



## Request for City Council Committee Action from the Department of Regulatory Services Licenses & Consumer Services

Date December 12, 2007  
To PSRS Chair Don Samuels

**Subject** Revocation of the catering license for D & L Thibodeaux LLC., dba Top Diner, 4330 Lyndale Avenue North, Minneapolis, MN 55412

### Recommendation

The business License Division recommends revocation of the catering license of D & L Thibodeaux LLC., dba Top Diner for failure to allow inspections on the premises by Environmental Health Division of Regulatory Services, and not operating the establishment in accordance with the Minneapolis Code of Ordinances, Chapters 186 & 188 and the Minnesota Food Code, Chapter 4626.

Prepared or Submitted by Dan Jacobs, Inspector, Licenses and Consumer Services, Ricardo Cervantes, Deputy Director, Licenses and Consumer Services

Approved by

Ricardo Cervantes, Deputy Director

Burt Osborne, Director of Licenses

Rocco Forte, Assistant City Coordinator

**Policy Review Group (PRG)** Not Applicable X

Presenters in Committee Dan Jacobs, License Inspector, Ricardo Cervantes, Deputy Director, Licenses and Consumer Services

### Financial Impact (Check those that apply)

X No financial impact

**Background/Supporting Information Attached**

Background information is under separate cover to be distributed at PSRS.

EVIDENCE PACKET

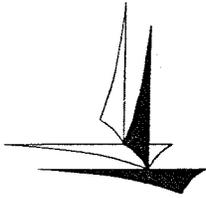
FOR

TOP DINER

DECEMBER 2007

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**Minneapolis**  
*City of Lakes*

**Regulatory Services  
Department**

**Licenses &  
Consumer Services  
Division**

350 South 5th Street – Room 1C  
Minneapolis MN 55415-1391

Office 612 673-2080  
Fax 612 673-3399  
TTY 612 673-2157

October 25, 2007

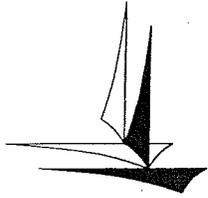
Darryl and Linda Thibodeaux  
Top Diner  
4330 Lyndale Avenue North  
Minneapolis, MN 55412

### NOTICE OF HEARING

**In respect to your catering license regarding Top Diner, located at 4330 Lyndale Avenue North, Minneapolis, MN 55412.**

#### PLEASE TAKE NOTE:

1. This is to notify you that a hearing will be held before the Public Safety and Regulatory Services Committee of the Minneapolis City Council on **Wednesday, December 12, 2007 at 1:00 p.m.** or shortly thereafter, in Room 317, City Hall, 350 South Fifth Street, Minneapolis, MN to consider action with respect to your catering license for Top Diner located at 4330 Lyndale Avenue North.
2. This hearing may result in the revocation of your business license resulting in discontinuance of business activities.
3. An attorney may represent you if you so desire.
4. Under Minneapolis Code of Ordinance Chapters 186 & 188 the licensee shall:
  - Operate the establishment in accordance with the Minneapolis Code of Ordinances, Chapters 186 & 188 and the Minnesota Food Code, Chapter 4626
  - Have a Certified Food Manager who spends a substantial amount of time at the establishment.
  - Have a Person In Charge present during all hours of operation.
  - Allow inspection of the premises in accordance with Minneapolis Code of Ordinances 188.70 and 188.80



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5. The specific basis for the revocation recommendation is as follows:
- As evident with high numbers of violations, you have not operated the establishment in accordance with the Minneapolis Code of Ordinances, Chapters 186 & 188 and the Minnesota Food Code, Chapter 4626.
  - You have failed to allow inspection of the premises
  - You have not provided verification a Certified Food Manager spends a substantial amount of time at the establishment.
  - You have not provided verification a Person In Charge is present during all hours of operation.
  - You have failed to allow inspections by the Environmental Health Inspector on the premises.
  - You have failed to provide verification to the Environmental Health & Food Safety Department, that you are in fact preparing the meals at 4330 Lyndale Avenue North for the delivery of them to two day care facilities. Also, you have failed to provide verification that the meals are being prepared in accordance with state requirements.

If you have further questions regarding the issues or conduct of the hearing, you may contact License Inspector Dan Jacobs at 612-673-3909.

Sincerely,

Ricardo X. Cervantes, Deputy Director  
Licenses and Consumer Services

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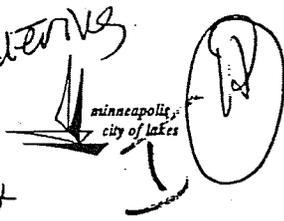
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FOR OFFICE USE ONLY

CHECK TYPE

NEW *for catering*

RENEWAL *for rest*



DEPARTMENT OF REGULATORY SERVICES  
 DIVISION OF LICENSES AND CONSUMER SERVICES  
 ROOM 1-C, CITY HALL, 350 SOUTH 5<sup>TH</sup> STREET  
 MINNEAPOLIS, MN 55415 (PHONE: 612-673-2080)

LICENSE ID NUMBER: 15950677

FEE: \$ 108850

LICENSE CLERK: BA DATE: 1/8/07

152 50116

FOOD APPLICATION  
 (TYPE OR USE BALL POINT PEN)

LICENSE REQUESTED:  FOOD DISTRIBUTOR  MUNICIPAL MARKET  DRIVE IN RESTAURANT  MINNESOTA SALES TAX IDENTIFICATION NUMBER: [REDACTED]

CONFECTIONERY  FOOD MANUFACTURER  PUBLIC MARKET

CATERING  MEAT MARKET  MARKET DISTRIBUTOR

GROCERY  RESTAURANT  MARKET MANUFACTURER

TYPE OF ENTERTAINMENT TO BE OFFERED?

MINNEAPOLIS BUSINESS LOCATION: 4330 Lyndale Ave. N. SUITE #: [ ] TRADE NAME/DBA: Top Diner ZIP CODE: 55412 TELEPHONE NUMBER: [ ]

NAME OF APPLICANT: Darryl Thibodeaux, Sr. ADDRESS: 4330 Lyndale Ave. N. SUITE #: [ ] ZIP CODE: 55412 TELEPHONE NUMBER: [ ]

MAILING ADDRESS IF DIFFERENT FROM BUSINESS LOCATION: [ ] APPLICANT EMAIL ADDRESS: [ ]

NAME OF MANAGER: [ ] DATE OF BIRTH: [ ] ADDRESS: [ ] ZIP CODE: [ ] TELEPHONE NUMBER: [ ]

TYPE OF OWNERSHIP:  SOLE PROPRIETOR  PARTNERSHIP  CORPORATION CORPORATION NAME: D & L Thibodeaux, LLC. STATE OF INCORPORATION: Minnesota

OWNER OF BUILDING: Darryl & Linda Thibodeaux ADDRESS: 909 Bradford Ave. N. ZIP CODE: 55316 TELEPHONE NUMBER: 612 991-0488

PROPERTY IDENTIFICATION NUMBER: [ ]

LIST ALL NAMES OF OWNERS, PARTNERS OR CORPORATE MEMBERS

FIRST NAME, FULL MIDDLE NAME AND LAST NAME: Darryl Thibodeaux, Sr. BIRTHDATE: 3/31/56 TITLE: Owner HOME TELEPHONE NUMBER: 763 712-0130

HOME STREET ADDRESS: 909 Bradford Ave. N. CITY: Champlin STATE: MN ZIP CODE: 55316

FIRST NAME, FULL MIDDLE NAME AND LAST NAME: Linda Thibodeaux BIRTHDATE: 3/9/59 TITLE: Owner HOME TELEPHONE NUMBER: 763 712-0130

HOME STREET ADDRESS: 909 Bradford Ave. N. CITY: Champlin STATE: MN ZIP CODE: 55316

\*\*\* ATTACH ADDITIONAL SHEET IF NECESSARY \*\*\*

HAVE ANY OF THE ABOVE PEOPLE BEEN CONVICTED OF A CRIME?  
 NO  YES - IF YES, PLEASE PROVIDE DATE, OFFENSE AND JURISDICTION ON A SEPARATE SHEET AND ATTACH TO APPLICATION.

SQUARE FOOTAGE OF FOOD ESTABLISHMENT - GROSS AREA: 4930

SQUARE FOOTAGE OF FOOD ESTABLISHMENT - NET SEATING AREA: 1545

NUMBER OF CUSTOMER SEATS: 110

LIST THE TYPE OF FOODSTUFFS TO BE SOLD

Burgers, Fries, chicken, Soups, Salads, etc.

If catering or distributing perishable foods, what is the total number of vehicles to be used?:

LIST VEHICLES USED FOR DELIVERY OF FOOD

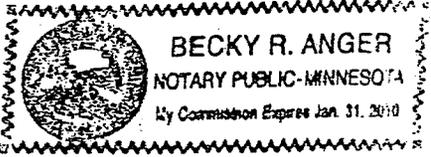
NUMBER:	STATE LICENSE NUMBER:	VEHICLE MAKE:	YEAR:
1			
2			

ATTACH ADDITIONAL SHEET IF NECESSARY

I hereby certify that I have read and understand every question in this application and that the answer to every question is true to my own knowledge and belief. I further understand that the giving of false information in this application constitutes cause for the immediate revocation of any license and permits issued hereunder.

PRINT NAME: Darryl Thibodeaux SIGNATURE OF APPLICANT (MUST BE NOTARIZED): [Signature] DATE SIGNED: 1/8/07

THE ABOVE SIGNATURE MUST BE NOTARIZED



Subscribed and sworn to before me this 8 day of Jan, 2007

Signature of Notary: [Signature]

Notary Public, [Signature] County, State of MN

My Commission Expires: 1-31-10


 minneapolis  
city of lakes

LICENSE IDENTIFICATION NUMBER:

159 50677

159 50114

## MINNESOTA TAX CLEARANCE AND WORKERS COMPENSATION LAW

• Pursuant to Minnesota Statute 270.72 Tax Clearance: Issuance of Licenses, the licensing authority is required to provide to the Minnesota Commissioner of Revenue your Minnesota business tax identification number and the social security number of each license applicant.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, we are required to advise you of the following regarding the use of this information: (1) This information may be used to deny the insurance, renewal or transfer of your license in the event you owe the Minnesota Department of Revenue delinquent taxes, penalties or interest; (2) Upon receiving this information, the licensing authority will supply it only to the Minnesota Department of Revenue. However, under the Federal Exchange of information Agreement the Department of Revenue may supply this information to the Internal Revenue Service; (3) Failure to supply this information may jeopardize or delay the issuance of your license or processing your renewal application.

• Minnesota statute, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in an activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirements of MSS Chapter 176. The information required is: the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. This information will be collected by the licensing agency and retained in their files.

