



MENOMINEE NATION

THE MENOMINEE TRIBAL LEGISLATURE

TRIBAL ORDINANCE NO. 23-26

AMENDMENT TO THE CODE OF THE MENOMINEE INDIAN- TRIBE OF WISCONSIN

CHAPTER 335

FOOD HANDLING

FINAL APPROVAL:


BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

Tribal Ordinance 23-26 is hereby enacted. Tribal Ordinance 23-26 amends Chapter 335 "Food Handling" of the Code of the Menominee Indian Tribe of Wisconsin as attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing Ordinance 23-26 "Amendment to Chapter 335 - "Food Handling" was **duly adopted**, at a regular meeting of the Tribal Legislature held July 20, 2023, at which a quorum was present, by a vote of **8** for, **0** opposed, **0** abstentions and **0** absent.

The undersigned also certify that the foregoing amendment to Code of the Menominee Indian Tribe of Wisconsin has been posted in accordance with the Menominee Constitution and Bylaws.



GENA KAKKAK, CHAIRWOMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN

DATE: JULY 20, 2023



SPENCER GAUTHIER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN

Ordinance 23-26
Amendment to Chapter 335 Menominee Tribal Code – Food Handling
July 20, 2023 Public Comment
Gary Besaw, Director Department of Agriculture & Food Systems

Ordinance 23-26 amending the Food Handling provisions of Tribal law was drafted at the request of the Department of Agriculture & Food Systems, and the Department fully supports passage of this Ordinance for the purpose of bringing up to date food safety regulation on the Reservation.

As the Ordinance has gone through the process of Committee review, and first consideration by the Legislature, the Department has continued to review and think about those changes, and has determined that the Food Handling Code would be improved further if the following changes were made prior to Final Approval:

1. Change the adopted federal food code to make inspections an annual requirement instead of an every six month requirement. If the Legislature wished to make this change, the following motion prior to Final Approval would be necessary:

I move to amend Ordinance 23-26, to add a Section 335-2. F to state:

F. The following provisions of the FDA 2022 Food Code are modified as follows:

(1) In Section 8-401.10 (A) and (B) the term “6 months” is replaced with “12 months”

2. Change the adopted federal food code to that inspection reports are not available to the general public. If the Legislature wished to make this change, the following motion prior to Final Approval would be necessary:

I move to amend Ordinance 23-26, to add a Section 335-2.F (2) to state:

(2) Section 8-403.50 is deleted in its entirety.

3. Change the adopted federal food code to allow for an exemption for those selling food as part of a fundraiser. If the Legislature wished to make this change, the following motion prior to Final Approval would be necessary:

I move to amend Ordinance 23-26 to add a Section 335-2.F (3) to state:

Notwithstanding any other provision of this Chapter 335, the Regulatory Authority is authorized to exempt certain food sales from the requirements of Chapter 335 or any portion of Chapter 335 if such food sale is for charitable purposes as defined in a rule issued by the Regulatory Authority that is approved by a motion of the Menominee Tribal Legislature.

4. Change the provisions in 335 to clarify that the Member Services Department will continue to play a role in issuing of permits and licenses, and collection of fees. If the Legislature wished to make this change, the following motion prior to Final Approval would be necessary:

I move to amend Ordinance 23-26 to delete Section 335-2.D in its entirety and replace it with:

D. Permit and licensing fees shall be established by the Regulatory Authority and approved by a motion of the Menominee Tribal Legislature. Permit and licensing fees shall be submitted to the Member Services Department at the time of application, renewal, or change of ownership. Permits and licenses are approved by the Regulatory Authority and issued by the Member Services Department.

5. Change the effective date of these changes to October 1, 2023. If the Legislature wished to make this change, the following motion prior to Final Approval would be necessary:

I move to amend Ordinance 23-26 to add a Section 4 to state:

4. Effective Date. This Ordinance shall be effective October 1, 2023.

TRIBAL ORDINANCE 23-26

AMENDMENT TO CHAPTER 335 – FOOD HANDLING

1. Purpose. The purpose of this Amendment is to adopt the 2022 Federal Food Code as Tribal Law and to designate the Department of Agriculture and Food Systems as the Department of the Tribe responsible for administration of Chapter 335.
2. Amendment to Chapter 355. Chapter 355 is deleted in its entirety and replaced by the following:

Chapter 335
Food Code

§ 335-1 Title; purpose; scope; right of entry.

- A. Food Code. These provisions shall be known as the "Menominee Food Code," hereinafter referred to as the "code."
- B. Food safety, illness prevention, and honest presentation. The purpose of this code is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.
- C. Scope. This code establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension. This code applies to all food dispensaries, restaurants, retail food establishments, retail food outlets, temporary food establishments, and seasonal food establishments.
- D. Right of entry. The issuance of a license under this code carries with it the implied consent that the Regulatory Authority 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 code. It shall be unlawful for any person to resist proper entry by the Regulatory Authority representative upon any premises.

§ 335-2 Adoption of Federal Food Code.

- A. Unless otherwise provided herein, the Tribe hereby adopts the entire 2022 Federal FDA Food Code through incorporation by reference into this law.
- B. Should a provision of Chapter 335 conflict with a provision of the Federal FDA Food Code, the provision of Chapter 335 will govern.
- C. Copies of the 2022 FDA Food Code adopted pursuant to this Chapter are available for inspection at the Office of the Tribal Chairperson.

- D. Permit and licensing fees shall be established by the Regulatory Authority and approved by a motion of the Menominee Tribal Legislature. Permit and licensing fees shall be submitted to the Member Services Department at the time of application, renewal, or change of ownership. Permits and licenses are approved by the Regulatory Authority and issued by the Member Services Department.
- E. The term Regulatory Authority as used in the adopted Food Code shall mean the Menominee Indian Tribe of Wisconsin Department of Agriculture and Food Systems.
- F. The following provisions of the FDA 2022 Food Code are modified as follows:
 - (1) In Section 8-401.10 (A) and (B) the term “6 months” is replaced with “12 months”
 - (2) Section 8-403.50 is deleted in its entirety.
 - (3) Notwithstanding any other provision of this Chapter 335, the Regulatory Authority is authorized to exempt certain food sales from the requirements of Chapter 335 or any portion of Chapter 335 if such food sale is for charitable purposes as defined in a rule issued by the Regulatory Authority that is approved by a motion of the Menominee Tribal Legislature.

§ 335-3 Penalties

- A. Failure to comply with any or all parts of this Chapter 335 shall result in a fine of not less than \$50.00 and not more than \$500.00 per day for each day of noncompliance.
- B. This Chapter shall be enforced by the Menominee Tribal Police Department through the issuance of citations upon referral from the Regulatory Authority.
- C. The Tribal Court shall have jurisdiction, upon petition of the Regulatory Authority through the Tribal Prosecutor, to enjoin any actions in violation of Chapter 335 where there is a substantial probability that death or serious physical harm could result to any person immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Chapter 335. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such danger.
- 3. Effect of Amendment. This amendment shall not impact any prosecution, action, suit or other proceeding pending prior to the effective date of this ordinance brought pursuant to Chapter 335.
- 4. Effective Date. This Ordinance shall be effective October 1, 2023.