

Polk County Board of Supervisors  
Ordinance No. 09-17  
Ordinance to Enact Amended Establishing Rules and Permit Requirements Relating to  
Environmental Health & Sanitation Ordinance

TO THE HONORABLE SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF  
POLK:

Gentlemen:

WHEREAS, on January 15, 2002, the Polk County Board of Supervisors enacted Ordinance No. 14-02, entitled, "Establishing Rules and Permit Requirements Relating to Environmental Health & Sanitation; and

WHEREAS, it is appropriate to amend said ordinance to reflect current state statutes and administrative regulations and the organizational structure of the Polk County Community Services Division that will administer said ordinance.

NOW THEREFORE, BE IT ORDAINED that the Polk County Board of Supervisors enacts the Amended Establishing Rules and Permit Requirements Relating to Environmental Health & Sanitation Ordinance, as follows:

**SECTION 1.01            AUTHORITY AND PURPOSE**

This ordinance is adopted pursuant to that authority provided by Section 251.04(3), Wisconsin Statutes, to protect and improve public health. Section 254.015 Wisconsin Statutes, authorizes the Polk County Health Department to become the designated agent of the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) for the purpose of establishing permit fees; issuing permits; and making investigations or inspections of food, beverage, lodging, swimming pools and recreational establishments and enforcing the regulations set forth in this ordinance or adopted by reference. The Polk County Health Department is hereby designated to act as the agent of the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) for the above-stated purposes.

**SECTION 1.02            APPLICABILITY**

The provisions of this ordinance shall apply to the owner or operator of any retail food service establishment, temporary retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, campground, recreational and educational camp, public swimming pool, vending machine commissary, or vending machine in all areas of Polk County.

**SECTION 1.03            DEFINITIONS**

The provisions of this ordinance shall adopt all current definitions set forth in Wisconsin Statutes Chapters 65, 66, 97, 192, 251, 254, and Wisconsin Administrative Code Chapters ATCP 72, 73, 74, 75, 76, 78, 79 by reference and shall be construed, read, and interpreted as set forth herein. The express provisions of this ordinance shall control where more restrictive.

## SECTION 1.04 ENFORCEMENT

- (1) The provisions of this regulation 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 regulation 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 regulation. Such Health Officer or duly authorized representative is also authorized to issue corrective orders, suspend or cancel permits as warranted and issue citations or take other enforcement measures as may be necessary to protect public health and safety.
- (2) Legal action may be initiated against a violator, as requested by the Health Officer or duly authorized representative. Upon making such determination, the Health Officer or duly authorized representative shall refer the violation to the Polk County Corporation Counsel who may obtain an injunction to correct and/or abate the violation or seek a court-imposed forfeiture under this ordinance.
- (3) Method. Pursuant to Sec. 66.0113(1)(a)(b)(c), Wis. Stats., the County of Polk adopts and authorizes the use of a citation to be issued for violations of the Environmental Health and Sanitation ordinance.
- (4) Form. The citation shall contain the following:
  - a. The name and address of the alleged violator.
  - b. Factual allegations describing the alleged violation.
  - c. The time and place of the offense.
  - d. The section of the ordinance violated.
  - e. A description of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so.
  - f. The time at which the alleged violator may appear in court.
  - g. A statement which, in essence, informs the alleged violator:
    1. That a cash deposit based on the schedule established by this section may be made which shall be delivered to the Clerk of Courts prior to the time of the scheduled court appearance.
    2. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
    3. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
    4. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
  - h. A direction that if alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under **Para. g** above has been read. Such statement shall be brought with the cash deposit.
  - i. Such other information as the County deems necessary.
- (5) Schedule of Deposits. Any person who receives a citation shall be subject to the penalty provision under Polk County Ordinance 16-02.
- (6) Who May Issue. The following County officials may issue citations, which are directly related to their official responsibilities.
  - a. Director/Health Officer

- b. Registered Sanitarian
- (7) Procedure. Section 66.0113(1)(a)(b)(c), Wis. Stats. relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.
- (8) Nonexclusivity.
  - a. Adoption of this chapter does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.
  - b. The issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.