This information is required by law, and licenses and permits to operate a business may not be issued or renewed if it is not provided and/or is falsely reported. Furthermore, if this information is not provided or falsely stated, it may result in a \$1,000 penalty assessed against the applicant by the Commissioner of the Department of Labor and Industry.

TYPE OF LICENSE BEING APPLIED FOR OR RENEWED:

Restaurant

## PERSONAL INFORMATION

APPLICANT'S NAME (LAST, FIRST, MI):

Thibodeaux, Darryl

SOCIAL SECURITY NUMBER:

[REDACTED]

HOME ADDRESS:

909 Bradford Ave. N.

CITY:

Champlin

STATE:

MN

ZIP CODE:

55316

PHONE NUMBER:

612 991-0488

## BUSINESS INFORMATION

BUSINESS NAME:

Top Diner

BUSINESS ADDRESS:

4330 Lyndale Ave. N.

CITY:

Minneapolis

STATE:

MN

ZIP CODE:

55412

PHONE NUMBER:

612 521-3385

MINNESOTA TAX IDENTIFICATION NUMBER:

[REDACTED]

FEDERAL TAX IDENTIFICATION NUMBER:

[REDACTED]

IF A MINNESOTA TAX IDENTIFICATION NUMBER IS NOT REQUIRED PLEASE EXPLAIN:

WORKER'S COMPENSATION:

INSURANCE COMPANY NAME: (NOT AGENTS NAME)

RTW

POLICY NUMBER:

WCP211541800

DATES OF COVERAGE:

Starting:

1/1/07

Ending:

1/1/08

-OR-

I certify that I am not required to carry worker's compensation insurance because (check one):

- I am the sole proprietor and I have no employees  I am self insured (include permit to self-insure)
- I have no employees who are covered by workers compensation law. (Only employees who are specifically exempted by statute are not covered by the workers compensation law. These include: Spouse; Parents; Children, regardless of age; and farm labor employees of a family farm that spent less than \$8,000 for farm labor in the previous calendar year. All other workers whose work is controllable by the employer must be covered.)

I understand that the information provided above will be verified by the Minnesota Department of Labor and Industry, I understand that I am subject to a \$1,000 penalty if the information is false. I certify that all information provided above is accurate and complete and that a valid worker's compensation policy will be kept in effect at all times as required by law.

SIGNATURE:

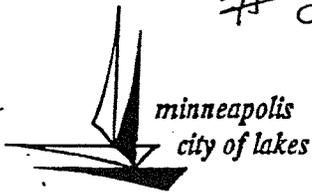
Darryl Thibodeaux

POSITION (OFFICER, PARTNER, ETC.):

Owner

DATE SIGNED

1/8/07



# 22

RJR 1/22/07  
159-50677

MINNEAPOLIS DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF LICENSES & CONSUMER SERVICES  
350 SOUTH 5<sup>TH</sup> STREET, ROOM 1-C CITY HALL  
MINNEAPOLIS, MN 55415  
TELEPHONE: (612) 673-2080

**ENVIRONMENTAL HEALTH - FOOD SAFETY ADDENDUM  
FOR A BUSINESS LICENSE IN MINNEAPOLIS**

LICENSE INSPECTOR Don Jacobs TELEPHONE 3909 FAX \_\_\_\_\_

**APPLICANT MUST BRING THIS FORM TO:**

ENVIRONMENTAL HEALTH - FOOD SAFETY  
PUBLIC SERVICE CENTER  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
(612) 673-2170

**TO BE COMPLETED BY THE LICENSE APPLICANT**

(Environmental Health Code Compliance Officer to forward signed and completed form to License Division)

NAME OF BUSINESS: <u>Top Diner</u>		PROPOSED BUSINESS ADDRESS: <u>4330 Lyndale Ave. N.</u>	
OWNER/LICENSEE: <u>Darryl Thibodeaux</u>		TELEPHONE: <u>612 991-0488</u>	
CONTACT PERSON FOR APPLICATION: <u>Darryl Thibodeaux</u>		TELEPHONE:	
NAME OF CERTIFIED FOOD MANAGER (if Required): PLEASE ATTACH COPY OF CURRENT CERTIFICATE <u>Linda Thibodeaux</u>			
DESCRIBE YOUR BUSINESS PRODUCTS AND/OR SERVICES: <u>Food - Burgers, Pizza, meals</u>			
FACILITY/BUSINESS SPACE:			
<input checked="" type="checkbox"/> EXISTING	Square Footage of Sales Floor (Grocery) <u>3000</u>		
<input type="checkbox"/> NEW	Square Footage Used By Business _____		
WILL VEHICLES BE USED IN THE BUSINESS?			
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	Number of Vehicles <u>1</u>	
Is there any construction/remodeling in progress? <u>NO</u>			
If yes, have plans been submitted to: <input type="checkbox"/> Mpls One Stop		<input type="checkbox"/> YES	<input type="checkbox"/> NO
If yes, have you obtained the necessary permits?		<input type="checkbox"/> YES	<input type="checkbox"/> NO
Are you planning any construction/remodeling/modification to the facility or equipment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
If yes, what type of work will you be doing?			
<input type="checkbox"/> General Building	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Mechanical	<input type="checkbox"/> Electrical
<input type="checkbox"/> Other (explain) _____			
Have you selected a licensed contractor to perform the work? (Permits and inspections are required for any work.)			
<input type="checkbox"/> YES <input type="checkbox"/> NO			
If yes, provide the contractor's name(s): _____			

(9)

If existing/used kitchen equipment must be certified by a licensed professional to be in proper working order. A copy of the report must be submitted for review. New equipment will be inspected under the permit for its stallation.

PROPOSED BUSINESS NAME AND ADDRESS: Top Diner 4330 Lyndale Ave N.

- Starting a new business in a new location (New Business)
  - Starting a new business in an existing location (New Business)
  - Taking over an existing business at the existing location (New Owner)
- Name of existing business Top Diner

**TYPE OF LICENSE**

- Confectionery (sales of only prepackaged snack foods)
- Food Manufacturer (food establishment with 12 or fewer seats)
- Restaurant (food establishment with 13 or more seats, no beverage alcohol)
- Caterer
- Mobile Food Unit (ice cream truck, independent delivery vehicle, vehicle used to deliver perishable foods by a food business between its locations)
- Food Cart
- Grocery
- Meat Market
- Farmers Market (Public market, market manufacturer, market distributor)
- Off-Sale Liquor
- On-Sale Liquor Type of Liquor License Requested \_\_\_\_\_
  - Restaurant (full service food)
  - Hotel
  - Outdoor Area
  - Sunday Sales
  - Club (limited food)

**NON-FOOD**

- Vending
- Swimming Pools
- Laundry/Dry Cleaning
- Tattooing Establishment
- Tattooist/Piercing
- Sun Tanning
- Hotel/Motel
- Board & Lodge

**SECTION TO BE COMPLETED BY ENVIRONMENTAL CODE COMPLIANCE OFFICER**

1. Is a qualified person from the applicant's organization a Minnesota Department of Health Certified Food Manager as required by the Minneapolis Food Code? expired 3-5-06  YES  NO  NA

2. Has the applicant been made aware of any outstanding issues?  YES  NO

Recommend for License Department to proceed  Hold

Please explain:

Need a current certified food manager

**There is no guarantee or promise that the establishment fully complies with all provisions of the Health and Food Code. Chapters 186, 188 and 360.65.**

**Minneapolis Environmental Health and Food Safety does not grant final permission to open. Permission is given by Minneapolis Licenses and Consumer Services (612)-673-2080.**

*Harvey J. Prodeau*  
Signature of Applicant

1/22/07  
Date

*Harvey J. Prodeau*  
Signature of Environmental Health Official

1-24-07  
Date

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iv Health CCO Copy to:  
Olson, Inspections (If construction may occur), Area License Inspector (Fax: 612-673-3399), and Environmental Health -- Food Safety District Supervisor.

Top Diner  
4330 Lyndale Ave. N  
Minneapolis, MN 55412

1-8-07 Received a complaint that foods catered to a day care from Top Diner are outdated and reheated. The State also wanted to verify that there was a catering license at Top Diner. Results: Restaurant license is delinquent and there is no catering license. Also no Certified Food Manger.  
\$200.00 citation issued for violations in relation to the complaint.

1-8-07 – Darryl and Linda Thibodeaux applied for a restaurant license renewal and a new catering license.

1-24-07 – received Health addendum for catering license. Signed with the stipulation that they get a Certified Food manager.

2-22-07 Routine inspection – high number of violations – a Compliance meeting is scheduled.

3-7-07 Compliance meeting – fines for \$800.00 issued

3-22-07 An employee has passed the Certified food manager class.

4-4-07 – Spoke to Linda on the phone– she was unaware of the \$800 and unaware that there was an outstanding citation for \$200.00 from January 2007.

4-12-07 – Reinspection – high number of violations remain.

4-17-07 – Requested licensing move on revocation of the two licenses – restaurant and catering because on ongoing violations, unpaid fines, etc.

5-1-07 – Payment received for citations and late fees (\$1100.00)

7-11-07 Linda Thibodeaux stated that the restaurant is closed but she will still be catering out of this establishment for her daycares.

- I spoke to the people at the State, Chad Cratzke (651 282-2097) and advised them that the restaurant is closed so I could no longer confirm that food is being catered out of Top Diner to the day cares. They called Linda to discuss this since she is telling them that she uses this establishment to cater to two daycares and has submitted proof of her catering license to them. Linda then called me and confirmed that the restaurant is closed but she still caters out of the establishment.

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I have taken various trips past the establishment at various times of day and there is never anyone there. It is questionable as to whether or not the place is really being used for catering.

9-25-07 – set up a meeting with Dan Jacobs, Linda Thibodeaux and I to meet at the establishment at 2:00 pm to discuss the catering operation. Linda and I scheduled the meeting on the phone. Linda did not show for the meeting. I left a voice mail message for her on 9-25 and 9-26 – she never has returned my call.

9-26-07 I spoke to Kelly Ganz with the State (651 297-4117). She is the State inspector for the Kids Dominion right next to the Top Diner, and Chad Cratzke is the inspector for Linda's day care in Brooklyn Park. Kelly has been suspicious of the food service as well – on one visit in July she stated that there were only outdated carrots in the refrigerator at Kids Dominion. Kelly wanted to be kept informed of our findings for the catering license. I told her about the No-show for our meeting on 9-25 and also let her know that we were going to call Linda into our office for a meeting to discuss her catering license. Kelly stated that it is requirement to provide a lunch for the kids at the day care. The lunch must include a fruit and a vegetable or 2 fruits or 2 vegetables, a bread, a protein/meat, and a milk.

10-2-07 Mailed a Notice to Appear to Top Diner. Meeting scheduled for 10-16-07. Letter sent certified and was received by Ruby Thibodeaux on 10-4.

