

LAKE COUNTY ORDINANCE NUMBER SEVEN (7)

FOR FOOD SERVICE ESTABLISHMENTS

Providing for regulations governing the operation of food establishments, and temporary food establishments; providing for the sale of only unadulterated, wholesome food; regulating the sources of food; establishing sanitation standards for food, food protection, food service and food processing personnel, food service operations; food equipment and utensils, sanitary facilities and controls, and other facilities; requiring licenses and permits; regulating inspection of such establishments; providing for examination and condemnation of food; and delegating to the Lake County Board of Health the express authority to adopt, alter or rescind minimum compliance standards and criteria for the preservation of the public health in all such establishments, subject to ratification by the County Board of Commissioners.

IT IS HEREBY ORDAINED BY THE LAKE COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:"

Section 1 - Definitions:

The following definitions shall apply in the interpretation and enforcement of Ordinance No. 7.

ADULTERATED shall mean the condition of a food (a) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (b) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulations, or in excess of such tolerance if one has been established; (c) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; (d) if it has been processed, prepared, packaged or held under insanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; (e) if it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or (f) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

APPROVED shall mean acceptable to the Health Officer based on his determination as to conformance with appropriate standards and good public health practice.

FOOD shall mean any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD ESTABLISHMENT shall mean any building, room, stand, enclosure, vehicle, space, area, or other place wherein food is stored, prepared, manufactured, processed, wrapped, canned, packed, bottled, transported, distributed, sold or offered for sale, served, or provided in any way with or without charge, except in private homes. The term "food establishment" shall embrace the term "food-service establishment".

FOOD SERVICE ESTABLISHMENT shall mean any fixed, portable, or mobile restaurant; coffee shop; cafeteria; short-order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; industrial feeding establishment; private, public or non-profit organization or institution serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served with or without charge, except in private homes.

HEALTH OFFICER shall mean the Health Officer of Lake County, Minnesota, or his authorized representative.

MISBRANDED shall mean the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable federal, state or local labeling requirement.

PERSON shall mean an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

TEMPORARY FOOD SERVICE ESTABLISHMENT shall mean any food service establishment which operates for a temporary period of time, not to exceed an aggregate of thirty (30) days in any one license period in connection with a fair, carnival, circus, public exhibition, sale, or similar gathering.

WHOLESOME shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

Section 2 - Food Supplies.

All food in food establishments shall be from sources approved or considered satisfactory by the Health Officer, and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. No hermetically sealed, non-acid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used or sold.

Section 3 - Health and Disease Control.

Subd. 1. No person while affected with any disease in a communicable form or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected or being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the Health Officer immediately.

Subd. 2. None of the operations connected with a food service establishment shall be conducted in any room used as living or sleeping quarters.

Section 4 - Compliance.

All food establishments shall comply with all applicable provisions set forth in Ordinance Number Seven and with the minimum compliance standards as these may be adopted by the Lake County Board of Health from time to time.

Section 5 - Compliance Standards.

The Lake County Board of Health is hereby empowered to adopt minimum standards and criteria, subject to ratification by the County Board, for compliance by food establishments, and to alter, rescind or adopt further such standards, from time to time, for the preservation of the public health. Copies of such compliance standards and criteria shall be on file in each of the offices of the health department and be available for distribution to persons having a direct interest in or concern with such compliance standards.

Section 6 - Enforcement Provisions.

Subd. 1. It shall be unlawful for any person to operate a food service establishment within the jurisdiction of the Lake County Board of Health who does not possess a valid license or permit issued to him by the Health Officer as required by this regulation. Only a person who complies with the requirements of this regulation and the standards of the Lake County Board of Health shall be entitled to receive and retain such a license or permit. Licenses and permits shall not be transferable from one person to another person or place. Provided, that the license for any portable or mobile food service establishment may be transferable from place to place at the discretion of the Health Officer. A valid license or permit shall be posted in every food service establishment. Licenses for temporary food-service establishments shall be issued for a period of time not to exceed an aggregate of thirty (30) days. The license year shall be January 1 to December 31 next succeeding.

Subd. 2. Any person operating a food-service establishment which, in the opinion of the Health Officer, routinely sells or serves food to the public shall be required to obtain a license from the Health Officer. Organizations or groups organized for a primary purpose other than food preparation, sale and service, which only occasionally sell or serve food to the public, and legally bind persons operating food-service establishments shall be required to obtain a permit from the Health Officer. All public, private and parochial schools, colleges, nursing homes, and hospitals which serve or sell food to their employees, students, faculty members, or patients shall be required to obtain a permit from the Health Officer.

