

CHAPTER 56

STOCKBRIDGE-MUNSEE TRIBAL LAW FOOD SERVICE CODE

Section 56.1 Definitions

For the purpose of this Code:

- A. "Council" means the official Chairperson and quorum of committee representatives all of whom are duly elected or selected to office by the members of the Stockbridge-Munsee Band of Mohican Indians as their official representatives.
- B. "Environmental Health Advisor" means the U.S. Public Health Service Sanitarian or his/her designee.
- C. "Food Handler's Card" means a wallet sized food handler card issued by the Environmental Health Officer or designee to temporary vendors to indicate they have successfully completed the Stockbridge Munsee food handler's training course.
- D. "Food Service Establishment" means a unit that operates at a fixed location for more than 14 days where food is processed and intended for individual consumption usually for retail sale. The term includes any such place whether consumption is on or off the premises. This term includes home kitchens that prepare food for sale.
- E. "Food Service Permits" means the food service establishment operation permit issued by the Health Director or designee to a permanent food service establishment to indicate they have passed inspection and proven that at least one individual has successfully completed an approved food handler's certification examination.
- F. "Health Director" means the duly appointed Director of the Stockbridge-Munsee Health Department or his/her designee.
- G. "Retail FOOD SERVICE ESTABLISHMENT" means a unit or location, in which food is manufactured, cut, mixed, ground, packaged, and processed for sale or distribution to consumers.
- H. "Retail Food Outlet" means a unit or location at which food is offered for sale or distribution with no cutting, mixing, grinding, packaging, or processing.
- I. "Temporary Food Service Establishment" means a food service establishment that operates at a location for a period of less than 14 days. This could be in conjunction with a single event or celebration.

Section 56.2 Food Service Permits

- (A) No person shall operate a food service establishment who does not have a valid FOOD

SERVICE PERMIT issued to him/her by the Health Director. Only a person who complies with the requirements of this Code shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every food service establishment.

- (1) Food Service establishments operating on the Stockbridge-Munsee Indian Reservation must possess an unsuspended, unrevoked FOOD SERVICE PERMIT from the Health Director. Food Service permits will be issued as follows:
 - (a) All permanent facilities must meet the general requirements of the 2001 Food and Drug Administration Food Code or the most current edition of said code; whichever is applicable.
 - (b) The operator or at least one manager of a FOOD SERVICE ESTABLISHMENT shall provide proof to the Health Director that states the operator or manager has passed an approved (see appendix A) examination on FOOD protection practices. However:
 - (1) A new FOOD SERVICE ESTABLISHMENT or a FOOD SERVICE ESTABLISHMENT under going a change of operator shall have a certified FOOD manager within 90 days of the initial day of operation or provide documentation that they are scheduled within three (3) months to take and pass an approved examination as specified in Appendix A.
 - (2) FOOD SERVICE ESTABLISHMENTS which are not in compliance because of employee turnover or other loss of a certified manager, shall have 90 days from the date of the loss of a certified manager to comply with this chapter, or provide documentation that the person designated to be the certified FOOD manager will become certified within the time specified in this subparagraph.
 - (c) The Environmental Health Advisor shall submit a completed food service establishment inspection report to the Health Director.
 - (d) The Health Director shall issue a FOOD SERVICE PERMIT if the following conditions are met:
 - (1) There were no "critical item" deficiencies noted on DEHS, IHS Form R-01-1 or the written report provided by the environmental health officer or any form of report that is used to inspect the facility.
 - (2) At least one staff member or operator has provided proof that they have received training and passed an approved examination (see appendix A for examination criteria).
 - (e) Food Service permits shall be issued for a 12 month period following approval by the Health Director. Renewal of the permit is to be accomplished automatically when the Environmental Health Advisor completes an annual inspection of the premises and no critical items are identified.

- (f) Food Service permits shall be displayed in a conspicuous location within food service establishments.
- (g) Food Service Permits are not transferable.

(2) Food Service Establishment employees are not required to obtain and possess a current FOOD HANDLER CARD.