10-16-07 – Meeting was held and Linda was a no-show. We will be moving for license revocation of the catering license.

Phone messages were left with both Kelly Ganz and Chad Cratzke with the State.

10-16-07 Chad Cratzke left me a voice mail message and wants to be informed of when the revocation will take place so he can then follow up on the food service at the day care with Linda.

FOOD SERVICE INSPECTION REPORT

Page 1 of 2

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869

Inspection Type: 03  
Establishment: 1055432 Area: 011  
TOP DINER  
4330 LYNDALE AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

TOP DINER  
4330 LYNDALE AVE N  
MPLS, MN 55412

Phone: (612) 522-4557 x

Score:

Units: County: 01

Start Date/Time: 1/8/2007 at 13:00:00

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Failure to comply with applicable laws and regulations may result in civil, administrative or criminal enforcement action. compliance is not achieved by an order to correct, the City official is authorized to issue an administrative citation. The amount of the citation will double for same or similar repeat violations within 24 months. The orders issued in this report based on the Minneapolis Code of Ordinances which can be viewed at the following website:  
<http://www.ci.minneapolis.mn.us/cityhall/laws/ordinances/>.

Permits must be secured for all construction, plumbing, electrical and mechanical work. Work must be performed by a licensed contractor. Permits are obtained at Minneapolis Inspections, 250 South 4th Street, Room 300, Minneapolis, MN 55415, (612) 673-5800.

Minneapolis Licenses and Consumer Services grants FINAL approval for operation of the business. (City Hall, 350 South 4th Street, Room 1-C, Minneapolis, MN 55415, (612) 673-2080.)

Comments:

COMPLAINT RECEIVED 1/8/07:

FOOD IS BEING CATERED TO A DAYCARE. COMPLAINANT STATES THAT THE FOOD IS REHEATED AND OUTDATED. THEY ARE ALSO CONCERNED WHETHER OR NOT THE RESTAURANT HAS A CATERING LICENSE.

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Establishment:

Page 2 of 2

1055432

TOP DINER

Inspection Type: 03

Start Date/Time: 1/8/2007 at 13:00:00

Comments:

Investigation of the complaint conducted 1-8-07 by Kathy Louden Sedrick on site at the time of the investigation. Owner, Linda Thibodaux arrived on site shortly after I arrived.

At first, Sedrick was the person in charge. He was unaware that there was any catering done here.

When Linda arrived, she stated that they do serve a day care located in Brooklyn Park - they serve lunch to them daily. Top Diner calls the day care when the food is ready and someone comes to Top Diner to pick up the food. Per Linda, it is about a 5-7 minute drive from the restaurant.

They had a menu list written on a piece of paper for the week. Linda stated that food is made fresh for the daycare each day. There was some cooked food in the cooler. Per Linda, that was made last Thursday for the buffet - it would not be used for the day care. Also, Linda stated that it would be discarded since it wasn't dated.

The establishment has no licensed to operate - no restaurant license and no catering license. Per Linda, Darryl Thibodeaux was going to license today to apply for the licenses.

Issues to address:

1. You must immediately apply for a restaurant license and a catering license.
2. There was hot water at a sink near the dishmachine, but there was no hot water at three handsinks in the kitchen and front area. You must have hot water at these sinks - you need 110°F minimum and 130°F maximum hot water temp. It was discussed that a recheck of the hot water will be conducted on 1-9-07 at 10:00 am.
3. Cooked, ready to eat, potentially hazardous foods that were made on site last Thursday, 1-4-07 were not date marked. A citation is being issued as this issue has been discussed at length many times in the past. A repeat of this violation will result in citation fees being doubled.
4. You must have your employee log accessible and available for the inspector upon request. The log could not be located at the time of this investigation.
5. The Person in Charge must be properly trained. He did not know the proper way to calibrate a thermometer, did not know hot holding temperatures, proper thawing methods, etc.
6. In regard to the catering, you should start a daily log of temperatures of the foods being sent to the daycare. A sample food log is enclosed.
7. Since there has been confusion in the past and there still is confusion on how to calibrate a thermometer, it is recommended that you invest in a digital thermometer.
8. Food was found thawing in standing water in the food prep sink. You must use continually running water to thaw food.
9. Linda Thibodeaux is registered with the State as a certified food manager - your certification expired on 3-5-06. Someone who works in the kitchen a significant amount of time should be a certified food manager. Linda stated that Sedrick will be sent to a class - enclosed is a class information sheet. After someone passes an approved class, they must mail proof of passing via a copy of their certificate, a State registration form and \$28.00 to the State of MN.
10. You should start a self-auditing system to help monitor food safety procedures in your establishment. We can provide training on this process.

Site Report Generated: 1/9/2007 8:39:05 AM

Owner/Operator

Inspection By: KATHY LOUDEN, 673-3869

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FOOD SERVICE INSPECTION REPORT

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869

Inspection Type: 26  
Establishment: 1055432 Area: 011  
TOP DINER  
4330 LYNDALE AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

TOP DINER  
4330 LYNDALE AVE N  
MPLS, MN 55412

Phone: (612) 522-4557 x

Score:

Units: County: 01

Start Date/Time: 1/8/2007 at 13:00:00

Failure to comply with applicable laws and regulations may result in civil, administrative or criminal enforcement action. compliance is not achieved by an order to correct, the City official is authorized to issue an administrative citation. The amount of the citation will double for same or similar repeat violations within 24 months. The orders issued in this report based on the Minneapolis Code of Ordinances which can be viewed at the following website:  
<http://www.ci.minneapolis.mn.us/cityhall/laws/ordinances/>.

Permits must be secured for all construction, plumbing, electrical and mechanical work. Work must be performed by a licensed contractor. Permits are obtained at Minneapolis Inspections, 250 South 4th Street, Room 300, Minneapolis, MN 55415, (612) 673-5800.

Minneapolis Licenses and Consumer Services grants FINAL approval for operation of the business. (City Hall, 350 South 4th Street, Room 1-C, Minneapolis, MN 55415, (612) 673-2080.)

Comments:

Citation Numbers from Ticket Book: 000050  
Citation Amount: \$200.00  
Due Dates: January 29, 2007

VIOLATION: 3-501.17A                      FIX BY 1/8/2007                      This is a REPEAT VIOLATION.

CRITICAL: MICROBIAL CONTROL

Mark the date of preparation on all refrigerated, ready-to-eat potentially hazardous food prepared in the food establishment and held for more than 24 hours. This will help ensure the food is consumed by the "use by" date, which is 7 days from the date of preparation including the date of preparation. Minnesota Rule 4626.0400

Foods found without date marking in the reachin cooler.

This violation was cited on an inspection conducted on March 29, 2006 and at a reinspection conducted on April 20, 2006.

Fines are doubled for repeated violations.

Site Report Generated: 1/9/2007 8:34:21 AM

Owner/Operator

Inspection By: KATHY LOUDEN, 673-3869

15

# ADMINISTRATIVE CITATION

This citation charges you with a violation of Minneapolis City Code of Ordinances.  
For information on how to respond to this citation, see the reverse side of this form.

City of Minneapolis  
Environmental Management & Safety  
Environmental Health - Food Safety  
250 South 4th Street, Room 414  
Minneapolis, MN 55415  
(612) 673-2170

CITATION NUMBER: EHFS06- 000050

**Licensee Information**

Name (Last, First, Middle)

THIBODEAUX, DARRYL

Street Address, City, State, Zip Code

Date of Birth (mo/day/year)

Sex

Phone Number

Male   
Female

**Business Information (if applicable)**

Name of Business (DBA)

TOP DINER

Address of Business

4330 LYNDALE AVE N. MAPS, MN

Business Owner/Licensee  Property Owner  Other  (explain)

**Vehicle Information (if applicable)**

Vehicle Plate Number

State

Year

Make

Model

**Violation Information**

Violation Date

Violation Time

Repeat Violation

Continuing Violation

Address of Violation

4330 LYNDALE AVE N. MAPS, MN

Violation Number(s) & Description

Citation Amount

1	3-501.17A - FAILURE TO	\$200.00
2	Date mark FOODS TAG	
3	are required to be	
4	dated.	
5		
6		\$200.00

Code Compliance Officer

Employee ID

Phone Number

KATEY LOUEN

057251

612-673-3367

Comments

**Warning - Failure to respond to this citation within twenty (20) days will result in increased penalties and fees assessed.**

Served:

In Person

By Mail

1-9-07

White - Department Copy

Canary - Code Compliance Officer's Copy

Pink - Violator's Copy

Goldendrod - Violator's Copy (to be returned with payment or request for appeal)

KL

01 0547307

FOR OFFICE USE ONLY

**CHECK TYPE**

NEW *for 1st*

RENEWAL



DEPARTMENT OF REGULATORY SERVICES  
 DIVISION OF LICENSES AND CONSUMER SERVICES  
 ROOM 1-C, CITY HALL, 350 SOUTH 5<sup>TH</sup> STREET  
 MINNEAPOLIS, MN 55415 (PHONE: 612-673-2080)

LICENSE ID NUMBER: 159 571677

FEE: \$ 10.85

LICENSE CLERK: SA

DATE: 11/8/07

**FOOD APPLICATION**  
 (TYPE OR USE BALL POINT PEN)

152 50116

LICENSE REQUESTED:

FOOD DISTRIBUTOR     MUNICIPAL MARKET     DRIVE IN RESTAURANT

CONFECTIONERY     FOOD MANUFACTURER     PUBLIC MARKET

CATERING     MEAT MARKET     MARKET DISTRIBUTOR

GROCERY     RESTAURANT     MARKET MANUFACTURER

MINNESOTA SALES TAX IDENTIFICATION NUMBER: [REDACTED]

TYPE OF ENTERTAINMENT TO BE OFFERED?

