - 1. Failure by the holder to comply with the requirements of the ordinance.
 - 2. Failure to timely comply with any notice requiring corrective action.
 - 3. Failure to comply with Minnesota Statute 144.1222 and Minnesota Rules 4717.0150 through 4717.3970, and as amended, and any additions thereto.
- B. A license holder or operator shall be provided notice that the license has been suspended and that an opportunity for a hearing before the Appeals Board will be provided if a written request for an appeal is filed timely with the Environmental Health Director.

- C. Notwithstanding the other provisions of this ordinance, whenever the Environmental Health Director or other qualified specialist, employee or agent of Countryside Public Health find conditions in the operation of the public pool which in their judgment may constitute a substantial hazard to the public health, a written notice to the license holder/operator may be issued citing such condition(s) specifying corrective action to be taken, specify a time period which such action must be taken, specify the corrective action to be taken, and specify the time period within which such action must be completed. If deemed necessary, such order shall state that the license is immediately suspended and may require that public pool operations be immediately discontinued and persons affected by such action may obtain review of this action by filing a written petition for appeal with the Environmental Health Director.
- D. Any person whose license has been suspended may at any time make an application for reinspection for the purpose of reinstatement of the license. The application for reinspection shall be in writing and include a summary of the applicant's remedial action and that the condition(s) causing suspension of license have been corrected within ten (10) days of the application. The premises shall be reinspected, and if the applicant is in compliance with the requirements of the ordinance, the license shall be reinstated.

6.5 Revocation of License. For serious or repeated violations of any of the requirements of this ordinance, the license may be permanently revoked. Prior to such action, the Environmental Health Director shall notify the license holder in writing, advising that the license shall be permanently revoked five (5) days after the issuance of said notice. The license holder shall be advised at the same time that a hearing before the Appeals Board will be provided if a written request for appeal is filed with the Environmental Health Director.

6.6 Appeals.

- A. An appeal may be brought under the provisions of this section to address any objection to the 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 alternate 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 arises.
- H. A hearing shall be held within ten (10) 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 shall provide five (5) days written notice of the hearing to the appellant.
- J. At the hearing, Countryside Public Health Service shall present a detailed, written statement of findings supporting the decision of Countryside Public Health Service. The appellant, his/her 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 or in person on the appellant/designee. 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. A recording may be made of any hearing before the Appeals Board and if so, it shall be retained in the office of Countryside Public Health Service for a period of not less than 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 not less than one (1) year after the close of the hearing.
- M. The terms of any notice served pursuant to the provisions of this ordinance shall become final if a written petition for a hearing is not filed with the Environmental Health Director within ten (10) days after the date of mailing.

6.7 Enforcement.

- A. Nothing herein shall limit the option of seeking civil relief in an action to enjoin violations of this ordinance.
- B. Injunctive actions shall be conducted by the county attorney or other designee.
- C. No person shall make a false statement in a document required to be submitted under the provisions hereof.
- D. Each day that a violation exists shall constitute a separate offense.
- E. Administrative Enforcement.
 - 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.
 - 2. A violation of a provision of this ordinance may be subject to an administrative citation and civil penalties.
 - 3. The Countryside Public Health Community Health Board may 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.
 - 4. 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 of paying the fine.
 - 5. 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 of ten percent (10%) of the fine amount may be imposed.
 - 6. Administrative enforcement shall be conducted by the Environmental Health Department or its designee.
 - 7. Appeal from a citation shall be made in accordance with the appeal provisions provided hereinabove.

8. 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 prosecuting attorney for criminal prosecution.

F. Criminal Enforcement.

1. Criminal prosecution shall be conducted by the county attorney.
2. Whoever fails to comply with any of the provisions hereof shall be guilty of a misdemeanor.
3. Upon conviction of any violation of this ordinance, a person shall be subject to the statutory penalties for misdemeanors.

SECTION VII – REPEAL OF PREVIOUS ORDINANCE

- 7.1 This ordinance repeals and replaces in its entirety all prior public pool ordinances adopted by this county.

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.

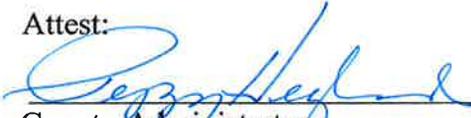
Passed by the Board of Commissioners of Yellow Medicine County, Minnesota the 26th
day of August, 2014

YELLOW MEDICINE COUNTY BOARD OF
COMMISSIONERS

By: 

Its: Vice Chair

Attest:


County Administrator

**BOARD OF COUNTY COMMISSIONERS
YELLOW MEDICINE COUNTY, MINNESOTA**

**Resolution No: #26-2014
RELATING TO PUBLIC POOLS**

WHEREAS, the Yellow Medicine County Board of Commissioners intends to protect and provide for the public health, safety and general welfare of the County of Yellow Medicine by regulating the public pools throughout said county; and

WHEREAS, pursuant to Minnesota Statute Chapter 145A.05 and Minnesota Statute Chapter 371.59, county boards may adopt ordinances to regulate actual or potential threats to the public health; and

WHEREAS, 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; and

WHEREAS, the Minnesota Commissioner of Health has delegated authority to Countryside Public Health under Minnesota Statute Chapter 145A.07, Subd. 1, for the licensing, inspection, reporting and enforcement duties authorized under Minnesota Statute 144.1222 and Minnesota Rules 4717.0150 to 4717.3970 relating to rules and standards for public pools.; and

WHEREAS, it is the intention of the Yellow Medicine County Board of Commissioners to approve the ordinance regulating public pools.

NOW THEREFORE, BE IT RESOLVED that the Yellow Medicine County Board of Commissioners does hereby enact the attached ordinance regulating public pools.

Commissioner Antony moved to adopt the above resolution

Commissioner Berends seconded the motion

Record of Vote:

	<u>AYE:</u>	<u>NAY:</u>	
Commissioner <u>Antony</u>	X	_____	
Commissioner <u>Berends</u>	X	_____	
Commissioner <u>Johnson</u>	X	_____	
Commissioner <u>Renneke</u>	X	_____	
Commissioner <u>Sherlin</u>	_____	_____	Absent