(B) No person shall operate a temporary food service establishment without a valid TEMPORARY FOOD SERVICE PERMIT issued to him by the Health Director, Stockbridge-Munsee Band of Mohican Indians. Only a person who complies with the requirements of this ordinance shall be entitled to receive or retain such a permit. Permits are not transferable.

(1) Temporary food service establishments, operating on the Stockbridge-Munsee Indian Reservation, must possess an unsuspended, unrevoked TEMPORARY FOOD SERVICE PERMIT from the Health Director, Stockbridge-Munsee Band of Mohican Indians. Temporary Food Service Permits will be issued as follows:

- (a) All temporary facilities must meet the general requirements of the Stockbridge-Munsee Band of Mohican Indians' "TEMPORARY FOOD SERVICE GUIDELINES".
- (b) The Health Director shall issue a TEMPORARY FOOD SERVICE PERMIT to the operator of a temporary food service facility if the operator of said establishment has reviewed the "TEMPORARY FOOD SERVICE GUIDELINES" and signed an agreement to comply with these guidelines.
- (c) The Health Director shall issue a TEMPORARY FOOD SERVICE PERMIT to the operator of a temporary food service facility after the operator has provided proof the individuals that will be working in the temporary facility have current FOOD HANDLER'S CARDS (see #2).
- (d) Temporary food service permits shall be issued for a period of time as designated by the Health Director.
- (e) Temporary Food Service Permits shall be prominently displayed within the temporary food service establishment.

(2) All temporary food service establishment employees, except employees only handling money or selling pre-packaged food or drink, will be required to obtain and possess a current FOOD HANDLER CARD. The FOOD HANDLER CARD will be issued by the Health Director and will be valid for two (2) years after issuance.

- (a) To obtain a FOOD HANDLER CARD, the food service employees must attend a Food Service Training Session, sponsored by the Stockbridge-Munsee Health Department, and successfully complete the requirements of the training session.
- (b) Cards issued by other recognized (Tribal, State, City, etc.) organizations will be accepted through reciprocity if the Environmental Health Officer or Designee determines it equals the requirements of the Stockbridge Munsee Food Code

- (c) Food Service Training Sessions will be presented semi annually or more frequently as determined by the Health Director and will be advertised at least 1 month in advance to promote public awareness of the classes.
- (d) Copies of all FOOD SERVICE PERMITS, TEMPORARY FOOD SERVICE PERMITS, and FOOD HANDLER CARDS will be maintained by the Director, Stockbridge-Munsee Health Department, or his/her designee.

(C) Three (3) copies each of the most current edition of the "FDA FOOD CODE" and the "TEMPORARY FOOD SERVICE GUIDELINES" shall be on file in the office of the Health Director.

Section 56.3 Inspections

The Stockbridge-Munsee Tribal Council delegates inspection authority of all food service establishments on the Stockbridge-Munsee Indian Reservation to the Health Director and Environmental Health Advisor.

Inspections shall be conducted at least annually of all food service establishments by the Environmental Health Advisor or his designee. Findings shall be reported utilizing the Food Service Establishments Inspection Report Form DEHS, IHS R-01-1 or the most current edition of said forms or any written report provided by the environmental health officer.

Commercial establishment reports will be sent to the owner/operator of the facility, the Chairman of the Stockbridge-Munsee Tribal Council, and the Health Director of the Stockbridge-Munsee Health Department.

Spot check inspections will be conducted periodically of temporary food service establishments by the Health Director or his/her designee. Each facility will be inspected at least once during its operation.

The Health Director or his/her designee has the discretion and authority to temporarily or permanently close all or part of a food service establishment if the Health Director or his/her designee determines that the community's health and welfare are or were jeopardized.

The issuance of a FOOD SERVICE PERMIT or TEMPORARY FOOD SERVICE PERMIT carries with it the implied consent that the Health Director, Environmental Health Advisor, or their designee shall have, at all times, the right of proper entry upon any and all parts of the premises of any place in which such entry is necessary to carry out the provisions of this ordinance. The Health Director or his/her designee has the discretion and authority to temporarily or permanently close all or part of a food service establishment if the Health Director or his/her designee determines that any provision of the permit or this ordinance has been violated.