MINNEAPOLIS BUSINESS LOCATION: SUITE #: TRADE NAME/DBA: ZIP CODE: TELEPHONE NUMBER:

4230 Lyndale Ave. N. SUITE #100 Diner 55412

NAME OF APPLICANT: ADDRESS: SUITE #: ZIP CODE: TELEPHONE NUMBER:

David Thibodeaux, Sr. 4230 Lyndale Ave. N. 55412

MAILING ADDRESS IF DIFFERENT FROM BUSINESS LOCATION: APPLICANT EMAIL ADDRESS:

NAME OF MANAGER: DATE OF BIRTH: ADDRESS: ZIP CODE: TELEPHONE NUMBER:

TYPE OF OWNERSHIP: CORPORATION NAME: STATE OF INCORPORATION:

SOLE PROPRIETOR     PARTNERSHIP     CORPORATION    David L. Thibodeaux LLC.    Minnesota

OWNER OF BUILDING: ADDRESS: ZIP CODE: TELEPHONE NUMBER:

Doreen & Linda Thibodeaux 409 Broadland Ave. N. 55412 612 291-4009

PROPERTY IDENTIFICATION NUMBER:

**LIST ALL NAMES OF OWNERS, PARTNERS OR CORPORATE MEMBERS**

FIRST NAME, FULL MIDDLE NAME AND LAST NAME: David Thibodeaux Sr.	BIRTHDATE: 3/21/56	TITLE: Owner	HOME TELEPHONE NUMBER: 763 712-0130
HOME STREET ADDRESS: 409 Broadland Ave. N.	CITY: Chanhassen	STATE: MN	ZIP CODE: 55316
FIRST NAME, FULL MIDDLE NAME AND LAST NAME: Linda Thibodeaux	BIRTHDATE: 2/21/59	TITLE: Owner	HOME TELEPHONE NUMBER: 763 712-0130
HOME STREET ADDRESS: 409 Broadland Ave. N.	CITY: Chanhassen	STATE: MN	ZIP CODE: 55316

\*\*\* ATTACH ADDITIONAL SHEET IF NECESSARY \*\*\*

HAVE ANY OF THE ABOVE PEOPLE BEEN CONVICTED OF A CRIME?

NO     YES - IF YES, PLEASE PROVIDE DATE, OFFENSE AND JURISDICTION ON A SEPARATE SHEET AND ATTACH TO APPLICATION.

SQUARE FOOTAGE OF FOOD ESTABLISHMENT - GROSS AREA: 4930

SQUARE FOOTAGE OF FOOD ESTABLISHMENT - NET SEATING AREA: 1760

NUMBER OF CUSTOMER SEATS: 110

**LIST THE TYPE OF FOODSTUFFS TO BE SOLD**

Burgers, Fries, chicken, soups, salads, etc.

If catering or distributing perishable foods, what is the total number of vehicles to be used?:

**LIST VEHICLES USED FOR DELIVERY OF FOOD**

NUMBER:	STATE LICENSE NUMBER:	VEHICLE MAKE:	YEAR:
1			
2			

ATTACH ADDITIONAL SHEET IF NECESSARY

I hereby certify that I have read and understand every question in this application and that the answer to every question is true to my own knowledge and belief. I further understand that the giving of false information in this application constitutes cause for the immediate revocation of any license and permits issued hereunder.

PRINT NAME: David Thibodeaux

SIGNATURE OF APPLICANT (MUST BE NOTARIZED): [Signature]

DATE SIGNED: 11/8/07

THE ABOVE SIGNATURE MUST BE NOTARIZED

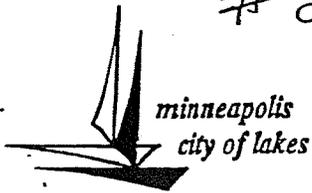
Subscribed and sworn to before me this 8 day of Nov, 2007

Signature of Notary: [Signature]

Notary Public, Hennepin County, State of MN

My Commission Expires: 1-31-12

(157)



# 22

RJR 1/22/07

159-50677

MINNEAPOLIS DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF LICENSES & CONSUMER SERVICES  
350 SOUTH 5<sup>TH</sup> STREET, ROOM 1-C CITY HALL  
MINNEAPOLIS, MN 55415  
TELEPHONE: (612) 673-2080

**ENVIRONMENTAL HEALTH - FOOD SAFETY ADDENDUM  
FOR A BUSINESS LICENSE IN MINNEAPOLIS**

LICENSE INSPECTOR Don Jacobs TELEPHONE 3909 FAX \_\_\_\_\_

**APPLICANT MUST BRING THIS FORM TO:**

ENVIRONMENTAL HEALTH - FOOD SAFETY  
PUBLIC SERVICE CENTER  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
(612) 673-2170

**TO BE COMPLETED BY THE LICENSE APPLICANT**

(Environmental Health Code Compliance Officer to forward signed and completed form to License Division)

NAME OF BUSINESS: <u>Top Diner</u>		PROPOSED BUSINESS ADDRESS: <u>4330 Lyndale Ave. N.</u>	
OWNER/LICENSEE: <u>Darryl Thibodeaux</u>		TELEPHONE: <u>612 991-0488</u>	
CONTACT PERSON FOR APPLICATION: <u>Darryl Thibodeaux</u>		TELEPHONE:	
NAME OF CERTIFIED FOOD MANAGER (if Required): PLEASE ATTACH COPY OF CURRENT CERTIFICATE <u>Linda Thibodeaux</u>			
DESCRIBE YOUR BUSINESS PRODUCTS AND/OR SERVICES: <u>Food - Bread, Ham, meals</u>			
FACILITY/BUSINESS SPACE:			
<input checked="" type="checkbox"/> EXISTING	Square Footage of Sales Floor (Grocery) <u>3000</u>		
<input type="checkbox"/> NEW	Square Footage Used By Business _____		
WILL VEHICLES BE USED IN THE BUSINESS?			
<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	Number of Vehicles <u>1</u>	
Is there any construction/remodeling in progress? <u>NO</u>			
If yes, have plans been submitted to: <input type="checkbox"/> Mpls One Stop		<input type="checkbox"/> YES	<input type="checkbox"/> NO
If yes, have you obtained the necessary permits?		<input type="checkbox"/> YES	<input type="checkbox"/> NO
Are you planning any construction/remodeling/modification to the facility or equipment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
If yes, what type of work will you be doing?			
<input type="checkbox"/> General Building	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Mechanical	<input type="checkbox"/> Electrical
<input type="checkbox"/> Other (explain) _____			
Have you selected a licensed contractor to perform the work? (Permits and inspections are required for any work.)			
<input type="checkbox"/> YES <input type="checkbox"/> NO			
If yes, provide the contractor's name(s): _____			

*If existing/used kitchen equipment must be certified by a licensed professional to be in proper working order. A copy of the report must be submitted for review. New equipment will be inspected under the permit for its installation.*

(18)

PROPOSED BUSINESS NAME AND ADDRESS: Top Diner 4330 Lyndale Ave N.

- Starting a new business in a new location (New Business)
  - Starting a new business in an existing location (New Business)
  - Taking over an existing business at the existing location (New Owner)
- Name of existing business Top Diner

**TYPE OF LICENSE**

- Confectionery (sales of only prepackaged snack foods)
- Food Manufacturer (food establishment with 12 or fewer seats)
- Restaurant (food establishment with 13 or more seats, no beverage alcohol)
- Caterer
- Mobile Food Unit (ice cream truck, independent delivery vehicle, vehicle used to deliver perishable foods by a food business between its locations)
- Food Cart
- Grocery
- Meat Market
- Farmers Market (Public market, market manufacturer, market distributor)
- Off-Sale Liquor
- On-Sale Liquor Type of Liquor License Requested \_\_\_\_\_
  - Restaurant (full service food)
  - Sunday Sales
  - Hotel
  - Club (limited food)
  - Outdoor Area

**NON-FOOD**

- Vending
- Swimming Pools
- Laundry/Dry Cleaning
- Tattooing Establishment
- Tattooist/Piercing
- Sun Tanning
- Hotel/Motel
- Board & Lodge

**SECTION TO BE COMPLETED BY ENVIRONMENTAL CODE COMPLIANCE OFFICER**

1. Is a qualified person from the applicant's organization a Minnesota Department of Health Certified Food Manager as required by the Minneapolis Food Code? expired 3-5-06  YES  NO  NA

2. Has the applicant been made aware of any outstanding issues?  YES  NO  
 Recommend for License Department to proceed  Hold.

Please explain:

Need a current certified food manager

*There is no guarantee or promise that the establishment fully complies with all provisions of the Health and Food Code. Chapters 186, 188 and 360.65.*

*Minneapolis Environmental Health and Food Safety does not grant final permission to open. Permission is given by Minneapolis Licenses and Consumer Services (612)-673-2080.*

*Fargy Shubodaux*  
Signature of Applicant

1/22/07  
Date

*Larry Louie*  
Signature of Environmental Health Official

1-24-07  
Date

Health CCO Copy to:  
Olson, Inspections (If construction may occur), Area License Inspector (Fax: 612-673-3399), and Environmental Health - Food Safety District Supervisor.

FOOD SERVICE INSPECTION REPORT

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869  
Inspection Type: 01  
Establishment: 1055432 Area: 011  
TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

Phone: (612) 522-4557 x

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Units: County: 01

Start Date/Time: 2/22/2007 at 10:00:00

Failure to comply with applicable laws and regulations may result in civil, administrative or criminal enforcement action. compliance is not achieved by an order to correct, the City official is authorized to issue an administrative citation. The amount of the citation will double for same or similar repeat violations within 24 months. The orders issued in this report are based on the Minneapolis Code of Ordinances which can be viewed at the following website:  
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Comments:

Inspection conducted 2-22-07 by Kathy Loudon  
Jerome on site at the time of inspection.  
Clarence Williams also on site in the kitchen.

There is no certified food manager here. Information on classes and how to file with the State are enclosed. Linda Thibodeaux was certified, but her certification expired March 2006, so there is no certified manager on site. Clarence stated that he attended a class in 2003 through Illinois, but that would have expired as per MN terms anyway.

6 critical violations, 14 regular violations. Due to the high number of violations a reinspection will be conducted on or shortly after March 12, 2007. See enclosed letter.

Also, the high number of violations are repeating so we will be calling an Administrative Meeting in our office - you will be advised of the date when it is set by the supervisor, who is on vacation until later next week.

Violation: 2-401.11 FIX BY 2/22/2007 This is a REPEAT VIOLATION.

CRITICAL: HYGIENE

Discontinue consuming food, use of unapproved beverage containers, or use of tobacco in any form in food preparation or utensil washing areas. Minnesota Rule 4626.0105

There was an employee beverage on the prep table where meats were being prepared and on the table next to the food prep sink.

There should be no employee food or beverages in the kitchen areas.

Violation: 3-302.11A FIX BY 2/22/2007

CRITICAL: CONTAMINATION

Separate raw animal foods during storage, preparation, holding, and display from raw ready-to-eat foods or raw animal food and vegetables to prevent cross-contamination. Minnesota Rule 4626.0235

Raw hamburger was found on the same table where cooked turkey, etc were being prepared.

This is a bad cross contamination issue.

(20)

Establishment:  
1055432  
TOP DINER

Inspection Type: 01

Start Date/Time: 2/22/2007 at

Violation: 3-501.18A FIX BY 2/23/2007

**CRITICAL: MICROBIAL CONTROL**

Discard all refrigerated, ready-to-eat, potentially hazardous food prepared in the establishment which has not been consumed within 7 calendar days from the date of preparation. Minnesota Rule 4626.0405

Foods are being date marked, but they are not being monitored for expiration:  
stuffing dated 2-15, Turkey soup dated 2-9 (had been frozen but was not redated with an expiration date after freezing), other foods also on site.