Subd. 3. Any person desiring to operate a food service establishment shall make written application for a license or permit on forms provided by the Health Officer. Such application shall include: the applicant's full name and post office address and whether such applicant is an individual, firm or corporation, and, if a partnership, the names of the partners, together with their addresses shall be included; the location and type of the proposed food service establishment; and the signature of the applicant or applicants. If the application is for a temporary food service establishment, it shall also include the inclusive dates of the proposed operation. No oral or incomplete applications will be accepted.

Subd. 4. Each application for a license, together with the appropriate license fee established by the County Board shall be submitted to the Health Officer, who shall issue a receipt for the payment received.

Subd. 5. Upon receipt of such an application, the Health Officer shall make an inspection of the food service establishment to determine compliance with the provisions of this regulation and Board of Health standards. When inspection reveals that the applicable requirements have been met, a license or permit shall be issued by the Health Officer. Whenever a license or permit is denied, the applicant shall be provided an opportunity for a hearing before the Board of Health.

Subd. 6. Licenses and permits shall be suspended temporarily by the Health Officer at any time for failure by the holder to comply with the requirements of this regulation or Board of Health compliance standards. Whenever a license or permit holder or operator has failed to comply with any notice requiring corrective action, issued under the provisions of this regulation, the license or permit holder or operator shall be notified in writing that the license or permit, upon service of the notice, is immediately suspended and that an opportunity for a hearing before the Board of Health will be provided if a written request for a hearing is filed with the Health Office by the license or permit holder.

Notwithstanding the other provisions of this regulation, whenever the Health Officer finds insanitary or other conditions in the operation of a food establishment which, in his judgment, constitute a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the license or permit holder or operator citing such conditions, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken, and if deemed necessary, such order shall state that the license or permit is immediately suspended, and all food operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Health Officer, shall be afforded a hearing before the Board of Health as soon as that Board may be convened by its chairman.

Subd. 7. Any person whose license or permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the license or permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the license or permit have been corrected, the Health Officer shall make a reinspection. If the applicant is complying with the requirements of this regulation and Board of Health standards, the license or permit shall be reinstated.

Subd. 8. For serious or repeated violations of any of the requirements of this regulation or Board of Health compliance standards, or for interference with the Health Officer in the performance of his duties, the license or permit may be permanently revoked after an opportunity for a hearing before the Board of Health has been provided by the Health Officer. Prior to such action, the Health Officer shall notify the license or permit holder in writing, stating the reasons for which the license or permit is subject to revocation and advising that the license or permit shall be permanently revoked at the end of five (5) days following service of such a notice, unless a request for a hearing is filed with the Health Officer, by the license or permit holder, within such five (5) day period. A license or permit may be suspended for cause pending its revocation or a hearing relative thereto.

Subd. 9. Hearings provided for in this regulation shall be conducted by the Board of Health at a time and place designated by it. Based upon the record of such hearing, the Board shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license or permit holder by the Health Officer.

Subd. 10. For the conventional and temporary licensing, surveillance and inspection services required by this ordinance, fees shall be charged for the following:

Food-Service Establishment License
Temporary Food-Service Establishment License

Subd. 11. The license fees for all food-service establishment licenses shall be established by the Lake County Board of Health and adopted by the Lake County Board of Commissioners by Resolution. License fees are due on January 1st of any given year. New businesses, new operators or seasonal businesses shall obtain a license before opening or reopening the business, or changeover of operators. No fee shall be charged for a permit.

Section 7 - Inspections.

At least once every 12 months the Health Officer shall inspect each licensed food-service establishment located in the Board of Health jurisdiction and shall make as many additional inspections and reinspections as are necessary for the enforcement of this regulation.

The Health Officer, after proper identification, shall be permitted to enter, at any reasonable time, any food establishment within the jurisdiction of the Board of Health for the purpose of making inspections to determine compliance with this regulation. He shall be permitted to examine the records of the food establishment to obtain pertinent information pertaining to food and supplies purchased, received, or used, and persons employed.

Whenever the Health Officer makes an inspection of a food establishment and discovers that any of the requirements of this regulation have been violated, he shall notify the license or permit holder or operator of such violations by means of an inspection report form or other written notice. In such notification, the Health Officer shall:

- (1) Set forth the specific violations found.
- (2) Establish a specific and reasonable period of time for the correction of the violations found.
- (3) State the failure to comply with any notice issued in accordance with the provisions of this regulation may result in immediate suspension of the license or permit.
- (4) State that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Health Officer within the period of time established in the notice for correction.

Notices provided for under this section shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the license or permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the license or permit holder. A copy of such notice shall be filed with the records of the Health Officer.

