

ORDINANCE NO. 2450

AN ORDINANCE TO AMEND CHAPTER 8, ARTICLE IX, CONCERNING TATTOO AND BODY PEIRCING; CHAPTER 18, ARTICLE V, CONCERNING SANITARY INSPECTIONS; AND, CHAPTER 18, ARTICLE VI, CONCERNING FOOD AND SAFETY REGULATIONS, LICENSING AND PERMITTING

WHEREAS, state statute has changed the manner and method of which tattoo and body piercing establishments, and food and safety rules and regulations, are permitted, enforced, and monitored throughout the state.

WHEREAS, the Common Council of the City of Cudahy has determined that it is in the best interest of the City's health, safety and welfare and morals to authorize the Health Department to conduct sanitary inspections of establishments within the City that are not exempt from local inspection pursuant to Wis. Stat. Chapter 97 and ATCP 75.

WHEREAS, upon the recommendation of the Health Department Director, the Common Council having found and determined that creation of such an ordinance authorizing sanitary inspections is necessary to protect the public health, safety and welfare.

NOW, THEREFORE, the City of Cudahy, Wisconsin, Common Council does hereby ordain the following:

Section 1. **Ch. 8, Article IX** of the Municipal Code of the City of Cudahy, Wisconsin is hereby amended as follows:

Rescind and recreate Section 8-301 to read as follows:

- (a) *Adopted.* The provision of Wis. Stats. §§ 463.10(4), 463.12(4), 463.16(9) and Wis. Admin. Code ch. SPS 221 as they may be from time-to-time amended are adopted by reference and incorporated into this section as if fully set forth herein:
- (b) *Interpretation.* If the provisions of the regulations set forth in subsection (a) of this section conflict with the regulations set forth below, the provisions of this section shall govern.

Rescind and recreate Section 8-302 to read as follows:

Sec. 8-302. - Agent for the state.

Pursuant to Wis. Stats. § 463.16, the health department is authorized to enter into a written agreement with the Department of Safety and Professional Services (SPS) to be the department's agent for the licensing, investigating, and inspecting of tattooists and tattoo establishments and body piercers and body piercing establishments.

Rescind and recreate Section 8-307 to read as follows:

Sec. 8-307. - Fees.

- (a) A nonrefundable license fee as set forth in the city's fee schedule, shall be submitted with the application for a tattoo establishment license.

- (b) A nonrefundable license fee as set forth in the city's fee schedule, shall be submitted with the application for a body piercing establishment license.
- (c) A nonrefundable license fee as set forth in the city's fee schedule, shall be submitted with the application for a combination tattoo/body piercing establishment license.
- (d) A one-time preinspection fee as set forth in the city's fee schedule for each original tattoo or body piercing establishment license.

Delete Section 8-318 in its entirety.

Rescind and recreate Section 8-319 to read as follows:

Sec. 8-319. - Tattooist and body piercer licenses to be posted or kept on person.

No tattooist or body piercer may perform tattooing or body piercing procedures unless the current and valid license issued by the department of Safety & Professional Services posted in the establishment in a public and conspicuous place or is in their possession. Such license shall be displayed to any member of the health department, police department, or department of SPS employee upon request.

Rescind and recreate Section 8-325 to read as follows:

Sec. 8-325. - Enforcement and inspection.

The police department and health department shall have the authority to enter any tattoo or body piercing establishment at all reasonable times to inspect the premises and enforce this section. The health department shall inspect each tattoo and body piercing establishment at least once per year to ensure compliance with the provisions of this article.

Section 2. **Section 18-121** in the Cudahy Municipal Code is hereby renumbered and moved to newly created Cudahy Municipal Code Section 18-122. Any references in our Code to current section 18-121 should be changed to reflect the newly created section 18-122.

Section 3. Current **Section 18-120** in the Cudahy Municipal Code is hereby renumbered and moved to newly created Cudahy Municipal Code Section 18-121. Any references in our Code to current section 18-120 should be changed to reflect the newly created section 18-121.

Section 4. **Section 18.120** of the Municipal Code of Ordinances is hereby created to read as follows:

Sec. 18.120. – Sanitary Inspection. The provisions of this Ordinance shall apply to the owner, operator or agents thereof of any establishments not exempted under Wis. Stat. § 97 or ATP 75 that do not require a food license as required by Chapter 18 of the Municipal Code.