Violation: 5-203.14E FIX BY 3/8/2007 This is a REPEAT VIOLATION.

**CRITICAL: PLUMBING**

Mount the spray arm so it cannot hang below the spill rim of a sink or provide an approved backflow prevention device on the faucet. Minnesota Rule 4626.1085

Raise the spray arm at the dishmachine.

Violation: 7-201.11A FIX BY 2/22/2007 This is a REPEAT VIOLATION.

**CRITICAL: TOXIC ITEMS**

Separate poisonous or toxic materials from food, equipment, utensils, linens, and single-service and single-use articles by spacing or partitioning. Minnesota Rule 4626.1600

Spary bottles found in various places - being stored with food and food equipment.

Violation: 7-207.11B FIX BY 2/22/2007

**CRITICAL: TOXIC ITEMS**

Locate personal medications in areas that do not contaminate food, equipment, utensils, linens, and single-service and single-use articles. Minnesota Rule 4626.1660

Hand lotion found being stored next to the coffee pots in the front area.

Violation: 2-104.11 FIX BY 3/24/2007

Maintain in employment at least one owner or operator involved with the direct operation who has successfully completed an approved course in prevention of foodborne illness. Minneapolis Ordinance 188.550.

Need a certified food manager on site. As was discussed with Jerome at the inspection - you need to advise me as to who is attending a class, where and the date by Feb 28, 2007 or a citation in the amount of \$200.00 will be issued.

Violation: 3-304.12B FIX BY 2/23/2007

Store the bulk food dispensing utensil in the food with the handle extending out of the food, or in a protective enclosure attached or adjacent to the enclosure with the utensil on a tether of easily cleanable material which is short enough to prevent the utensil from making contact with the floor. Minnesota Rule 4626.0275

Ice scoop found being stored on top of the ice machine in the front area. This should be stored in a container that can be routinely washed, rinsed, and sanitized.

Violation: 3-602.12C FIX BY 2/25/2007

Properly label self-service bulk food dispensers as follows: 1. the manufacturer or processor label provided with the food, including nutritional labeling; or 2. a card, sign, placard, or other notification method that includes the common or usual name of the food, a list of ingredients in descending order of predominance, a declaration of any artificial color, and a declaration of any flavor and chemical preservatives; and 3. for self-service beverage dispensers attach to the dispenser a label declaring the name of the beverage, artificial flavors, artificial colors including Federal Food, Drug, and Cosmetic Act Yellow No. 5, the name and quantity of preservatives, and if labeled as fruitade or drink, the ingredients in descending order of predominance; and 4. nutritional labeling if required. Minnesota Rule 4626.0440

Bulk bakery on site - For all bakery that is not made here, you need an ingredient list for all bakery ifems being sold on site and available upon customer request.

(24)

Establishment:

1055432

TOP DINER

Inspection Type: 01

Start Date/Time: 2/22/2007 at

Violation: 4-201.11B FIX BY 3/24/2007 This is a REPEAT VIOLATION.

Provide or replace food service equipment to meet NSF International Standards. Minnesota Rule 4626.0505

The interior of the microwave is badly cracked. Replace this unit with an NSF approved unit.

Violation: 4-501.116 FIX BY 2/23/2007

Use the sanitizer test kit or other device to accurately measure the concentration of the sanitizing solution.

Minnesota Rule 4626.0815

The front area wiping cloth bucket was found at +200 ppm - There is a test kit on site to monitor 50-100 ppm.

Violation: 4-601.11C FIX BY 3/24/2007 This is a REPEAT VIOLATION.

Clean non-food contact surfaces of equipment and maintain free of accumulations of dust, dirt, food residue, and other debris. Minnesota Rule 4626.0840

Clean the contents and bins used for storage on the racks in the dishwashing area  
Clean the shelving throughout: center island shelving, shelves of tables along the walls, etc.

Violation: 4-903.11A FIX BY 2/23/2007 This is a REPEAT VIOLATION.

Store all clean equipment, utensils, linens and single-service articles in a clean, dry location where not exposed to splash, dust, or other contamination and at least six inches above the floor. Minnesota Rule 4626.0955

Equipment found being stored on the floor in the dishwashing area.

Violation: 4-904.11B FIX BY 2/23/2007

Present clean knives, forks and spoons that are not pre-wrapped in trays and holders so that only the handles are touched by employees or consumers. Minnesota Rule 4626.0965

Store all plasticware and silverware for the buffet, etc with the handles to the user.

Violation: 5-202.11A1 FIX BY 3/8/2007

Provide and maintain the floor drain covers in good repair. Minnesota Rule 4626.1045

Need a secured floor drain cover for the mop sink.

Violation: 6-301.11A FIX BY 2/23/2007

Provide an adequate supply of hand cleanser at each handwashing sink. Minnesota Rule 4626.1440

Need handsoap in the womens bathroom

Need the front soap dispenser stocked and in working order at the front counter.

Need the back area soap dispenser - far back of kitchen - in working order and stocked.

Violation: 6-301.12AB FIX BY 2/23/2007 This is a REPEAT VIOLATION.

Provide and maintain at each handwashing sink in the food preparation and warewashing areas a supply of individual disposable towels or a continuous towel system that supplies the user with a clean towel. Minnesota Rule 4626.1445

Need the towel dispenser to be in working order at the handsink near the pass through window of the kitchen.

Violation: 6-303.11C FIX BY 3/24/2007 This is a REPEAT VIOLATION.

Provide at least 50-foot candles (540LUX) of light intensity for areas where food employees are working with utensils and equipment where safety is a factor and areas used for warewashing other than behind a bar.

Minnesota Rule 4626.1470

Replace burnt out bulbs under the hood.

22

Establishment:  
1055432  
TOP DINER

Inspection Type: 01

Start Date/Time: 2/22/2007 at

Violation: 6-501.114 FIX BY 3/24/2007

Remove all unnecessary articles and litter from the premises which are not pertinent to the current operation of the food establishment. Minnesota Rule 4626.1580

Remove unnecessary articles from the back garage area - this is a fire hazard and an area that can allow for pest harborage.

Violation: 6-501.12A FIX BY 2/25/2007 This is a REPEAT VIOLATION.

Clean and maintain clean all physical facilities. Minnesota Rule 4626.1520

The entire facilities need cleaning:

Along the cooking line - there is a lot of grease on the floor and on equipment.

The walls behind the storage racks and near the dishmachine.

The ceiling tiles throughout the kitchen - near the ceiling vents.

Comments:

Mechanical dishmachine - 50 ppm OK

There is a mop sink on site.

There is an employee illness log on site.

Continental cooler: mac & cheese 39°F

Back area 3 door freezer OK

Back area 3 door cooler 40°F

Buffet hot holding unit: sweet potatoes 170°F, gravy 180°F

Other:

1. Per Jerome, he is having viromatic come out to clean the hood to the exterior. Have a receipt of service on site available for the inspector.

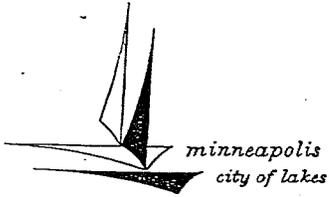
2. You need to start a self - audit system. This was started and then you have discontinued it.

Site Report Generated: 4/24/2007 7:38:33 AM

Owner/Operator

Inspection By: KATHY LOUDEN, 673-3869

23



DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF ENVIRONMENTAL MANAGEMENT & SAFETY  
ENVIRONMENTAL HEALTH - FOOD SAFETY  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
PHONE: (612) 673-2170, FAX: (612) 673-2635

## NON-COMPLIANCE WARNING LETTER

Date: February 23, 2007

Licensee: Darryl and Linda Thibodeaux  
Establishment Name (DBA): Top Diner  
Establishment Address: 4330 Lyndale Ave. N Minneapolis, MN 55412

**RE: Food Code Violation, Chapters 186 and 188, Minneapolis Food Code Ordinance**

Dear Darryl and Linda Thibodeaux:

On February 22, 2007, Code Compliance Officer Kathy Loudon inspected your facility. Inspection findings:

- Your establishment is not in compliance with the Minneapolis Food Code.
- **The inspection resulted in 6 critical and 14 non-critical violations.**
- Your facility will be re-inspected after the following date March 12, 2006.
- Failure to comply with written orders will result in administrative citations (fines).
- An Administrative Meeting will be called. You will be notified of the date after one is set by the Supervisor.

Food safety must be a priority to protect public health. Code Compliance Officer, Kathy Loudon, at 612-673-3869, will provide the guidance needed to implement and maintain food safety standards in your establishment. Effective immediately, please take the necessary steps to ensure all violations are abated.

Failure to comply with the provisions of the Minneapolis Food Code warrants legal action to be taken against your license.

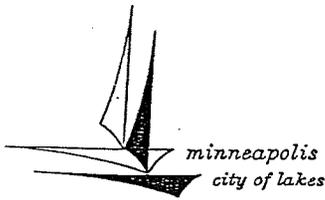
Sincerely,

A handwritten signature in cursive script that reads "Kathy Loudon".

Kathy Loudon  
Code Compliance Officer

cc: Curt Fernandez, Manager  
Carl Samaroo, Supervisor

24



DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF ENVIRONMENTAL MANAGEMENT & SAFETY  
ENVIRONMENTAL HEALTH - FOOD SAFETY  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
PHONE: (612) 673-2170, FAX: (612) 673-2635

## NOTICE TO APPEAR

Date: February 27, 2007

Attention (Licensee): Linda and Darryl Thibodeaux

Establishment Name (DBA): Top Diner

Establishment Address: 4330 Lyndale Ave. N Minneapolis, MN

Meeting Date: Wednesday, March 7, 2007

Meeting Time: 1:00 PM

Place: Room 414, Public Service Center  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

**RE: Food Code Violations, Chapter 186 and 188, Minneapolis Food Code Ordinance.**

An administrative compliance meeting will be held at the above time, date and location to discuss your non-compliance and corrective action(s) for unabated violations.

**Failure to appear for this meeting without proper justification could warrant the suspension of your license.**

The following issues will be discussed:

- Failure to have a certified food manager in place
- Repeated high numbers of violations, both critical and regular violations at an inspection. Need a plan in place to abate violations and maintain food safety standards on a routine basis.
- Mandatory self-audit program to be put into place
- Citations for repeated violations

**It is essential that you come prepared with a written plan that details how you will address and maintain food safety standards in an ongoing basis in your business.**

Disregard for food safety and sanitation standards and the provisions of the Food Code will warrant the issuance of citations and/or other regulatory enforcement actions. We are here to work with you to maintain food safety and sanitation standards in your establishment. Please do not hesitate to call if you have questions, (612) 673-3693.

