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**WOOD COUNTY ORDINANCE #300
EATING ESTABLISHMENT ORDINANCE**

SECTION 1. GENERAL PROVISIONS

Chapter 300.01 PURPOSE.

This ordinance shall be applied to promote its underlying purpose of protecting the public health.

Chapter 300.02 SCOPE OF REGULATIONS

1. **APPLICABILITY.** The provisions of this ordinance shall apply to Class B Taverns and any facility or establishment used by the general public that requires a Permit or License under this regulation, a Wisconsin Administrative Code, or a Wisconsin State Statute adopted by reference in this regulation.
2. **WISCONSIN ADMINISTRATIVE CODE PROVISIONS** The provisions of Chapter HFS196 and HFS 196 Appendix A—Wisconsin Food Code, ATCP 75 and ATCP75 Appendix A – Wisconsin Food Code of the Wisconsin Administrative Code, as hereby constituted or as hereafter amended are made a part of this chapter as if set forth here in detail.

Chapter 300.03 DEFINITIONS.

1. **HEALTH AND HUMAN SERVICES COMMITTEE** shall mean the Wood County Health and Human Services Committee and its authorized representatives.
2. **DEPARTMENT** shall mean the Wood County Health Department and its Employees.
3. **EMPLOYEE** shall mean a person working in an Eating Establishment who transports Food or Food containers; who engages in Food preparation or service or who come in contact with any Food or beverage, Food utensils, containers or equipment.
4. **FOOD** a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
5. **EATING ESTABLISHMENT** shall mean any place where Food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the Food. The term also includes retail Food establishments, temporary food establishments, and delicatessen-type operations that prepare sandwiches intended for individual portion service and people doing catering work for profit. The term does not

include private homes when the Food is prepared or served for individual family consumption, Food vending machine locations and vending supply vehicles.

6. **HEALTH HAZARD** shall mean a real or potential health or safety hazard exists which if such conditions or operation continues may reasonably cause illness, death or injury.
7. **HEALTH OFFICER** shall mean the Health Officer of Wood County and his/her authorized agents.
8. **PERMIT or LICENSE** shall mean a County of Wood Operator's Permit; and shall include Permits issued to Class B Taverns and any facility or establishment used by the general public that requires a Permit or License under this regulation, a Wisconsin Administrative Code, or a Wisconsin State Statute adopted by reference in this regulation. These include full service restaurant Permits, pre-packaged restaurant Permits, mobile restaurant Permit and temporary restaurant Permits as defined by Chapter HFS 196 and retail Food establishments as defined by CHAPTER ATCP 75. The terms "Permit" and "License" are synonymous.
9. **POTENTIALLY HAZARDOUS FOOD** means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, or the production of toxins, the growth and toxin production of Clostridium botulinum, or in raw shell eggs, the growth of Salmonella Enteritidis. Potentially Hazardous Foods include a food of animal origin that is raw or heat-treated, a heat-treated food of plant origin, or raw seed sprouts, cut melon, and unmodified garlic-in-oil mixtures, meringues, cream or custard pies, whipped cream, etc. Potentially Hazardous Foods do not include cakes, cookies, bars, candies, bread, or foods that do not support the growth of microorganisms.

SECTION 2. EATING ESTABLISHMENT LICENSES

Chapter 300.04 LICENSING

1. GENERAL

- A. No person shall operate an Eating Establishment within Wood County who does not have a valid License issued to him by the Department, unless otherwise exempted in this ordinance.
- B. Only a person who complies with the requirement of this ordinance shall be entitled to receive or retain such a License.
- C. Licenses are not transferable.
- D. A valid License shall be posted in every Eating Establishment.
- E. The Department may deny a License to anyone who hinders the inspection of a facility or fails to pay a license or inspection fee.

2. APPLICATION

- A.** Applications for a License shall be made upon such forms supplied and prescribed by the Department.
- B.** Prior to approval of an application for a License, the Department shall inspect the establishment to determine compliance with the requirements of this ordinance, and applicable license fees must be paid.

3. EXCEPTIONS TO LICENSE REQUIREMENTS

- A.** "Bake sales". Items which are **not** Potentially Hazardous such as candies, cakes,-and cookies sold by non-profit organizations for fund raising projects may be sold without a License.
- B.** Food and beverages sold or served by non-profit organizations, or as otherwise authorized by law, to the general public are exempted from this ordinance, provided that such service does not exceed three (3) days per year. Coffee and doughnut hours at churches are exempt from this ordinance.

Chapter 300.05 SUSPENSION AND REVOCATION OF LICENSES

1. SUSPENSION

- A.** The Health Officer may without warning, notice or hearing suspend the License if the holder does not comply with the requirements of this ordinance or if the operation of the establishment otherwise constitutes a Health Hazard. When a License is suspended, Food service operations shall immediately cease. Whenever a License is suspended, the holder shall be afforded an opportunity for a hearing before the Health and Human Services Committee within twenty (20) days of receipt, by the Health Officer, of a written request for a hearing.
- B.** Whenever a License is suspended, the holder or his/her agent in charge shall be notified in writing that the License is, upon service of the notice, immediately suspended and that an opportunity for hearing will be provided if a written request for hearing is filed with the Department by the holder of the License within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The Department may end the suspension at any time if reasons for suspension no longer exist.

2. REVOCATION OF LICENSE.

- A.** The Department may, after providing opportunity for hearing, revoke a License for serious or repeated violations of any of the requirements of this ordinance or for interference with the Department in the performance of its responsibilities.

- B. Prior to revocation, the Department shall notify, in writing, the holder of the License or his/her agent in charge of the specific reason(s) for which the License is to be revoked and that the License be revoked at the end of the ten (10) days following service of such notice unless a written request for hearing is filed with the Department by the holder of the License within such ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the License becomes final.

3. SERVICES OF NOTICE

A notice provided for in this ordinance is properly served when it is delivered to the holder of the License, or his/her agent in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the License. A copy of the notice shall be filed in the records of the Licensed establishment.

4. HEARINGS

The hearings provided for in this ordinance shall be conducted by the Board of Health or its designee at a time and place designated by it. The Board of Health shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the License by the Health Officer. A decision made by the Health and Human Services Committee may be appealed to Wood County Circuit Court.

5. APPLICATION AFTER REVOCATION

Whenever a revocation of a License has become final, the holder of the revoked License may make written application for a new License.

SECTION 3. ENFORCEMENT

Chapter 300.06 ENFORCEMENT PROCEDURES

1. ENFORCEMENT POLICY & INSPECTION PROCEDURES FOR RESTAURANTS.

The Wood County Health Department Environmental Health staff shall follow the Enforcement Policy & Inspection Procedure as adopted and amended.

2. ACCESS

Representatives of the Department, after proper identification, shall be permitted to enter any Eating Establishment at any reasonable time for the purpose of making inspections to determine compliance with this regulation.

3. PROCEDURE WHEN INFECTIOUS OR TOXIC SUBSTANCE IS SUSPECTED

Food may be collected for analysis, and Food preparation premises may be inspected by the Department as often as necessary for enforcement of this ordinance.

The Department may, upon written notice to the owner or his/her agent in charge, specify the reasons therefore, and place a hold order on any Food, which it reasonably believes is in violation of any section of this regulation. The Department shall tag, label, or otherwise identify any Food subject to the hold order. No Food subject to a hold order shall be used, served, or moved from the establishment. The Department shall permit storage of the Food under conditions specified in the hold order unless storage is not possible without risk to the public health in which case destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested the Food shall be held for a period of 14 days from the date of delivery of the hold order, pursuant to Section 97.12(2)(a) of the Wisconsin Statutes. The hold order may be extended an additional 14 days if necessary to complete the analysis or examination of the food. If a request for hearing is received, the hearing shall be held within twenty (20) days after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be vacated, or the owner or person in charge of the Food may be directed by written order to denature or destroy such Food or to bring it into compliance with the provision of this ordinance.

SECTION 4. MISCELLANEOUS PROVISIONS

Chapter 300.07 PENALTIES AND CONSTITUTIONALITY

1. PENALTIES. Any person who violates any provision of this ordinance shall forfeit not less than \$100.00 or more than \$1000.00. Each and every violation of the provisions of this ordinance shall constitute a separate offense. Each day a violation exists shall constitute a separate offense.

2. CONSTITUTIONALITY Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder shall not be affected thereby.

THESE REGULATIONS SHALL BE EFFECTIVE UPON PASSAGE AND PUBLICATION AS PROVIDED BY LAW.

NOTE: The Wood County Eating Establishment Ordinance was adopted on October 16, 1984, amended on November 4, 1985, amended on August 20, 1991, amended on February 5, 1996, amended on October 21, 2003 and amended October 8, 2007 (effective upon recodification on January 15, 2008 and publication).