

CITY OF MINNEAPOLIS
LICENSES AND CONSUMER SERVICES
350 SOUTH 5TH STREET, ROOM 1-C, CITY HALL
MINNEAPOLIS, MN 55415

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATIONS**

In the Matter of License No. L159 50826 NEW CHINA WOK
for FOOD RESTAURANT

Held by:
**TWIN GARDEN INC
XIUBEN LAN
5033 FRANCE AVE S
MINNEAPOLIS, MN 55424**

09-0725724

This matter came before a License Settlement Conference hearing on Monday, September 21, 2009. Appearing for the licensee was Xiu Ben Lan, owner and Zibo Li, Manager, New China Wok. Appearing for the Licenses and Consumer services were Deputy Director Ricardo Cervantes, License Inspector Mohamed Ismail. Manager Curt Fernandez, District Supervisor Tim Jenkins, and Robert Becker represented the Minneapolis Environmental Health Department. Terry Chevallier appeared for Minneapolis Fire Department. Based on the evidence presented at the hearing, the department makes the following findings of fact:

FINDINGS OF FACT

1. On July 29, 2008, Code Compliance Inspector Robert Becker conducted an annual inspection at the New China Work at 5053 France Ave. Violations of chapters 186 and 188 were noted at this inspection. There were several violations noted from previous inspections. An administrative citation in the amount of \$200 was issued for not controlling pests. This administrative citation was not paid before the license settlement conference was held.
2. On August 14, 2008, Code Compliance Inspector Robert Becker conducted a re-inspection at the New China Work at 5053 France Ave. Violations of chapters 186 and 188 were noted at this inspection. Inspector Becker ordered new China Wok to provide and maintain a fingernail brush at the hand washing sink used by employees. Also, he ordered other violations to be corrected noted at this inspection.

3. On September 9, 2008, Code Compliance Inspector Robert Becker conducted a second re-inspection at the New China Wok at 5053 France Ave. Inspector Becker ordered the New China Wok to fix/replace the ice machine doors as there is a large crack in the door.

4. On September 19, 2009, Code Compliance District Supervisor Tim Jenkins conducted an inspection at the New China Wok and found several violations of chapters 186 and 188. The person in charge failed to implement and monitor a food safety management system to prevent food code violation and public health risk factors. The New China Wok was ordered to do a deep cleaning and maintain all physical facilities. An administrative citation in the amount of \$1600 was issued for not controlling pests from previous violation. This administrative citation was not paid before the license settlement conference was held.

5. On September 23, 2009, Code Compliance District Supervisor Tim Jenkins conducted an inspection at the New China Wok. He found a several new violations and existing violations had not been corrected. An administrative citation in the amount of \$7000 was issued for numerous violations of previously ordered violations. Most of these citations were repeat violations within a 24 month period, and the fines were doubled as a result. These administrative citations were not paid before the license settlement conference was held.

6. In July 29, 2009, Minneapolis Fire Code Inspector Terry Chevallier conducted an inspection at this location and found several violations of the Minneapolis Fire codes. Orders were written to correct these violations by August 30, 2009.

CONCLUSIONS

1. New China Wok, located at 5053 France Ave, has failed to maintain a food safety management system to prevent public health risk factors and to keep the restaurant kitchen in clean and sanitary conditions in compliance with applicable provisions of Chapters 186 and 188 of the Minneapolis code of ordinance.

2. New China Wok failed to timely pay administrative citations in violation of Minneapolis code of Ordinance 259.15

RECOMMENDATIONS

Based on evidence presented at the hearing, the Department makes the following recommendations.

1. The Environmental Health Division issued \$8800 in administrative citations. \$4400 of these administrative citations is stayed pending no further violations of Chapter 186 and 188 of the Environmental Health Codes for a period of one year of this agreement.
New China Wok understands that further violations may result in adverse license action.

The \$4400 in unpaid administrative citations be paid on a payment schedule as Follows: \$1500.00 paid on or before October 15, 2009, \$1500.00 paid on or before November 15, 2009, and \$1400.00 paid on or before December 15, 2009.

2. New China Wok agrees to abide by the following Business License Conditions.

a. New China Wok must implement a food protection system and monitor food safety. Materials have been provided by the City to assist in this matter. The licensee will enroll and participate fully in the self-audit program. Licensee must train all employees in food safety and provide documentation at the request of the City. The licensee will ensure all employees attend monthly community food safety training meeting offered by the City.

b. New China Wok agree to quarterly food safety inspections held by City of Minneapolis Environmental Health Division, and pay a fee of \$100.00 per inspection to Environmental Health Division. At the end of one year the City will assess the need to continue quarterly inspections. All repeated violations will result in adverse license action or administrative citations.

c. The owner of New China Wok shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

d. Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request by the regulatory authority, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention.

e. The person in charge shall ensure that:

1. Employees and other persons, including delivery and maintenance persons and pesticide applicators, entering the food preparation, food storage, and ware washing areas comply with the Code;

2. Employees effectively clean their hands, by routinely monitoring the employees' hand washing;

3. Employees visibly observe foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

4. Employees properly cook potentially hazardous food, being particularly careful in cooking those foods known to cause severe food borne illness and death, including eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures;

5. Employees use proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling

6. Employees properly sanitize cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot

water sanitizing, and chemical concentration, pH level, temperature, and exposure time for chemical sanitizing; and

7. Employees implement and maintain food safety standards in the facility.

f. When using time as a public health control, while working with potentially hazardous foods prior to cooking, or for ready-to-eat potentially hazardous foods that area displayed or held for immediate consumption may be used only if:

1. The food is marked or otherwise identified with the time within which it shall be cooked, served, or discarded;

2. When the food that is provided for service and consumption is removed from temperature control, the food:

(a) Is served or discarded within four hours; and

(b) Is not removed from time control and returned for use at a later time;

3. Food in unmarked containers or packages, or for which the time expires, is discarded; and

4. Written procedures are maintained in the food establishment and made available to the regulatory authority upon request, to ensure compliance with:

(a) Items A to C; and

(b) Part 4626.0385 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

Subp. 2. Notification. The food establishment must submit written notification to the regulatory authority of its intention to use the procedures provided under this part prior to implementing the provisions of this part.

g. Cleaning shall be done as follows:

1. The entire facility must be cleaned by October 5, 2009; including all walls, floors, ceilings, equipments, and under all equipment, furniture, dinning areas, restrooms, storerooms and installations. All unused equipment and other items must be removed.

2. The physical facilities shall be cleaned as often as necessary to keep them clean. Repairs need to be made to floors, walls and ceilings. A screen door must be installed on the back entrance

3. Cleaning shall be done after closing or during other periods when the least amount of food is exposed.

h. The ventilation system shall be monitored as follows:

1. Intake and exhaust air ducts shall be properly cleaned by a licensed service company and filters changed so they are not a source of contamination by dust, dirt, and other materials. Licensee will keep the payment invoice that is to be made available upon request to the Environmental Health Division, to prove this condition has been met.

2. Ventilation systems shall not create a public health hazard or nuisance or unlawful discharge.

New china Wok understands that the holding of a business or liquor license in the City of Minneapolis is both a privilege and a responsibility, and, as such, it is understood that there is a minimum standard that shall be met in order to hold such a license. Furthermore, it is understood that a license holder is responsible to ensure that its business operates in compliance with all applicable laws, ordinances and regulations. As such, it is understood and agreed that any violation of the above Recommendations shall constitute just and proper cause for the immediate imposition of any agreed upon or stayed penalties. It is further understood that compliance with the above Recommendations is a requirement for continuing to hold a license and that failure to comply with any of these conditions may result in additional adverse license action.

I have read and understand the above findings of fact, conclusions, and recommendations. I agree with their contents and I agree with the above noted Recommendations. I understand that the failure of my business to adhere to this agreement may be cause for further suspension, revocation, or denial of my license. I understand that this report must be accepted and approved by the Minneapolis City Council and Mayor.

Based upon the foregoing, this agreement is FREELY & VOLUNTARILY ENTERED INTO IN GOOD FAITH:

Business

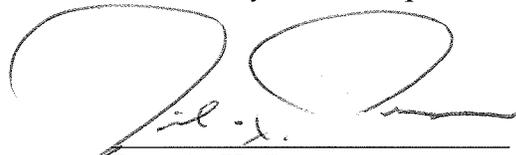


By: _____
(signature)

Its: OWNER
(title)

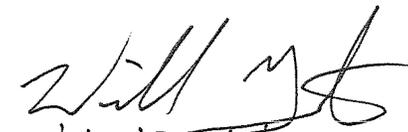
Dated: 10/8/09, 2009

For the City of Minneapolis:



Ricardo X. Cervantes
Deputy Director of Licenses

Dated: 10/8, 2009

Translator: 
Will Hutchinson