Sincerely,

  
Carl Samaroo

Supervisor, Environmental Health - Food Safety

cc: Curt Fernández, Manager  
Kathy Loudon, Code Compliance Officer

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FOOD SERVICE INSPECTION REPORT

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869

Inspection Type: 26

Establishment: 1055432 Area: 011

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

Phone: (612) 522-4557 x

Score:

Units: County: 01

Start Date/Time: 3/7/2007 at 11:37:45

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Failure to comply with applicable laws and regulations may result in civil, administrative or criminal enforcement action. If compliance is not achieved by an order to correct, the City official is authorized to issue an administrative citation. The amount of the citation will double for same or similar repeat violations within 24 months. The orders issued in this report based on the Minneapolis Code of Ordinances which can be viewed at the following website:  
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Minneapolis Licenses and Consumer Services grants FINAL approval for operation of the business. (City Hall, 350 South 4th Street, Room 1-C, Minneapolis, MN 55415, (612) 673-2080.)

Comments:

Citation Numbers from Ticket Book: 000155  
Citation Amount: \$800.00  
Due Dates: March 27, 2007

All violations being cited are from the inspection conducted February 22, 2007.

VIOLATION: 2-401.11 FIX BY 3/7/2007 This is a REPEAT VIOLATION.

CRITICAL: HYGIENE

Discontinue consuming food, use of unapproved beverage containers, or use of tobacco in any form in food preparation or utensil washing areas. Minnesota Rule 4626.0105

Employee beverages found on the prep table where meats were being prepared and on the table next to the food prep sink.

VIOLATION: 2-103.11 FIX BY 3/7/2007  
The person-in-charge must ensure that employees and other persons comply with the rule. Minnesota Rule 4626.0035

Many violations - the Person in Charge is not ensuring proper food safety procedures and other ongoing duties such as proper cleaning, using the test kit, etc.

VIOLATION: 6-301.11A FIX BY 3/8/2007 This is a REPEAT VIOLATION.

Provide an adequate supply of hand cleanser at each handwashing sink. Minnesota Rule 4626.1440

handsoap missing from the women's bathroom handsink  
handsoap not available at the front counter handsink  
handsoap dispenser at back area not in working order - soap not available.

(26)

Establishment:

Page 2 of 2

1055432

TOP DINER

Inspection Type: 26

Start Date/Time: 3/7/2007 at 11:37:45

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VIOLATION: 6-301.12AB      FIX BY 3/8/2007      This is a REPEAT VIOLATION.

Provide and maintain at each handwashing sink in the food preparation and warewashing areas a supply of individual disposable towels or a continuous towel system that supplies the user with a clean towel. Minnesota Rule 4626.1445

**Towel dispenser is not working properly and towels not available at the handsink near the grills.**

VIOLATION: 6-501.12A      FIX BY 3/10/2007      This is a REPEAT VIOLATION.

Clean and maintain clean all physical facilities. Minnesota Rule 4626.1520

**Failure to maintain the facilities clean: floors on the cooking line, shelving throughout, ceiling, walls in the dishwashing area, etc.**

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Site Report Generated: 3/7/2007 11:55:34 AM

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Owner/Operator

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Inspection By: KATHY LOUDEN, 673-3869

(27)

# ADMINISTRATIVE CITATION

This citation charges you with a violation of Minneapolis City Code of Ordinances.  
For information on how to respond to this citation, see the reverse side of this form.

**City of Minneapolis**  
**Environmental Management & Safety**  
**Environmental Health - Food Safety**  
250 South 4th Street, Room 414  
Minneapolis, MN 55415  
(612) 673-2170

CITATION NUMBER: EHFS06- 000155

**Licensee Information**

Name (Last, First, Middle)  
THIBODEAUX, DARRYL

Street Address, City, State, Zip Code

Date of Birth (mo/day/year)	Sex Male <input type="checkbox"/> Female <input type="checkbox"/>	Phone Number
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**Business Information (if applicable)**

Name of Business (DBA)  
TOP DINER

Address of Business  
4330 LYNDALE AVE N. MPLS. MN.

Business Owner/Licensee  Property Owner  Other  (explain)

**Vehicle Information (if applicable)**

Vehicle Plate Number	State	Year	Make	Model
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**Violation Information**

Violation Date	Violation Time	Repeat Violation <input type="checkbox"/>	Continuing Violation <input type="checkbox"/>
2-25-07	10:00 AM <input type="checkbox"/> PM <input type="checkbox"/>		

Address of Violation  
4330 LYNDALE AVE N. MPLS. MN

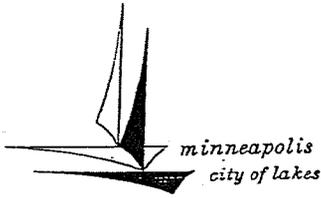
Violation Number(s) & Description	Citation Amount
1 2-20-11 BEVERAGES IN FWD AREA	200.00
2 2-103-11 PERSON IN CHARGE	200.00
3 6-34-11A HANDWRAP MISSING	200.00
4 6-34-12AB TOWELS NOT AVAILABLE	200.00
5 6-51-2A FAC TO MAINTAIN	200.00
6 PREMISES CLEAN	200.00
<b>TOTAL:</b>	<b>300.00</b>

Code Compliance Officer	Employee ID	Phone Number
KATHY LOUDA	054051	612-673-3869

**Warning - Failure to respond to this citation within twenty (20) days will result in increased penalties and fees assessed.**

Served:  In Person  By Mail  AT MEETING 3-7-07

White - Department Copy  
Pink - Violator's Copy  
Canary - Code Compliance Officer's Copy  
Goldenrod - Violator's Copy (to be returned with payment or request for appeal)



DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF ENVIRONMENTAL MANAGEMENT & SAFETY  
ENVIRONMENTAL HEALTH - FOOD SAFETY  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
PHONE: (612) 673-2170, FAX: (612) 673-2635

## COMPLIANCE AGREEMENT

**RE:** Food Code Violations, Chapter 186 and 188, Minneapolis Food Code Ordinance

**Licensee or Designee:** Linda and Darryl Thibodeaux

**Establishment Name (DBA):** Top Diner

**Establishment Address:** 4330 Lyndale Ave. N Minneapolis, MN 55412

**Meeting Date:** Wednesday, March 7, 2007

**Persons in Attendance:** Kathy Loudon Code Compliance Officer, Curt Fernandez Manager Food Safety and Environmental Services, Carl Samaroo Supervisor, Fardowza Omar City of Mpls, Jerome Wright Top Diner Manager, Darryl Thibodeaux Owner

### Minneapolis Environmental Health Findings:

Routine Inspection conducted 2-22-07 revealed **6 critical violations and 14 regular violations**

#### Critical Violations

- Employee Beverages on prep tables
- Raw hamburger with cooked meats
- Some foods on site beyond the expiration date, frozen foods not properly handled with date marking
- Spray Arm too low
- Chemical spray bottles stored with food and food equipment
- Hand lotion stored in food area

#### Regular Violations

- No certified food manager
- Bulk food utensil stored improperly – ice scoop
- Need bulk foods with ingredient list available
- Microwave needs to be replaced – cracked interior
- Sanitizer test kit not being used – wiping cloth buckets found with levels too high
- Clean non-food contact surfaces: storage bins shelving
- Equipment stored on the floor in the dishwashing area
- Plasticware stored improperly
- Secure floor drain cover in mop sink
- Missing handsoap: women's bathroom, front soap dispenser, back soap dispenser

(29)

- Towel dispenser not in working order – towels not available at handsink near grill
- Burnt out bulbs under the hood
- Unnecessary articles in back garage – fire hazard and pest harborage issue
- Clean the entire facilities

**Complaint received on 1-8-07** regarding outdated foods being catered to a day care – no catering license, no certified food manager, foods not properly dated. After this complaint was investigated on **1-9-07, a citation for \$200.00 for not date marking was issued.** They were advised that they need a catering license and a certified food manager. They applied for a catering license but did not take care of the certified food manager requirement. We also discussed starting a self-audit system which may help with compliance in future inspections. This was tried, but they did not diligently follow a self-audit program.

### **PAST HISTORY**

Routine inspection conducted 3-14-06 revealed **10 critical violations and 12 regular violations.**

Reinspection conducted 3-29-06 revealed **5 critical violations and 7 regular violations.**

**A compliance meeting** was called and scheduled for April 12, 2006.

At the compliance meeting, the following was the agreement:

#### **Compliance Meeting Agreement:**

- Violations from the March 29, 2006 reinspection must be abated. A reinspection will be conducted.
- There must always be a Person in Charge who is properly trained on all of the following:
  1. Training employees
  2. Employee illness log requirements and how to handle customer illness complaints
  3. Hot and cold holding requirements.
  4. Date marking
  5. Cleaning and sanitizing of equipment
  6. Dishwashing and sanitizer monitoring (use of test kit)
  7. Cleaning
  8. Handwashing and proper stocking of handsinks (soap, single service towels, fingernail brush)
  9. Chemical labeling and storage
  10. Employee food and beverage storage

**Repeated violations can result in fines of \$200.00 per violation being issued.**

A follow-up inspection after the hearing conducted on April 20, 2006 revealed **1 repeated critical violation, 1 repeated regular violation, and 3 additional**

(30)

critical violations. They were advised once again that repeated violations can result in \$200.00 fines per violation.

An investigation in conjunction with a foodborne illness complaint was conducted on May 19, 2006. This revealed hot holding violations which was a repeated violation. A citation for \$200.00 was issued.

**Agreement:**

1. The violations for the February 22, 2007 inspection report will be abated.
2. A reinspection will be conducted. If there are any unabated issues, submit information in writing as to why they're not abated and when they will be abated.
3. Start a mandatory self-audit program for a period of 3 months. You will be working with Fardowza Omar (612 673-2584)
4. Citations are being issued for the following repeated violations:
  - a. Person in Charge does not ensure all food safety and related procedures: 2-103.11 \$200.00
  - b. Failure to properly stock handsinks: 6-301.11A and 6-301.12A \$200.00
  - c. Failure to maintain the establishment clean: 6-501-12A \$200.00
  - d. Employee beverages in food prep areas: 2-401.11A \$200.00**Total \$800.00 Due by March 27, 2007.**
5. Payment required of past due citation for Failure to Date Mark foods 3-305.17A. This was due on January 29, 2007 and has not been paid as yet. A late fee of 10% is also due - this citation #000050 in the amount of \$220.00 must be paid by March 14, 2007.
6. Repeated violations at future reinspections and inspections will result in citation of \$200.00 per violation being issued.
7. A regular inspection will be conducted in approximately 6 months.

**Repeated violations can result in fines of \$200.00 per violation being issued.**

These agreements are the product of an Administrative Meeting which was held to discuss a plan of action to address food safety and sanitation issues which have been identified by our office in the above named licensed facility.