(a) *Inspection required.*

(1) No establishment under this Section shall operate without passing a

- sanitary inspection.
- (2) Sanitary inspections shall be conducted by the Health Officer or designee.
 - (3) No establishment shall be deemed have passed the sanitary inspection until all application and inspection fees have been paid.
- (b) *Application for sanitary inspection.* The owner shall file an application for sanitary inspection in the office of the Health Department on application forms prepared by such office.
- (c) *Inspection.* The Health Officer or designee shall, whenever an application is made for a sanitary inspection, inspect the premises within 30 days of such filing. The Health Officer or designee shall issue a written report on the inspection.
- (1) One copy of the inspection report shall be provided to the owner or agent of the inspected premises.
 - (2) All establishments under this Section shall consent to an annual inspection and reinspection.
 - (3) If, upon reinspection, the order or directive is found not to have been complied with and additional reinspection is required, a fee shall be assessed to the responsible party for each additional reinspection to compensate for the costs of such reinspection. Payment is due upon written demand from the Department.
- (d) *Sanitation requirements.* All facilities under this section must adhere to and follow the minimum sanitary requirements of Wis. Stats. and ATCP 75 (appendix). Authority for sanitary inspections granted under Chapter 125.65(5).
- (e) *Enforcement.* Enforcement of this Section shall follow the procedure set forth in Section 18-121, which is incorporated herein by reference.

Section 5. **Ch. 18, Article VI** of the Municipal Code of the City of Cudahy, Wisconsin is hereby amended as follows:

Rescind and recreate Section 18-141 to read as follows:

Sec. 18-141. - Authority and purpose.

This article is adopted pursuant to that authority provided by Wis. Stats. §§ 97.41(1m), 97.615 125.68(5), 251.04(3), and ATCP, 72, 73, 74, 75 and Appendix, 76,78,79, DSPS 390. The purpose of this chapter is to protect and improve the public health and to authorize and recognize the City of Cudahy Health Department as an agent of the State Department of Agriculture Trade and Consumer Protection for the purpose of establishing permit fees, issuing permits, and making investigations or inspections of hotels, motels, restaurants, retail food establishments, tourist rooming houses, bed and breakfast establishments, campgrounds, recreational and

educational camps, public swimming pool, and establishments possessing "Class A," "Class B," "Class C" alcohol beverage licenses, and in making investigations and inspections of food vending machines, their operators, national lunch and breakfast programs and schools.

Rescind and recreate Section 18-142 to read as follows:

Sec. 18-142. - Applicability.

The provisions of this article shall apply to the owner, operator or agents thereof of any hotel, motel, tourist/rooming house, restaurant, retail food establishment, bed and breakfast establishment, campgrounds, recreational and educational camp, public swimming pool, establishments possessing "Class A," "Class B," "Class C" alcohol beverage licenses, or vending machines, and school food programs in the city.

Rescind and recreate Section 18-143 to read as follows:

Sec. 18-143. - Regulations, rules and laws adopted by reference.

The applicable laws, rules, and regulations as set forth in Wis. Stats. chs. 66, 93, 97, 125, 251; Wis. Admin. Code chs.; and Wis. Admin. Code chs. ATPC 72, 73, 74, 75 and Appendix, 76, 78, 79 and 80; and the Memorandum of Understanding between the state department of public instruction and Department of Agriculture Trade and Consumer Protection, Wis. Admin. Code ch. SPS 390 are hereby adopted by reference and a copy of each shall be on file and open to public inspection in the offices of the department and city clerk.

Rescind and recreate Section 18-144 to read as follows:

Sec. 18-144. - Definitions.

All definitions as set forth in Wis. Stats. chs. 93, 97, 125, 251; and Wis. Admin. Code chs. ATPC, 72 - 79 (including the appendix to Wis. Admin. Code ch. ATPC 75, the Wisconsin Food Code) and Wis. Admin. Code ch. SPS 390 are incorporated in this chapter.

Department means the environmental health consortium consisting of the Cudahy, Saint Francis and South Milwaukee Health Departments.

Duplicate permit fee means a fee for the replacement of the original permit.

Food means 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.

Retail Food establishment means a permanent or mobile processing facility that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "retail food establishment" includes the term "restaurant" as defined in s. 97.30 Stats.

Governing body means the local health department in that city in which the business is located or its successor organization if any, or in its absence, the public health administrator.

Inspection Fee means a fee charged for inspecting a retail food establishment, temporary food establishment or mobile food establishment that has a valid license from another jurisdiction or the State of Wisconsin Food and Recreational Licensing Program.

Late fee means a fee for failure to pay established fees by June 30 or the due date.

Licensed establishment means an establishment that has a current and valid license that is required under this chapter.