Section 8 - Examination and Condemnation of Food.

Food may be examined or sampled by the Health Officer as often as may be necessary to determine freedom from adulteration or misbranding. The Health Officer may, upon written notice to the owner or person in charge, place a hold order on any food which he determines or has probable cause to believe to be unwholesome or otherwise adulterated, or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the Health Officer, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Health Officer, except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing, or on the basis of his examination, in the event a written request for a hearing is not received within ten (10) days, the Health Officer may vacate the hold order, or may by written order direct the owner or person in charge of the food

which was placed under the hold order to denature or destroy such food or to bring it into compliance with the provisions of this regulation; provided, that such order of the Health Officer to denature or destroy such food or bring it into compliance with the provisions of this regulation shall be stayed if the order is appealed to a court of competent jurisdiction within three (3) days.

Section 9 - Food Establishments Outside Jurisdiction of the Board of Health.

Food from food establishments outside the jurisdiction of the Lake County Board of Health may be sold within the jurisdiction of the Lake County Board of Health if such food establishments conform to the provisions of this regulation or to substantially equivalent provisions and are prepared or processed under conditions of a license by a health agency with which the Health Officer has a written reciprocal inspection agreement, or under terms of a license by the U.S. Department of Agriculture, or the Minnesota Department of Agriculture. **To determine the extent of compliance with** such provisions, the Health Officer at his discretion, may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

Section 10 - Plan Review of Future Construction.

When a food service establishment is hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangement, and construction materials of work areas, and the location, size and type of fixed equipment and facilities shall be submitted to the Health Officer for approval before such work is begun. No such construction or remodeling shall commence until after the approval of the Health Officer shall have been given.

Section 11 - Procedure When Infection is Suspected.

When the Health Officer has reasonable cause to suspect possibility of disease transmission from any food establishment employee, the Health Officer shall secure a morbidity history of the suspected employee, or make such other investigation as may be indicated, and take appropriate action. The Health Officer may require any or all of the following measures:

- (a) The immediate exclusion of the employee from all food establishments;
- (b) The immediate closure of the food establishment concerned until, in the opinion of the Health Officer, no further danger of disease outbreak exists;
- (c) restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- and (d) adequate medical and laboratory examination of the employee, or other employees, and of his and/or their body discharges.

Section 12 - Enforcement Interpretation.

Ordinance Number Seven shall be enforced by the Health Officer in accordance with the interpretations thereof contained in the provisions of the most recently adopted edition of the "Compliance Standards and Criteria for Food Establishments," as adopted by the Lake County Board of Health and ratified by the County Board.

Section 13 - Penalty.

Any person who shall violate any of the provisions of Ordinance Number Seven shall be guilty of a misdemeanor and such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

Section 14 - Schedule of Fees.

The County Board shall, by resolution, upon the recommendation of the Lake County Board of Health, establish a schedule of fees, charges and expenses for licenses, permits, certificates and other documents and actions required by the provisions of this ordinance. This schedule shall be available at the Lake County Health Department Office. No licenses, permits, or variance shall be issued unless such fees, charges or expenses have been paid in full, nor shall any action be taken or provided by the Lake County Board of Health until all fees, charges, and expenses have been paid in full.

Section 15 - Effective Date.

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

Dated at Two Harbors, Minnesota, this 10th day of August, 1976.

Submitted by Lake County Board of Health

April 20, 1976

Public Hearing held by the Lake County Board of Commissioners

August 10, 1976

Adopted:

August 10, 1976

Effective Date:

January 1, 1977

Lloyd H. Houle
Lloyd H. Houle, Chairman
Lake County Board of Commissioners

Carl Eugene Schreyer
Carl Eugene Schreyer, Chairman
Lake County Board of Health

ATTEST:
MelRoy Peterson
MelRoy Peterson, Lake County Auditor

DOC. NO. 98939

OFFICE OF COUNTY RECORDER

STATE OF MINNESOTA, }
COUNTY OF LAKE } ss.

I hereby certify that the within instrument was filed for record in this office on the 27th day of Sept. A.D. 1916 at 11 o'clock A. M. and was duly recorded in book

5 of Misc records page 146
Robert Miller
County Recorder

By _____ Deputy

DOC. NO. _____

OFFICE OF REGISTRAR OF TITLES

STATE OF MINNESOTA, }
County of Lake } ss.

I hereby certify that the within instrument was filed in this office the 27th day of September 19 16 at 11:58 A. M. and was duly registered in Book _____ of Registrar of Titles page _____

Robert Miller
Registrar of Titles

By _____ Deputy