Disregard for food safety and sanitation standards and the provisions of the Food Code may result in substantial penalties including the revocation of licenses. We are here to work with you to maintain food safety and sanitation standards in your establishment.

Daryl Shookman  
Licensee or Designee

3-7-07  
Date

Kary Louder  
Code Compliance Officer

3-7-07  
Date

Carl Smarney  
Supervisor

3-7-07  
Date

cc: Grant Wilson, Licenses, Lori Olson, Deputy Director, Curt Fernandez, Manager

(31)

ADMINISTRATIVE MEETING  
Top Diner  
4330 Lyndale Ave. N  
Minneapolis, MN 55412

March 7, 2007  
1:00 PM

1. Harry Lueden
2. CARL SAMARCO
3. Daniel H. Boone
4. SEYMOUR WEISS
5. Fardousa Omar
6. Curt Fernandez
- 7.

FOOD SERVICE INSPECTION REPORT

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869

Inspection Type: 02

Establishment: 1055432 Area: 011

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

Phone: (612) 522-4557 x

Score:

Units: County: 01

Start Date/Time: 3/22/2007 at 10:45:00

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

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Minneapolis Licenses and Consumer Services grants FINAL approval for operation of the business. (City Hall, 350 South 4th Street, Room 1-C, Minneapolis, MN 55415, (612) 673-2080.)

Comments:

Reinspection conducted 3-22-07 by Kathy Loudon accompanied by Fardowza Omar. Jerome Wright on site at the time of the reinspection.

Jerome Wright stated that he passed the food manager certification class. Now you MUST file with the State. I am enclosing a State registration form. The only certifications we recognize are those registered with the state. Send them a copy of your passing certification, the registration form and \$28.00.

2 critical violations, 8 regular violations - due to the high number of violations at a reinspection, a 2nd reinspection will be conducted.

VIOLATION: 2-401.11                      FIX BY 3/22/2007                      This is a REPEAT VIOLATION.

CRITICAL: HYGIENE

Discontinue consuming food, use of unapproved beverage containers, or use of tobacco in any form in food preparation or utensil washing areas. Minnesota Rule 4626.0105

Two beverage glasses found on the prep table under the pass through window. Do NOT store beverages where they can be spilled into food or food equipment.

VIOLATION: 5-203.14E                      FIX BY 4/5/2007                      This is a REPEAT VIOLATION.

CRITICAL: PLUMBING

Mount the spray arm so it cannot hang below the spill rim of a sink or provide an approved backflow prevention device on the faucet. Minnesota Rule 4626.1085

The spray arm needs to be repaired so that it is over the spill line at the dishmachine.

33

Establishment:  
1055432  
TOP DINER  
Inspection Type: 02

Start Date/Time: 3/22/2007 at

VIOLATION: 2-104.11                      FIX BY 4/21/2007                      This is a REPEAT VIOLATION.

Maintain in employment at least one owner or operator involved with the direct operation who has successfully completed an approved course in prevention of foodborne illness. Minneapolis Ordinance 188.550.

Per Jerome, he passed the FMC class. Now you MUST register with the State.  
Information enclosed:

VIOLATION: 4-501.116                      FIX BY 3/23/2007                      This is a REPEAT VIOLATION.

Use the sanitizer test kit or other device to accurately measure the concentration of the sanitizing solution.  
Minnesota Rule 4626.0815

Wiping cloth buckets found at +200 ppm. The waitress was instructed on how to use the test kit at the time of this reinspection - we checked the sanitizer strength together. Jerome stated that he had been working with her on this.

VIOLATION: 4-501.11AB                      FIX BY 4/21/2007

All equipment and components shall be in good repair and maintained and adjusted in accordance with manufacturer's specifications. Minnesota Rule 4626.0735

The towel dispenser at the kitchen handsink is not in working order - repair or replace.

VIOLATION: 4-601.11C                      FIX BY 4/21/2007                      This is a REPEAT VIOLATION.

Clean non-food contact surfaces of equipment and maintain free of accumulations of dust, dirt, food residue, and other debris. Minnesota Rule 4626.0840

Clean the contents and the bins where utensils are stored - on the racks in the dishmachine area.  
Clean the interior of the microwave.

VIOLATION: 6-202.11A                      FIX BY 4/5/2007

Provide effective shielding or shatter-resistant bulbs for all light fixtures where there is exposed food, clean equipment, utensils and linens, and unwrapped single-service or single-use articles. Minnesota Rule 4626.1375

The bulbs under the hood must be shielded - some shields were missing.

VIOLATION: 6-303.11C                      FIX BY 4/21/2007                      This is a REPEAT VIOLATION.

Provide at least 50-foot candles (540LUX) of light intensity for areas where food employees are working with utensils and equipment where safety is a factor and areas used for warewashing other than behind a bar.  
Minnesota Rule 4626.1470

Replace the burnt out bulbs under the hood.

VIOLATION: 6-501.114                      FIX BY 4/21/2007                      This is a REPEAT VIOLATION.

Remove all unnecessary articles and litter from the premises which are not pertinent to the current operation of the food establishment. Minnesota Rule 4626.1580

There are a lot of unnecessary articles stored in the back garage area of the establishment. This must get cleaned out - this much stuff allows for harborage of pests and is a fire hazard.

VIOLATION: 6-501.12A                      FIX BY 3/25/2007                      This is a REPEAT VIOLATION.

Clean and maintain clean all physical facilities. Minnesota Rule 4626.1520

Clean the floor on the back of the cooking line. A lot of grease buildup.  
Clean the wall behind the toaster near the pass through window.

34

Establishment:

1055432

TOP DINER

Inspection Type: 02

Start Date/Time: 3/22/2007 at

VIOLATION: 6-501.14A FIX BY 4/5/2007

Maintain clean all intake, exhaust and air ducts and change filters so they are not a source of contamination.  
Minnesota Rule 4626.1530

There is an obvious buildup of grease in the hood. Even the bulb shields have grease in them indicating that there is grease built up on the electrical fixtures over the hood. You must immediately hire a licensed hood cleaning company to thoroughly clean the hood. The last sticker on the hood indicating when the service was done was Brothers who cleaned the hood in 2006. This must be done immediately. This is a serious fire hazard and must be cleaned properly.

Per Jerome, he has had a few bids one from Viromatic and one from Brothers. This must be done within 2 weeks or further action to address the issue will be taken.

**\*\*It was suggested to Jerome that he have the contractor who cleans the hood take photos of the work done - including all ducts and the fan on the roof. The fan on the roof needs to be cleaned as well. AS per the ventilation code 11.4.13 After cleaning is completed, the vent cleaning contractor shall place or display within the kitchen area a label indicating the date cleaned and the name of the servicing company, and areas not cleaned.**

Comments:

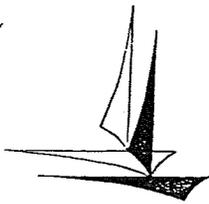
They are hiring again for cooks - Clarence left  
They have gotten rid of the cracked microwave.  
They have been working on cleaning the ceiling tiles and walls throughout.

Site Report Generated: 3/22/2007 12:55:03 PM

Owner/Operator

Inspection By: KATHY LOUDEN, 673-3869

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March 22, 2007

Minneapolis  
City of Lakes

Regulatory Services  
Department

Citation Collection Letter

Environmental Services

250 South 4th Street - Room 414  
Minneapolis, MN 55415

Office 612 673-5885  
Fax 612 673-2635  
TTY 612 673-2157

Dear Darryl and Linda Thibodeaux:

A citation was issued by code compliance officer Kathy Loudon on 1-9-07 in the amount of \$200.00 for the following violations: 3-501.17A Failure to date mark foods. Please submit the payment at this time with the addition of a 10% late fee. The total payment due immediately on this citation is \$220.00.

**TO AVOID ADDITIONAL LATE FEES:**

As a reminder, Citation #100155 in the amount of \$800.00 was issued on March 7, 2007 and is due on **March 27, 2007**. This was issued for the following:

- 2-401.11 Beverages in food area
- 2-103.11 Failure to have a trained Person in Charge
- 6-301.11A and 6-301.12AB Failure to have hand soap and single service towels available
- 6-301.12A Failure to maintain the premises clean.

If you have questions please contact me.

Failure to pay the citation may result in action taken against your license.

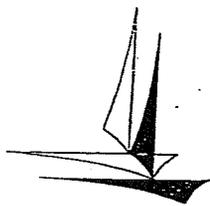
Thank you.

Sincerely,

Carl Samaroo  
Supervisor, Environmental Health – Food Safety

cc: Curt Fernandez, Manager  
Kathy Loudon, Code Compliance Officer

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Minneapolis  
City of Lakes

April 5, 2007

Regulatory Services  
Department

Environmental Services

250 South 4th Street - Room 414  
Minneapolis, MN 55415

Office 612 673-5885

Fax 612 673-2635

TTY 612 673-2157

Top Diner  
Attn: Darryl and Linda Thibodeaux  
4330 Lyndale Ave. N  
Minneapolis, MN 55412

### CITATION COLLECTION LETTER

Dear Darryl and Linda Thibodeaux:

A citation was issued by code compliance officer Kathy Loudon on 1-9-07 in the amount of \$200.00 for the following violations:

- 3-501.17A Failure to date mark foods.

Payment for this citation was due on January 29, 2007 and has not been paid. A late fee of 10% was charged making the total on that citation due to be \$220.00.

Another citation was issued on March 7, 2007 in the amount of \$800.00 for the following violations:

- 2-401.11 Beverages in food area
- 2-103.11 Failure to have a trained Person in Charge
- 6-301.11A and 6-301.12AB Failure to have hand soap and single service towels available
- 6-301.12A Failure to maintain the premises clean.

Payment for this citation was due on March 27, 2007 and has not been paid. A late fee if 10% is being charged making the total on this citation due to be \$880.00.

Please submit the payment at this time with the addition of a 10% late fee. The total payment due immediately is \$1100.00. If you have questions please contact me.

Failure to pay the citation may result in action taken against your license.

Sincerely,

Carl Samaroo

Supervisor, Environmental Health – Food Safety

cc: Curt Fernandez, Manager, Kathy Loudon, Code Compliance Officer

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FOOD SERVICE INSPECTION REPORT

Minneapolis Environmental Health  
250 South Fourth Street, Room 414  
Minneapolis, MN 55415 EOE  
612-673-2170

Sanitarian: KATHY LOUDEN, 673-3869

Inspection Type: 02

Establishment: 1055432 Area: 011

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

Owner Name:  
D & L THIBODEAUX LLC

Phone: (612) 522-4557 x

Score:

Units: County: 01

Start Date/Time: 4/12/2007 at 14:00:00

TOP DINER  
4330 LYNDAL AVE N  
MPLS, MN 55412

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Minneapolis Licenses and Consumer Services grants FINAL approval for operation of the business. (City Hall, 350 South 4th Street, Room 1-C, Minneapolis, MN 55415, (612) 673-2080.)