Section 56.4 Termination of Permits

If any individual or party, subject to the jurisdiction of the Stockbridge-Munsee Reservation, who also operates a food service establishment required to possess a FOOD SERVICE PERMIT

or TEMPORARY FOOD SERVICE PERMIT, violates the aforementioned provisions, such violation shall constitute grounds for termination of that person's or entity's permit, by the Tribal Health Director, to trade on the Stockbridge-Munsee Indian Reservation.

The licensee or permittee may appeal the Health Director's decision to the Tribal Administrator. The appeal must be in writing and served upon the Health Director within five business days. The Tribal Administrator will review all details of the termination of permits and render a written decision within five business days, based on the evidence provided. The Tribal Administrator's decision will be final.

Section 56.5 Enforcement

The Tribal Health Director may seek injunctive Relief or other necessary relief through the Tribal Court against anyone who violates any section of this code, or order or directive of the Health Director.

Section 56.6 Effective Period of Ordinance

(A) This ordinance shall be in full force and effect beginning January 1, 1994, and at that time all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

(B) Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected hereby.

(C) Any part of this ordinance may be amended by the Stockbridge-Munsee Tribal Council by a majority vote.

LEGISLATIVE HISTORY

Originally approved August 3, 1993 by Resolution of Tribal Council, to be effective Jan. 1, 1994. Revised and amended August 17, 2005. All drafts were developed and recommended by Indian Health Service.

On March 21, 2006, Tribal Council, by Resolution No.027-06 created sections 56.1(C),(D),(E); 56.2(B)(2); 56.5; Appendix A, and amended sections 56.3 and 56.4. Approved by BIA on April 10, 2006.

TEMPORARY FOOD SERVICE GUIDELINES

Stockbridge-Munsee Health and Wellness Center
W12802 County Highway A
Bowler, WI 54416
PH. 715/793-4144

A temporary food service means a facility that operates at a fixed location in conjunction with a single event such as a pow wow, fair, carnival, or other celebration.

I. LOCATION

(A) Temporary food stands must not be less than 100 feet from building housing animals or other sources of odors, flies or insect infestations.

(B) Toilet facilities must be located within 400 feet.

II. CONSTRUCTION

(A) Each facility must have a roof made of wood, canvas, or other approved material that protects the interior of the establishment from splash, dust, and inclement weather.

(B) Barrels and other containers which have been used for the storage of toxic products shall not be used as a cooking device.

(C) All means of cooking at counters, grills, barbecue pits and other types of cooking must be in an enclosed area effectively separated, so as not to be accessible to the public, by using fence, rope or similar means.

III. WATER SUPPLY

(A) A potable water supply from an approved source must be provided on the premises for use in food preparation, utensil-washing and employee hand washing.

(B) Temporary restaurants which do not have water under pressure are required to provide food grade water containers which are smooth, easily cleanable and have a tight fitting cover. Containers must be cleaned and sanitized in an approved manner each day prior to commencement of operations.

(C) An electric or gas heating device is required to heat water for hand washing and utensil washing.

(D) Water hoses must be of food grade material, i.e., clear plastic or of nontoxic materials approved by the USDA, FDA and NSF. Water supplies that are connected to hoses shall be protected by an approved backflow prevention device.

IV. UTENSIL CLEANING

(A) Only single-service cups, dishes, and implements shall be used for serving food and drink. These utensils shall be fully protected from contamination, and shall be used only once.

(B) All single-service utensils shall be stored in the original closed container or effectively protected from dust, insects and other contamination and be stored a minimum of 6 inches off the floor. Single-service straws, knives, forks, spoons and toothpicks which are stored in a container that is self-service to the customer, shall be individually wrapped unless served through an approved dispenser or dispensed individually by a food service employee to the customer.

