

SAWYER COUNTY CODE OF ORDINANCES HEALTH AND HUMAN SERVICES CHAPTER 3
LICENSES AND PERMITS REGARDING AGENT STATUS FOR ENVIRONMENTAL SERVICES

THE SAWYER COUNTY BOARD OF SUPERVISORS HEREBY ADOPTS THE FOLLOWING SAWYER COUNTY CODE OF ORDINANCES HEALTH AND HUMAN SERVICES CHAPTER 3, LICENSES AND PERMITS REGARDING AGENT STATUS FOR ENVIRONMENTAL SERVICES AND DOES ORDAIN AS FOLLOWS:

- 1) **AUTHORITY** This Ordinance is adopted pursuant to that authority provided by Wisconsin Statute Chapter 97 and by Wisconsin Administrative Code Chapters ATCP 72 Hotels, Motels and Tourist Rooming Houses, ATCP 73 Bed and Breakfast, ATCP 74 Local Agents and Regulation, ATCP 76 Safety, Maintenance and Operation of Public Pools and Water Attractions, . ATCP 78 Recreational Camps, ATCP 79 Campgrounds and ATCP 75 Retail Food Establishments and ATCP 75 Appendix (Wisconsin Food Code). As stated in Section 16 below, all of the foregoing Wisconsin Statutes and Wisconsin Administrative Code Chapters are incorporated herein by reference and made part of this Ordinance as if each were fully set forth herein.
- 2) **PURPOSE.** The purpose of this Ordinance is to protect and improve the public health in Sawyer County, Wisconsin. Under the "Chequamegon Environmental Health Consortium" between Sawyer County Health and Human Services and Ashland County Health and Human Services, Sawyer County shall hold Agent Status with the Wisconsin Department of Agriculture, Trade and Consumer Protection for both Sawyer County and Ashland County pursuant to Wis. Admin. Code Ch. ATCP 74 and shall be responsible for meeting the requirements of the agent contract responsibilities of Wis. Admin. Code Ch. ATCP 74. Sawyer County Health and Human Services, under such Consortium, shall collect permit fees; issue permits; and make investigations or inspections of hotels, motels, tourist rooming houses, recreational and educational camps, bed and breakfast establishments, campgrounds and camping resorts, public swimming pools, and in making investigations and inspections of food vending machines and of retail food establishments; and enforce state and local regulations governing these establishments.
- 3) **APPLICABILITY.** The provisions of this Ordinance shall apply to any operation falling under the jurisdiction of the Sawyer County Health and Human Services Department either directly or pursuant to Sawyer County's acting as agent of the State of Wisconsin pursuant to Wis. Stat. S 97.41, Wis. Admin. Code Ch. ATCP 74 and any other applicable statutes, codes or agreements between the state and Sawyer County. Such operations include, but may not be limited to, any owner and operator of any retail food establishment including temporary and mobile retail food establishments, hotel, motel, tourist rooming house, , bed and breakfast establishment, campground and camping resort, recreational and educational camp, public swimming pools or vending machines located in in Sawyer County.
- 4) **ADMINISTRATION AND ENFORCEMENT.** The provisions of this Ordinance shall be administered by or under the direction of the Health Officer» who in person or by duly authorized representatives shall have the right to enter, at reasonable hours, upon premises affected by this Ordinance to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to

enforce this Ordinance and issue citations or file a summons and complaint with the Sawyer County District Attorney, Sawyer County is a member of the Chequamegon Environmental Health Consortium and an agent for the State of Wisconsin Department of Agriculture, Trade, and Consumer Protection under the provisions as set forth in Wisconsin Statutes Ch. 97 and the applicable provisions of the Wisconsin Administrative Code, with the powers as described in Wisconsin Statute Ch. 250. Nothing in this Section 4 shall be construed as a waiver of any enforcement action the Health Department or Health Officer may take to enforce the provisions of this Ordinance or any other law, ordinance, regulation or rule within the Health Department's jurisdiction and authority.

5) SEVERABILITY. Each section, paragraph, sentence, clause, word and provision of this Ordinance is severable, and if any provisions shall be held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance nor any part thereof other than that affected by such a decision.

6) DEFINITIONS.