Comments:

Reinspection conducted 4-12-07 by Kathy Louden  
Jerome on site at the time of the reinspection.

4 critical violations, 9 regular violations. This is the 2nd reinspection and there are still a large number of violations.

VIOLATION: 3-501.16B FIX BY 4/12/2007

CRITICAL: MICROBIAL CONTROL

Maintain all cold, potentially hazardous foods at 41°F (5°C) or below under mechanical refrigeration, to prevent bacterial growth and/or toxin production. Minnesota Rule 4626.0395

A pan of cooked turkey was found at 82.6°F on a table in the back. No one knew how long it had been sitting there - it was discarded at the time of the reinspection.

VIOLATION: 3-501.17A FIX BY 4/12/2007

CRITICAL: MICROBIAL CONTROL

Mark the date of preparation on all refrigerated, ready-to-eat potentially hazardous food prepared in the food establishment and held for more than 24 hours. This will help ensure the food is consumed by the "use by" date, which is 7 days from the date of preparation including the date of preparation. Minnesota Rule 4626.0400

Some foods were found without date marking - Turkey in the cooler, rice, etc.

VIOLATION: 3-501.18A FIX BY 4/13/2007 This is a REPEAT VIOLATION.

CRITICAL: MICROBIAL CONTROL

Discard all refrigerated, ready-to-eat, potentially hazardous food prepared in the establishment which has not been consumed within 7 calendar days from the date of preparation. Minnesota Rule 4626.0405

Meatloaf dated 4-4 should have been discarded on 4-10. It was discarded on 4-12 at the time of the reinspection.

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Establishment:  
1055432  
TOP DINER  
Inspection Type: 02

Start Date/Time: 4/12/2007 at

VIOLATION: 5-205.15A FIX BY 4/26/2007

CRITICAL: PLUMBING

The plumbing system must be repaired and maintained in accordance with the Minnesota Plumbing Code, chapter 4715. Minnesota Rule 4626.1130

The plumbing under the food prep sink leaks intermittently

VIOLATION: 3-501.13 FIX BY 4/13/2007

Do not thaw potentially hazardous foods at room temperature. Thaw by one of the following methods to prevent microbial growth in the food: 1. under refrigeration that maintains the food temperature at 41°F (5°C) or below; 2. completely submerged under potable running water of a temperature 70°F (21°C) or below, with sufficient velocity to agitate and float off loose particles in the overflow, for a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C), or for a period of time that does not allow raw animal food to be above 41°F (5°C) for more than four hours; 3. in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or 4. as part of the conventional cooking process. Minnesota Rule 4626.0380

Raw chicken in bags was found in the food prep sink - no running water. No one knew when it was put into the sink. It was transferred to the cooler at the time of the reinspection.

VIOLATION: 4-501.116 FIX BY 4/13/2007 This is a REPEAT VIOLATION.

Use the sanitizer test kit or other device to accurately measure the concentration of the sanitizing solution. Minnesota Rule 4626.0815

Wiping cloth bucket found at 0 ppm. There is a chlorine/bleach test kit on site to monitor 50-100 ppm.

VIOLATION: 4-501.11AB FIX BY 5/12/2007

All equipment and components shall be in good repair and maintained and adjusted in accordance with manufacturer's specifications. Minnesota Rule 4626.0735

The towel dispenser at the handsink in the kitchen near the pass through window is not in working order. A roll of towels has been kept on the prep table near the handsink - today the roll of towels was at the opposite end of the table.

The hood has been cleaned by Brothers on April 10th, 2007- there are three fans on the roof - the one on the far end is not working, the one in the middle is working very slowly and one is in working order. Per Jerome, Brothers is coming back to fix the fans and thoroughly clean all equipment under the hood.

VIOLATION: 4-601.11C FIX BY 5/12/2007 This is a REPEAT VIOLATION.

Clean non-food contact surfaces of equipment and maintain free of accumulations of dust, dirt, food residue, and other debris. Minnesota Rule 4626.0840

Bins where utensils are stored (on the racks in the dishroom) need to be cleaned.  
Clean the interior of the microwave.

VIOLATION: 6-202.11A FIX BY 4/26/2007

Provide effective shielding or shatter-resistant bulbs for all light fixtures where there is exposed food, clean equipment, utensils and linens, and unwrapped single-service or single-use articles. Minnesota Rule 4626.1375

Bulbs are unshielded under the hood

39

Establishment:

1055432

TOP DINER

Inspection Type: 02

Start Date/Time: 4/12/2007 at

VIOLATION: 6-301.12AB FIX BY 4/13/2007 This is a REPEAT VIOLATION.

Provide and maintain at each handwashing sink in the food preparation and warewashing areas a supply of individual disposable towels or a continuous towel system that supplies the user with a clean towel. Minnesota Rule 4626.1445

Front area towels dispenser at the handsink in the service area was found empty. The towels at the handsink near the pass through window in the kitchen were not located next to the handsink - the towel dispenser was not in working order. You can install a paper towel dispenser for roll paper towels in this area if you cannot get the towel dispenser in working order.

VIOLATION: 6-303.11C FIX BY 5/12/2007 This is a REPEAT VIOLATION.

Provide at least 50-foot candles (540LUX) of light intensity for areas where food employees are working with utensils and equipment where safety is a factor and areas used for warewashing other than behind a bar. Minnesota Rule 4626.1470

Burnt out bulbs under the hood

VIOLATION: 6-501.114 FIX BY 5/12/2007 This is a REPEAT VIOLATION.

Remove all unnecessary articles and litter from the premises which are not pertinent to the current operation of the food establishment. Minnesota Rule 4626.1580

a lot of unnecessary articles in the back area - garage area - this is a fire hazard as well as harborage area for unwanted pests.

VIOLATION: 6-501.12A FIX BY 4/15/2007 This is a REPEAT VIOLATION.

Clean and maintain clean all physical facilities. Minnesota Rule 4626.1520

Clean the wall behind the toaster near the pass through window.

Comments:

Other:

- 1. It was ordered at an Administrative Hearing that a self-audit checklist be completed weekly and be faxed to our office. As of today 4-12, nothing has been recorded on a check sheet this week.
2. The spray arm at the dishmachine has had a new spring installed. It barely clears the spill line and may not last long. Per Jerome, he may have another fixture attached so it will hold.
3. The hood was cleaned by Brothers on 4-10. There is no sticker on the hood indicating the cleaning date. Per Code 11.4.13 " After cleaning is completed, the vent cleaning contractor shall place or display within the kitchen area a label indicating the date cleaned and the name of the servicing company, and areas not cleaned." SUBMIT PROOF TO OUR OFFICE THAT THE HOOD HAS BEEN CLEANED TO THE EXTERIOR OF THE BUILDING.
4. Jerome has completed and passed a certified food manager class. Per Jerome, he gave the information to Linda and Darryl to submit to the State. It is unclear as to whether or not this has been completed as yet.

Site Report Generated: 4/13/2007 10:56:02 AM

Owner/Operator

Inspection By: KATHY LOUDEN, 673-3869

Handwritten signature/initials (4/10)

**Louden, Kathy L**

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**From:** Louden, Kathy L  
**Sent:** Tuesday, April 17, 2007 11:14 AM  
**To:** Wilson, Grant J.  
**Cc:** Samaroo, Carl K.; Fernandez, Curt L  
**Subject:** Top Diner

Hi Grant,

I have been having serious problems with Top Diner, 4330 Lyndale Ave. N. The current owners took over the establishment in January 2006 and since that time we have had inspections and reinspections with high numbers of critical and regular violations. We have also had complaints from the public which have resulted in citations being issued. We have held two Administrative Meetings at our office which also resulted in administrative citations being issued. At this time only one citation has been paid. The other citations have not been paid leaving an outstanding balance on the unpaid citations and late fees of \$1100.00. Per a conversation with one of the owners, Linda Thibodeaux, they cannot pay these citations and she wanted to be informed of a date at which they'd have to close.

Due to ongoing serious violations of food safety issues and unpaid citations we would like to request that licensing moves on revocating their licenses. They currently have a restaurant license and a catering license - they cater to two daycares.

Thank you,  
Kathy Loudon

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**SENDER- COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TOP Diner  
 Linda Thibodeaux  
 4330 Lyndale N.  
 Minneapolis, MN  
 55412

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *Linda Thibodeaux*  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery  
 12/4/07

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number

(Transfer from service label)

7002 1000 0005 5788 6304

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

7002 1000 0005 5788 6304

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only - No Insurance Coverage Provided)

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

To mail room  
 10-3-07

Sent To *Linda Thibodeaux*  
*TOP Diner*

Street, Apt. No., or PO Box No. *4330 Lyndale N.*

City, State, ZIP+4 *Minneapolis, MN 55412*

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DEPARTMENT OF REGULATORY SERVICES  
DIVISION OF ENVIRONMENTAL MANAGEMENT & SAFETY  
ENVIRONMENTAL HEALTH - FOOD SAFETY  
250 SOUTH 4<sup>TH</sup> STREET, ROOM 414  
MINNEAPOLIS, MN 55415  
PHONE: (612) 673-2170, FAX: (612) 673-2635

## NOTICE TO APPEAR

Date: October 2, 2007

Attention (Licensee): Linda Thibodeaux and Darryl Thibodeaux  
Establishment Name (DBA): Top Diner  
Establishment Address: 4330 Lyndale Ave. N, Minneapolis, MN 55412

Meeting Date: Tuesday, October 16, 2007

Meeting Time: 1:00 PM

Place: Room 400, Public Service Center  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

### **RE: Food Code Violations, Chapter 186 and 188, Minneapolis Food Code Ordinance**

An administrative compliance meeting will be held at the above time, date and location to discuss your catering license.

**Failure to appear for this meeting without proper justification could warrant the suspension of your license.**

The following issues will be discussed:

- Catering license
- Facilities utilized at Top Diner
- Catering to day cares

**It is essential that you come prepared with a WRITTEN plan that details your operation under your catering license. This should include the hours of the day you utilize the kitchen at Top Diner, the name of the certified food manager who does the cooking, the names and addresses of the day cares you offer catering to, types of foods catered to the day cares, information on how the food is transported, information on how food is held at the day care facilities, and any other pertinent information in regard to your Catering License.**

Disregard for food safety and sanitation standards and the provisions of the Food Code will warrant the issuance of citations and/or other regulatory enforcement actions. We are here to work with you to maintain food safety and sanitation standards in your establishment. Please do not hesitate to call if you have questions, (612) 673-3869.

Sincerely,

Carl Samaroo

Supervisor, Environmental Health – Food Safety

cc: Curt Fernandez, Manager  
Kathy Loudon, Code Compliance Officer

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