Milk means the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows. Milk shall contain not less than three percent of milk fat and not less than 8.25 percent of milk solids not fat. Milk may be standardized by the addition or removal of cream or by the addition of skim milk. When so standardized, milk shall contain not less than 3.3 percent of milk fat and not less than 8.25 percent of milk solids not fat. Milk fat or butterfat is the fat of milk.

Milk products means and includes cream, light cream, coffee cream, table cream, whipping cream, whipped cream, sour cream, cultured cream, cultured sour cream, half and half, sour half and half, cultured half and half, cultured sour half and half, concentrated milk, concentrated milk products, skim milk, skimmed milk, vitamin D milk, vitamin D milk products, fortified milk, fortified milk products, low fat milk, homogenized milk, flavored milk, flavored drink, flavored dairy drink, flavored skim milk, buttermilk, cultured buttermilk, cultured milk, acidified milk, acidified milk products, eggnog, yogurt, cottage cheese and creamed cottage cheese. This definition does not include such products as sterilized milk and milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter dry milk products (except as defined herein), or cheese, except when they are combined with other substances to produce any pasteurized milk or milk products defined herein.

Permit/license means the document issued by the regulatory authority that authorizes a person to operate an establishment. The words "permit" and "license" as used throughout this chapter shall be interchangeable.

Plan Review Fee may be required when an establishment is newly constructed or extensively remodeled. Extensive remodeling does not include redecorating, cosmetic refurbishing, or altering seating design or capacity.

Preinspection fee means a fee for consultative services offered to persons intending to operate a new hotel, tourist rooming house, bed and breakfast establishment, restaurant, retail food establishment, swimming pool, campground or to a person intending to be the new operator of an existing hotel, tourist rooming house, bed and breakfast establishment, restaurant, retail food establishment, or swimming pool and campground.

Reinspection fee means a fee for the inspections needed to address compliance issues with the statutes and administrative codes.

nor shall the operator give false information with the intent to mislead the department or authorized agent.

Rescind and recreate Section 18-148 to read as follows:

Sec. 18-148. - License/permit.

- (a) No person, partnership, association or corporation may establish a business that requires a license under this article without first having obtained a current and valid license.
- (b) Licenses shall not be transferable from person to person or from premises to premises except as defined in ATCP 75.104(3).

- (c) No permits shall be granted to any person under this article without a pre-inspection by the department of the premises for which the permit shall be granted.
- (d) No permit shall be issued until all application fees have been paid.

Rescind and recreate Section 18-149 to read as follows:

Sec. 18-149. - License exemption.

Exemption from this license does not exclude any person handling food for public consumption from inspection and compliance with requirements of this article. Exemption from this license pursuant to Wis. Stat. 97.30(2)(b) and ATP 75.03(9) are hereby adopted and incorporated herein by reference.

Rescind and recreate Section 18-164 to read as follows:

Sec. 18-164. - Fees.

- (a) *Determination of fees.* The fees for services and activities performed by the department in carrying out its responsibilities under this article shall be published in the City of South Milwaukee Administrative Fee Schedule.
- (b) *Fees to accompany application.* License fees imposed under this chapter shall accompany the license application. If a license is granted, the department shall issue the applicant a receipt for his license fee.
- (c) *No proration.* There will be no proration for license fees.
- (d) *Refunds.* No license fee paid shall be refunded, unless a refund is requested prior to an inspection.

Rescind and recreate Section 18-165 to read as follows:

Sec. 18-165. - Expiration dates.

All licenses issued under provisions of this article shall expire, unless otherwise ordered by the department or authorized agent, as follows, except for a license issued for a new retail food establishment on or after March 30 but before July 1 expire on June 30 the following year:

Campgrounds	June 30
Food/drink	June 30
Hotel/motel	June 30
Public swimming pool	June 30
Bed and breakfast	June 30
Recreation and educational camps	June 30
Vending machines	June 30

Section 6. All ordinances or parts of ordinance contravening the provisions of this ordinance are hereby repealed.

Section 7. If any part or parts of this ordinance are invalid, it shall not invalidate the entire

ordinance.

Section 8. This Ordinance shall take effect upon passage and publication as provided by law, and the City Clerk shall so amend the Cudahy Municipal Code, and shall indicate the date and number of this amending ordinance therein.

Introduced by the Rules, Laws and Licensing Committee.

PASSED AND ADOPTED by the Common Council of the City of Cudahy on this ____ day of _____, 2017.

JOHN HOHENFELDT, Mayor

Attest:

DENNIS BRODERICK, City Clerk

ADOPTED: _____
APPROVED: _____
PUBLISHED: _____

Prepared By: **PAUL T. EBERHARDY** City Attorney
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