- (a) "Agent Status" means authority to act as an agent pursuant to Wis. Admin. Code Ch. ATCP 74.
- (b) "Consortium" means a combination of organizations for a common purpose.
- (c) "Health Department" or "Health and Human Services Department" means the Public Health Unit of the Sawyer County Health and Human Services Department.
- (d) "Health Officer" means the Sawyer County Public Health Administrator or his/her authorized agent, including a Health Officer Designee.
- (e) "Health Officer Designee" means a subordinate personnel appointed by the Health Officer to investigate and supervise the sanitary conditions within the jurisdiction of the Health Department.
- (f) "License" means the granting of permission in a written/certificate form from the appropriate authority to carry on an activity. In this Ordinance, "License" is synonymous with and shall have the same meaning as a permit
- (g) "Licensee" means the Person to whom a License or permit is issued pursuant to this Ordinance.
- (h) "Person" means an individual, partnership, association, firm, company, corporation, organization, municipality, county, town, or state agency, whether tenant, owner, lessee or licensee, or the agent, heir, or assignee of any of these
- (j) "Ordinance" means this ordinance adopted as part of the Sawyer County Code of Ordinances Health and Human Services
- (j) Any capitalized term; term of art, or other defined term used in the Ordinance shall have the meaning set forth in the accompanying Wis. Admin. Code Ch. ATCP provision.

7) LICENSE AND PERMITu

- (a) -No Person shall operate a retail food establishment (including temporary and mobile retail food establishments), bed and breakfast establishment, hotel, motel, tourist rooming house, campground and camping resort, recreational and educational camp, public swimming pool, without first obtaining a non-prorated permit from the Health and Human Services Department. Such permits shall expire on June 30 of each year following their issuance except that non-retail food permits initially issued during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year. The issuance of a permit may be conditioned upon the permit Licensee correcting a violation of this Ordinance within a specified period of time. If the condition is not met within the specified period of time, the permit shall be voided. The permit shall not be transferable to a location other than the one for which it was issued, nor shall a permit be transferred from one operator to another, except as provided for in the Wis. Admin. Code.
- (b) Operators or Licensees of temporary restaurants whom the Health Department has found to be out of compliance or repeat violators of this Ordinance may be denied a permit to operate. Temporary permits may be transferred to a premise other than that for which it was issued, provided that the approval of the new premises is secured from the Health Department prior to operating at the new premises.
- (c) With the exception of those establishments defined herein as 'temporary', no permits shall be granted to any person under this Ordinance without a pre-inspection by the Health Department of the premises for which the permit shall be granted.
- (d) No permit shall be issued until all application fees have been paid.

8) LICENSE APPLICATION. Application for permit shall be made in writing to the Health Department on forms developed and provided by the Health Department, stating the name and address of the proposed applicant and operator, and the address and location of the proposed establishment, together with any such other information as may be required. The Health Department shall either approve the application or deny the permit within thirty (30) days after the receipt of a complete application.

9) LICENSE ISSUANCEa The Health Officer or Health Officer Designee shall issue a license to the applicant only after compliance with the requirements ofthis Ordinance and upon paymentto the Health Department of all required feesa The Health Department^r s decision to grant or withhold an License shall not exceed 30 calendar days. The decision to withhold shall accompany written inspection or documentation of justification or cause. No License may be issued until all applicable fees have been paid.

10) FEES,, Fees for applications, Licenses, penalties, processing charges or other fees required by this Ordinance shall be as provided through' the fee schedule approved by the Sawyer County Health & Human Services Board and available for review in the Health Department.

- 11) PERMIT PUBLIC DISPLAYo All Licensees shall post their License in plain public view on the premise for which the License is issued. The License shall be posted for the duration that the License is in force.
- 12) INSPECTION BY HEALTH DEPARTMENTV Authorized employees ofthe Health Department, upon presenting proper identification, shall have the authority and duty to enter any licensed premises during regular business hours to inspect the same, with respect to a business open at least forty (40) hours per week. In the absence of regular business hours, inspections shall be made at any reasonable hour. In the event of an emergency, an inspection may be made at any time.
- 13) DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The Health Officer may deny any . License application or suspend or revoke any License issued under this chapter for noncompliance with this Ordinance or any other state or local statute, ordinance, rule, regulation, order, or other applicable requirement. Any reference to Health Officer in this Section 13 shall include a Health Officer Designee. All time sensitive mailings, on the part of the Health Department, will be done through the United States Postal Service Certified Mail. Return Receipt Requested mail service or personally with signature of delivery.

The following procedure shall be followed in the denial, suspension or revocation of any License issued under this chapter:

- (a) A decision by the Health Officer to deny, suspend or revoke a License shall be in writing and shall state, with specificity, the reasons for the Heath Officer's decision and shall state any and all applicable statutes, ordinances, rules, regulations or orders which may have been violated. The Health Officer shall send to the Licensee copy of the written decision as required by this Ordinance. Said notice shall inform the Licensee or applicant of the right . to have the decision reviewed and a summary of the procedure for such review required by this Ordinance. .
- (b) A Licensee aggrieved by a decision of the Health Officer to deny, suspend or revoke a License must send a written Request and Reconsideration to the Health Officer within ten (10) working days of receipt of the notice of the Health Officer r s decision. The Request for

Review and Reconsideration shall state the grounds upon which the Person or Licensee aggrieved contends that the decision should be reversed or modified.