(C) Dishes and utensils must be washed after each use in the following manner: 1) pre-wash (scrape and soak), 2) wash in a good detergent, 3) rinse in clean water, 4) immerse in a 100-ppm bleach solution or other approved sanitizer for two minutes, and 5) air dry. (100 ppm bleach solution = 1/4 ounce bleach per gallon of water.)

V. WASTEWATER DISPOSAL

(A) Liquid waste should be emptied into an approved sewage collection system when such system is available. When not available, liquid waste must be stored in a sealed container. This waste shall be disposed of at a location that will not create a fly, odor, or nuisance problem.

VI. HAND WASHING

(A) Hot water or tempered water must be provided for hand washing. If potable water is under pressure at the facility, a single compartment stainless steel or porcelain handwash sink with proper liquid waste disposal must be used.

(B) Where potable water is not under pressure, a minimum of two pans or basins for hand washing and rinsing is required (a single basin with two compartments is acceptable). Hand washing basins shall be kept in a clean and sanitary condition. Disposable towels, soap and a waste receptacle shall be provided in the area of the hand washing basins.

(C) An alternative method for hand washing when potable water is not under pressure is as follows: Hot or tempered water in a suitable clean container with a spigot is encouraged for washing and rinsing hands. Water from the spigot will run over the hands while they are being washed and rinsed and the wastewater collected for proper disposal such as in a bucket or pan.

(D) All food service workers shall wash their hands frequently while preparing and serving food. Employees must wash their hands immediately after using the toilet.

VII. PERSONAL HYGIENE

(A) All persons working in concessions will wear clean clothing and caps or hairnets.

(B) No person who has any disease, in a communicable form or is a carrier of such disease shall work in any temporary food service, and no facility shall employ any such person or persons suspected of having any communicable disease or being a carrier of such disease.

(C) Tobacco products, in any form, shall not be used in the food preparation or serving areas. Employees of the facility shall wash their hands immediately after using any tobacco products.

(D) Unauthorized access to the food preparation area should be prohibited. Only food service workers should be present in the facility.

(E) No children under the age of 15 years shall work in a temporary food service facility.

VIII. FOOD PROTECTION

(A) Potentially hazardous food, such as cream-filled pastries, custards, and similar products, and meat, poultry and fish in the form of salads shall not be served, e.g., potato, chicken and egg salads. No home canned products shall be served. Foods must be from approved sources.

(B) Potentially hazardous foods such as hamburger, salads, eggs, milk, etc., shall be kept refrigerated at a temperature of less than 45 degrees F when not being served. Potentially hazardous hot foods, such as Indian Taco meat or soup, shall be kept hot at 140 degrees F or higher. Frozen foods shall be thawed out at temperatures below 45 degrees F or during the cooking process. No thawing of frozen foods at outdoor temperatures will be allowed.

(C) An accurate and visible thermometer must be located in each refrigeration unit.

(D) An accurate metal stem thermometer must be provided for checking internal temperatures of cold and hot potentially hazardous foods.

(E) All foods and drinks are to be covered at all times to prevent contamination from flies, dust, sneezing, etc. If cloth coverings are used, they shall be used for no other purpose and shall be replaced by clean cloths daily.

(F) Ice, which will be consumed or will come in contact with food, shall be obtained from an approved source in chipped, crushed or cubed form. Such ice shall be obtained in single service closed containers, and shall be held therein or in sanitary covered containers until used. Dippers or scoops shall be used for dispensing ice.

(G) All nonperishable food must be stored in its original container a minimum of 6 inches above the floor of the temporary restaurant.

(H) Nonperishable food which is not stored in its original container must be stored in an approved food grade covered container, and if the food item is not readily recognizable, must be labeled for content.

(I) Sugar, cream, mustard, ketchup and similar products shall be served from individual packages or approved dispensers unless they are served by food service employees.

(J) Items such as pickles, onions and relish shall be served by food service employees unless individually packaged.

(K) Plastic squeeze bottles, pumps and similar types of dispensers must be fabricated so as to be smooth, easily cleanable and capable of being completely disassembled for washing, rinsing and sanitizing.

(L) Live animals shall be excluded from the operational area of the food service facility.

IX. REFUSE

(A) Garbage and refuse shall be routinely removed from the immediate area around the facility to prevent the attraction of flies and the creation of odor and nuisance problems.

(B) Durable waste containers of sufficient size and number lined with plastic bags and provided with tight-fitting lids will be provided by the operator of the facility. These containers must be covered at all times. The containers will be emptied as often as necessary to avoid creating a nuisance. When dumpsters are used for daily storage, plastic bags shall be used and tightly closed prior to storage in dumpsters.

(C) Grease will be disposed of in a grease disposal dumpster if one is available. If one is not available then the grease must be disposed of by the vendor in an acceptable manner (allow it to harden or place in a sealable container and dispose of it in a regular waste dumpster). Grease shall not be dumped on the ground, in the storm sewer, in the porta-johns, or in any way that could cause damage to the environment or public health.

X. WASHING AND CLEANING AIDS

(A) All washing aids such as brushes, dish mops and dish cloths used in dishwashing shall be maintained in a clean and sanitary condition. Counter cloths must be stored in an approved sanitizing solution, i.e., 100-ppm chlorine bleach solution (1/4 ounce bleach per gallon of water).

(B) An approved test kit must be used for measuring the level of sanitizer in solution.

(C) Floor cleaning aids such as mops, brooms and buckets should not be stored in food preparation areas.

XI. TOXIC PRODUCT USE

(A) Toxic products must not be used in a way that contaminates food, equipment or utensils or in a way that constitutes a hazard to employees or other persons or in a way other than in full compliance with the manufacturer's label.

(B) Toxic products shall not be stored above food, food equipment, utensils or single-service articles.

APPENDIX A Examination Criteria

Criteria for DEPARTMENT approval of a written examination on FOOD protection practices may include the following:

- (A) The testing service is:
 - (1) Experienced in examination development and administration on a statewide or multi-state basis;
 - (2) Experienced in the development of an examination pertaining to FOOD service protection practices; and
 - (3) Qualified in examination development, administration and measurement.
- (B) The examination is currently being use by a trade or regulatory organizations;
- (C) The examination is accepted by public health officials and has been administered on a statewide basis;
- (D) The questions and answers are consistent with the examination requirements of this chapter;
- (E) Security procedures are in place which protect the examination from compromise in preparation, printing and transportation of the examination;
- (F) The examination will be administered by a person certified by the testing service to administer the examination, to ensure that the examination taker and the applicant are the same person;
- (G) General analyses of examination results will be available annually;
- (H) The examination is available and may be taken at location geographically accessible to persons who want to take it;
- (I) There is advance notice of examination dates available;
- (J) An examination that is given under contract with a testing service for a specified period of time is subject to review by the DEPARTMENT upon renewal;
- (K) A designated examination coordinator or contact person is available;
- (L) The needs of special populations for accommodation to be able to take the examination are addressed by the testing service;
- (M) A study guide and list of resources is available to persons who are preparing to take the examination;
- (N) The proposed examination is consistent with already APPROVED examination in regard to rigor and types of questions; and

Examples of the courses that offer exams are:

- Serve – Safe
- National Environmental Health Association Certified Food Professional
- Culinary Arts School Training

TEMPORARY FOOD SERVICE PERMIT APPLICATION
STOCKBRIDGE-MUNSEE INDIAN RESERVATION

Applicant Name: _____

Address: _____

Phone Number: _____

All food handlers will have a current food handlers card.

Period of Food Service Operation: _____

As the owner/operator of this Temporary Food Service Facility, I hereby apply for a permit from the Stockbridge-Munsee Band of Mohican Indians to operate my business on the Stockbridge-Munsee Indian Reservation. I have reviewed the requirements of the TEMPORARY FOOD SERVICE GUIDELINES of the Stockbridge Munsee Band of Mohican Indians and agree to comply with said guidelines.

I understand that failure to comply with any of the requirements of these Guidelines will result in the revocation of my Temporary Food Service Permit.

Owner/Operator

Date