### **SECTION 1.05 APPLICATION FOR PERMIT**

Application for permits 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 receipt of a complete application.

### **SECTION 1.06 PERMIT**

- (1) No person shall operate a retail food service establishment, mobile retail food service establishment, temporary, retail food service establishment, bed and breakfast establishment, hotel, motel, tourist rooming house, campground, recreational and educational camp or public swimming pool without either obtaining a permit from the Health Department or possessing a valid permit as outlined in Section 1.07 of this ordinance. Permits shall expire on June 30 of each year following their issuance except that 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 permittee 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.
- (2) Operators or permittees found by the Health Department to be repeat violators of this ordinance may be denied a permit to operate.
- (3) 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. A pre-inspection shall only apply to and include consultation and a pre-opening inspection offered within a six month period from the date of permit application to persons intending to operate a new hotel, tourist rooming house, bed and breakfast establishment, retail food service establishment, vending machine commissary, or to a person intending to be the new operator of an existing hotel, tourist house, bed and breakfast establishment, retail food service establishment, or vending machine commissary.
- (4) No permit shall be issued until all application fees, citations, or other applicable fees are paid. A permit will not be issued until all outstanding critical violations, noted during previous inspections, are in compliance.

- (5) If fee payments are not received by July 15, clerical staff will send a second renewal notice to facility with a late fee added to the amount due. The letter will state that facilities that have not paid annual and late fee by Aug. 15 will be listed as out of business. If they wish to operate after being OB'ed, they will need to pay a pre-inspection fee along with their regular annual license fee. If a facility continues to operate after being OB'ed, citations will be issued according to Polk County Ordinance 16-02.

#### **SECTION 1.07      TEMPORARY RETAIL FOOD SERVICE**

- (1) Temporary food service, such as a fair, fundraising event, benefit, customer appreciation event, etc., may require a temporary retail food service permit.
- (a) Temporary restaurant permits shall be issued after application has been made to the Polk County Health Department.
  - (b) Permit fees shall be based on Section 1.08.
  - (c) Training may be required based on food risk.
  - (d) Inspections may be required prior to the event.
  - (e) Temporary retail food service establishments shall meet the inspection criteria as referenced in the Polk County Health Department Agent Policies and Procedures Section VII.
- (2) Each temporary restaurant permit covers a single event lasting up to seven (7) days. Any group or individual serving food to the public, regardless of whether there is a fee charged for the food, shall contact the Polk County Health Department to obtain the potential training and certification prior to holding the event.
- (3) Establishments that have been issued a state temporary license by DATCP will not be issued a PCHD temporary permit, however; they shall be charged a \$25 inspection fee if the inspection requires more than one hour to complete.

#### **SECTION 1.08      FEES**

Per Polk County ordinance 11-08, the fees for issuance of permits, making investigations, inspections, training and technical assistance to establishments and costs required to be paid to the county for each permit issued shall be established by resolution of the Polk County Board of Health and Human Services. As such resolution may be adopted and published the same is incorporated herein and made a part of this ordinance. Current fee structures shall be documented in the Polk County Health Department Agent Policy and Procedures Appendix A.18.

#### **SECTION 1.09      PUBLIC DISPLAY OF PERMIT**

Every licensed establishment shall be required to obtain a permit pursuant to this ordinance and shall display said permit, at all times, in a conspicuous public place.

#### **SECTION 1.10      PERMIT SUSPENSION AND REVOCATION**

Permits issued by the Health Department pursuant to this ordinance may be immediately temporarily suspended for a violation of any provisions hereof or of the State Statutes or Administrative Code provisions adopted by reference herein, if the Health Department determines that an imminent health

hazard exists. An imminent health hazard may include but is not limited to; lack of basic facilities such as water; electricity or a properly functioning sewer; evidence of a sewer backup or surface or air contamination; insect or rodent infestation; evidence of an ongoing food or waterborne illness associated with the operation of the establishment; lack of a functioning hand washing facility; lack of hot or cold holding equipment; or there is a condition that endangers the health or safety of the public as identified by the Health Officer or duly authorized representative. After repeated violations of this ordinance or violations, which have already created a serious environmental or public health hazard, permits may be permanently revoked. These decisions of Health Department staff shall be subject to review by the administrator of the Department. Decisions of the administrator may be appealed to the Polk County Board of Health and Human Services. Such appeals shall be in writing and must be heard within 15 days of filing with the Health Department.

**SECTION 1.11 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE**

The applicable laws, rules, regulations set forth in Wisconsin Statutes Chapters 65, 66, 97, 192, 251, 254, and Wisconsin Administrative Code Chapters ATCP 72, 73, 74, 75, 76, 78, 79 by reference and shall be construed, read, and interpreted as set forth herein until amended and then shall apply as amended. The express provisions of this ordinance shall control where more restrictive.

**SECTION 1.12 EFFECTIVE DATE**

This ordinance shall take effect upon its adoption and publication as required by law.

Funding Source/ Funding Amount:	Not Applicable
Date Reviewed as to Appropriations:	Not Applicable
Committee Recommendation as To Appropriation:	Not Applicable
Effective Date:	Upon Passage and Publication
Dated Submitted To County Board	March 21, 2017
Submitted and Sponsored By Health and Human Services Board:	
<i>s/Doug Route</i>	
Review By County Administrator: <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> Reviewed Only  <i>s/Dana Frey</i> Dana Frey, County Administrator	Review By Corporation Counsel: <input checked="" type="checkbox"/> Approved as to Form <input type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input checked="" type="checkbox"/> Reviewed Only  <i>s/Jeffrey B. Fuge</i> Jeffrey B. Fuge, Corporation Counsel

County Board Action

At its regular business meeting on the 21<sup>st</sup> day of March 2017, the Polk County Board of Supervisors considered and acted on the above Ordinance No. 09-17: Ordinance to Enact Amended Establishing Rules and Permit Requirements Relating to Environmental Health & Sanitation Ordinance, as follows:

- Enacted by simple majority of the board of supervisors by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.
- Enacted by unanimous vote. *voice vote*
- Defeated by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.
- Defeated by voice vote.
- Action Deferred by Procedural Action, as follows: \_\_\_\_\_

SIGNED BY:

*Dean Johansen*  
\_\_\_\_\_  
Dean Johansen, County Board Chairperson

Attest: *Sharon Jorgenson*  
\_\_\_\_\_  
Sharon Jorgenson, County Clerk

Certification of Publication

Ordinance No. 09-17: Ordinance to Enact Amended Establishing Rules and Permit Requirements Relating to Environmental Health & Sanitation Ordinance, was published pursuant to Wisconsin Statutes § 59.14(1) in the Inter-County Leader on the 5<sup>th</sup> day of April, 2017.

*Sharon E. Jorgenson* Dated: 3-23-17  
\_\_\_\_\_  
Sharon Jorgenson, County Clerk

CERTIFIED COPY OF POLK COUNTY ORDINANCE

STATE OF WISCONSIN )

) SS

COUNTY OF POLK )

I, Sharon E. Jorgenson, Polk County Clerk, do hereby certify that the attached hereto and incorporated herein is a full, true and correct copy of Polk County Ordinance -

*Ordinance to Enact Amended Establishing Rules and Permit Requirements Relating to Environmental Health + Sanitation Ordinance*  
No. 09-17 that was adopted by the Polk County Board of Supervisors on  
the 21<sup>st</sup> day of March 2017.

*Sharon E. Jorgenson* 3-21-17  
Sharon E. Jorgenson Date  
Polk County Clerk