- (c) Within ten (10) working days of receipt of the Request for Review and Reconsideration, the Health Officer shall review its initial determination. The Health Officer may affirm, reverse or modify the initial determination. The Health Officer shall mail or deliver to the Licensee or applicant a copy of the Health Officer's decision on review, and shall state the reasons for such decision. The decision shall advise the Licensee or applicant of the right to appeal the decision by filing a Notice of Appeal, the time within which appeal shall be taken and the office or person with whom Notice of Appeal shall be filed.
 - (d) A Licensee or applicant who wishes to appeal a decision made by the Health Officer on review must file a Notice of Appeal within ten (10) days of receipt of the Health Officer's Decision on review. The Notice of Appeal shall be filed or mailed to the Health Officer. The Health Officer shall immediately file said Notice of Appeal with the Sawyer County Health & Human Services Board.
 - (e) A Licensee or applicant shall be provided a hearing on appeal within 30 days of receipt of the Notice of Appeal. The Health Officer shall serve the Licensee or applicant with notice of hearing by mail or personal service at least five (5) days before the hearing.
 - (f) The hearing shall be conducted before the Sawyer County Health & Human Services Board and shall be conducted in accordance with the procedures outlined in Wis. Stat. SS 68.11 (2) and (3).
 - (g) Within 15 days of the hearing, the Sawyer County Health & Human Services Board shall mail or deliver to the Licensee or applicant the Sawyer County Health & Human Services Board written determination stating the reasons for its decision.
- 14) OPERATING WITHOUT A LICENSE. Any Licensee or Person who operates any establishment, business, or other operation without a valid License required under this Ordinance shall be subject to any applicable fees, penalties and processing charges, including but not limited to a fee for operating without a License for each day in which the Licensee or Person operates without the required License. Fees, penalties and processing charges shall be determined by the

Sawyer County Health & Human Services Board and may be amended from time to time.

- 15) STATE LAW INCORPORATED IN THIS ORDINANCE. The terms and provisions of Wisconsin Statutes Chapter 97, as may be amended, and the Wisconsin Administrative Code Ch. ATCP provisions listed herein, as each may be amended, are incorporated herein in each's entirety: Wis. Admin. Code Ch. ATCP 72 Hotels, Motels and Tourist Rooming Houses; Wis. Admin. Code Ch. ATCP 73 Bed and Breakfast Establishments; Wis. Admin. Code Ch. ATCP 74 Local Agents and Regulation; Wis. Admin. Code. Ch. ATCP 76 Safety, Maintenance and Operation of Public Pools and Water Attractions Wis. Admin. Code Ch. ATCP 78 Recreational Camps; Wis. Admin. Code Ch. and Wis. Admin. Code Ch. ATCP 75 Retail Food Establishments and ATCP 75 Appendix (Wisconsin Food Code). Any applicable United States Food and Drug Administration (FDA) Food Code and appendices, as each may be amended, are incorporated herein by reference. In the event of a conflict between state or federal law and the provisions of this Ordinance, the state or federal law shall control unless such state or federal law grants the Health and Human Services Board authority to adopt an alternate or more restrictive regulation.

16) RETAIL FOOD ESTABLISHMENTS.

- (a) COMPLIANCE. Compliance with this Ordinance does not relieve a Licensee from compliance with any other applicable statute, ordinance, regulation or rule, including but not limited to Chapter 1 and Chapter 2 of the Sawyer County Code of Ordinances Health and Human Services.

(b) REQUIREMENTS.

- i. Except as provided in (b), no Person shall operate a retail food establishment, including temporary and mobile retail food establishments, as defined in Wis. Admin. Code without first obtaining a License for the operating of the retail food establishment from the Health Department. Compliance with this Ordinance does not relieve a Licensee from compliance with any other applicable statute, ordinance, regulation or rule, including but not limited to Chapter 1 and Chapter 2 of the Sawyer County Code of Ordinances - Health and Human Services.
- ii. No License is required for the following:
 1. Any operation cited in Wis. Stat. 97.01(14g).

2, Any operation cited in Wis. Stat. 5 37.30(2)(b) and in Wis. Admin. Code Ch. ATCP 75.036).

17) IMMEDIATE DANGER TO PUBLIC HEALTH OR SAFETY. In addition to the statutory and administrative code references and powers as indicated in in this Ordinance, the Health Officer may issue temporary orders when the Health Department has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition, operation or method of operation of the premises or equipment used on the premises creates an immediate danger to public health or safety.

18) EFFECTIVE DATE. This Ordinance shall take effect following its approval by the Sawyer County Board of Supervisors and any required publication.

by the Sawyer County Board of Supervisors.

By: