CHAPTER 68
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SUBCHAPTER 1
GENERAL PROVISIONS

68-1. Definitions. In this chapter:

1. ADULTERATED means that food has been prepared, packaged or held under unsanitary conditions whereby it may have become contaminated or rendered injurious to health.

2. CARRIED CONTAINER means a container carried on foot which contains food for sale.

3. CCDTV means a closed circuit digital television system.

4. CD means a compact disc used for recording digital video images.

5. CD-R means a compact disc used for recording digital video images that cannot be altered or erased once recorded.

6. COMMISSIONER means the commissioner of health.

7. COMMUNITY FOOD PROGRAM means any site in which all food is provided free of cost to those in need or to organizations who serve persons in need, such as a free meal site or food pantry.

8. COMMUNITY GARDEN means any use of land or a premise used for the growing of crops, plants or other vegetation by a group of individuals or by a public or non-profit organization granted a permit by the department of neighborhood services.

9. COMMUNITY-SUPPORTED AGRICULTURE (CSA) PROGRAM means a program under which a farmer or group of farmers grows food for a group of shareholders or subscribers who pledge to buy a portion of the farmer’s crop or crops for that season.

10. COMPLIANCE ORDER means an order which identifies mandatory interventions a food establishment must implement to achieve active managerial control of risk factors the department has identified as contributing to an establishment’s history of noncompliance.

11. COMPLIANCE PLAN means a written document that details specific actions or procedures by an operator to achieve active managerial control over foodborne illness risk factors. A compliance plan identifies how an operator will implement and maintain an effective food safety management system.
12. **CONVENIENCE FOOD STORE** means a store that is licensed as a food dealer under s. 68-21 and is also either or both of the following:
   a. A store that contains less than 5,000 square feet of retail sales space and has, as its primary business, the sale of basic food items and, in addition, sells household products. Basic food items include milk and dairy products, bread products, prepared sandwiches, frozen entrees, refrigerated food and baby food. Household products include cleaning products, paper products, baby products and pet food.
   b. A filling station that sells basic food items and, in addition, sells household products, as specified in par. a.

13. **COTTAGE FOOD PRODUCT** means a food item specified under s. 97.29(2)(b)2, Wis. Stats., that is produced in a residential kitchen and sold to the public. All of the limitations specified in the statute shall be met in order for the food item to be considered a cottage food product.

14. **CORE VIOLATION** means a failure to meet provisions provided in the Wisconsin Food Code that relate to general sanitation and overall maintenance of the equipment and the facilities. Core violations include a failure to keep the floors, walls, and ceilings of an establishment clean, failure of food employees to wear hair restraints, or keeping a facility or equipment in disrepair.

15. **DEPARTMENT** means the Milwaukee health department.

16. **DVD** means a digital video disc used for recording digital video images.

17. **DVD-R** means a digital video disc used for recording digital video images that cannot be altered or erased once recorded.

18. **EXCESSIVE VIOLATIONS** means a reference to both the number and magnitude of violations identified during an inspection or investigation. An establishment is found to have excessive violations if any one of the following conditions applies:
   a. The total number of violations identified during an inspection or investigation exceed the pre-determined limit for the establishment type.
   b. An imminent health hazard or violation serious enough, regardless of the total number of violations identified, to require the issuance of an emergency order to suspend all or part of an operation or issue a notice of intent to close an establishment.
   c. Failure to abide by a restriction placed upon an establishment as a condition of plan approval or part of a compliance order.

19. **FARM STAND** means a temporary or permanent structure used for the sale of fresh produce, herbs, flowers, plants, nuts, honey, cider, maple syrup, sorghum and cottage food products.

20. **FOOD** means all articles of food, drink or condiment, including ice and water used for human consumption, whether simple, mixed or compound, and articles used or intended for use as ingredients in the composition or preparation thereof.

21. **FOOD DISTRIBUTOR** means an individual who transports food for sale to retail and wholesale establishments and does not perform any processing or repacking of food items.

22. **FOOD ESTABLISHMENT** means any restaurant, retail food establishment, food peddler, community food program, school, college, university, temporary or seasonal food stand or any location in which food is provided to the public, regardless of whether the establishment is exempt from licensure.

23. **FOOD MANUFACTURER** means an individual who uses raw ingredients to create a new food product for sale to retail or wholesale establishments.

24. **FOOD PEDDLER** means any person who sells food from a food peddler vehicle or from a carried container.

25. **FOOD PEDDLER VEHICLE** means any pushed, pedaled, pulled or motorized vehicle from which food is prepared or sold.

26. **FRESH PRODUCE** means unprocessed unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients. Processing is limited to that which is required to harvest the product.

27. **HACCP PLAN** means a written document that specifies the formal procedures for following the Hazard Analysis Critical Control Point (HACCP) principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

28. **HISTORY OF NONCOMPLIANCE** means having reached through progressive enforcement an administrative hearing or intent to close at any time in the preceding 24- month period. Any establishment having had its license suspended shall be considered as having a history of noncompliance for 36 months.

29. **ICE CREAM PEDDLER** means any person who physically operates an ice cream vending vehicle or any person who physically conducts ice cream vending from such a vehicle or from a carried container.
30. **ICE CREAM VENDING VEHICLE** means a vehicle from which the retail sale of ice cream or similar frozen confections for human consumption is conducted. An ice cream vending vehicle may be pushed, peddled, pulled or motorized.

31. **IMMINENT HEALTH HAZARD** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness.

32. **INVESTIGATION** means the process of assessing the credibility of a complaint made against an individual or food establishment related to licensure, sanitation or foodborne illness.

33. **INSPECTION PLACARD** means a graded notice that describes the compliance status of a food establishment at the most recent inspection, re-inspection, or investigation.

34. **MEDIA** means CDs, DVDs, CD-Rs, DVD-Rs, computer hard drives or any materials used to record or store digital video images, text, graphics and audio data.

35. **MINOR** means any person under 18 years of age.

36. **MINOR FOOD PEDDLER** means any minor who sells, offers for sale, solicits for sale, collects for sale, displays, or distributes any food on any street or other public place, or from house to house whether or not from a vehicle or carried container.

37. **MOTORIZED VEHICLE** means a vehicle which uses a mechanical engine to propel it.

38. **NONPROFIT ORGANIZATION** means a religious, fraternal, youth, civic or patriotic organization, service club or religious assembly.

39. **OWNER** means the person, corporation, partnership, joint venture or other group enterprise licensed to do business at that location.

40. **PERSON** means any individual, firm or corporation.

41. **PRE-INSPECTION** means a preoperational evaluation of an establishment to assure that the equipment, facilities, and proposed operational plan are code-compliant and adequate for the proposed operation. A pre-inspection is performed prior to approval to operate or implement a modification to an establishment’s operational plan.

42. **PRIORITY FOUNDATION ITEMS** means items that require the purposeful implementation of specific actions, procedures, or the use and maintenance of required equipment by industry management to control risk factors that contribute to foodborne illnesses or injuries. Such actions include personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. Priority foundation items are denoted in the Wisconsin Food Code with a superscript Pf.

43. **PRIORITY FOUNDATION VIOLATION** means a violation of priority foundation items.

44. **PRIORITY ITEMS** means measures that control hazards more directly than related requirements, and are denoted in the Wisconsin Food Code with a superscript P.

45. **PRIORITY VIOLATION** means any noncompliance with any provision in the Wisconsin Food Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness or injury. Priority items include items with a quantifiable measure, such as temperature, to show control of hazards. Processes include cooking, reheating, cooling, or hand washing.

46. **PROCESSING OF FOOD** means any manipulation of food, including assembling, grinding, cutting, mixing, baking, grilling, frying, coating, stuffing, packing, bottling, packaging, canning, extracting, fermenting, distilling, pickling, freezing, drying or smoking of food. Processing does not include the act of harvesting, washing, and packing of raw agricultural products.

47. **PRODUCTION KITCHEN** means a kitchen in a school in which food preparation activities beyond reheating, portioning and hot and cold holding are performed.

48. **PUSHED, PEDALED OR PULLED VEHICLE** means a vehicle which does not have a mechanical engine to propel it and is moved by human power.

49. **RECURRING VIOLATION** means the same violation on any 3 inspections or investigations in the previous 24-month period. Inspections or investigations do not need to be consecutive.

50. **REPEAT VIOLATION** means the same violation on 2 successive routine inspections.

51. **REINSPECTION** means an inspection to determine if a food establishment has obtained compliance with findings or orders issued by the department.

52. **RESPONSIBLE OLDER YOUTH OR ADULT** means any person having actual or legal care, custody or control of a minor, including any person who enlists, directs, or otherwise engages a minor in activities commonly associated with street trade, except for older youth under 18 years.
of age and less than 2 years older than the minor engaged in activities commonly associated with street trade.

53. RISK CONTROL PLAN means a written document developed by an establishment in cooperation with the department for the purpose of identifying and implementing controls to address a repeat or recurring violation.

54. ROUTINE INSPECTION means the thorough periodic examination of an operation to determine compliance with code provisions, laws and regulations.

55. SELF-INSPECTION means the use of a department developed checklist on either a daily or weekly basis to monitor ongoing establishment compliance.

56. SATELLITE KITCHEN means a kitchen in a school in which the food handling activities are limited to the reheating or holding of cooked food that has been delivered from a production kitchen, storage of cold ready-to-eat food items and portioning and serving of bulk products either delivered from a production kitchen or requiring no on-site preparation for service.

57. SEASONAL EVENT means an event operating not more than 180 continuous days in a 12-month period.

58. SHARED KITCHEN means a commercial kitchen in which more than one food establishment or operation with different license holders is using the same commercial kitchen facilities for the storage or production of food or as an operational base, ware-washing facility, commissary for a food peddler, seasonal market, temporary event vendor, food manufacturer or caterer.

59. TEMPORARY EVENT means a single event such as a fair, festival, fundraiser for a nonprofit organization, carnival, circus, public exhibition, anniversary sale or occasional sales promotion that is held at a fixed location not lasting more than 14 consecutive days.

60. TIME/TEMPERATURE CONTROL FOR SAFETY FOOD means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation, also referred to as a potentially hazardous food.

61. UNAUTHORIZED MODIFICATION means any change to a food establishment or operation that under statute, rule or ordinance requires department approval prior to being initiated or implemented.

62. VALIDATION means the process of collecting and evaluating scientific and technical information to determine if a plan when properly implemented will effectively control a hazard.

63. VARIANCE means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, if in the opinion of the department the modification will not result in a health hazard or nuisance.

64. VENDING MACHINE means a self-service device that prevents access to food until upon operation by a user dispenses the selected food item without the necessity of replenishing the device between each vending operation. Access is limited to only the items selected. A food display case including a case with temperature control which allows a user to access multiple items simultaneously is not considered a vending machine even if the items are purchased through a self-checkout process.

65. VETERAN means any person who served in anyway in the armed forces of the United States who has a 25% disability or more, or has a cardiac disability recognized by the U. S. department of veterans affairs.

66. VERIFICATION means evaluating the extent to which a plan is being followed.

68-3. Adoption of State Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts chs. 97, 98 and 254, Wis. Stats., chs. ATCP 75, 80, 88 and DHS 196, Wis. Adm. Code, as amended, and where pertaining specifically to food operation premises, SPS 314, 316, and 361 to 365 Wis. Adm. Code, as amended, as part of this code. Adoption of ATCP 75 and DHS 196, Wis Adm. Code, includes the adoption of the Wisconsin Food Code which is an appendix to both chapters. Wherever the term "regulatory authority" is used in the Wisconsin Food Code it shall be held to mean the commissioner of health or the commissioner's duly authorized representative.

68-5. Adoption of Municipal Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts, for enforcement by the commissioner of health, ch. 214 where pertaining specifically to fire prevention in food operation premises.
68-7. Authority; Enforcement. 1. AUTHORITY OF COMMISSIONER. The commissioner may make and adopt written rules and regulations as may be necessary for the proper enforcement of this chapter. The commissioner shall file with the city clerk a certified copy of all rules and regulations which he or she may adopt, and a certified copy of the rules and regulations shall also be on file in the office of the commissioner. The rules and regulations shall have the same force and effect as the provisions of this section, and the penalty for violations thereof shall be the same as the penalty for violations of this chapter.

2. REGULATIONS. a. The commissioner or the commissioner’s duly authorized representative shall enforce the regulations of this chapter and may issue orders to effect corrections of violations and may issue citations pursuant to the procedure set forth in s. 50-25, except orders to correct violations of ch. 214 shall be enforced as specified in ch. 200.

b. If the conditions imposed by any provision of the code of ordinances are either more restrictive or less restrictive than comparable conditions imposed by the Wisconsin Food Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

3. ANNUAL REPORT REQUIRED. The commissioner of health shall by April 1 submit annually to the common council and the mayor a written food safety report. The report shall include the following information:

a. A summary of activities in the previous year undertaken by the department to improve the safety of food being produced or sold within the city.

b. An evaluation of the inspection program’s effectiveness using the quality assurance criteria defined by the U. S. Food and Drug Administration Voluntary National Retail Food Regulatory Program Standards.

c. Inspection and investigation findings for the previous 3-year period including the frequency of foodborne illness risk factor violations by establishment type and aldermanic district.

d. The frequency of occurrence of foodborne illness reported to the department and a summary of any outbreak investigations performed.

68-9. Inspection and Investigation. 1. ACCESS. A representative of the department after presentation of proper identification shall be permitted to enter any food establishment or operation at any reasonable time for the purpose of making inspections to determine compliance with this chapter. Access to investigate, inspect and enforce compliance shall be a condition of issuance and retention of a food license. License issuance or renewal may be withheld pending inspection, investigation, reinspection, plan verification or validation.

2. EXAMINATION. a. The department may conduct a reasonable examination of a licensee’s records and operation or establishment which may be pertinent and necessary to carry out the duties assigned in this chapter and to the protection and health and welfare of employees and the public. Records to be made available to the department upon request include information related to establishing the total amount of gross food sales, materials used to demonstrate adherence to approved plans and to assess the food purchased, received and used by an establishment or operation.

b. The department may examine the food, food preparation, storage and display areas in order to assess compliance and as part of that inspection or investigation.

c. The department may collect environmental and food samples for laboratory analysis. The department shall offer to pay fair market value for any samples taken unless the sampling is being conducted as a follow-up to a previous unsatisfactory test result.

d. The department shall be allowed to take photographs to document inspection or investigation findings.

e. No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the commissioner or the commissioner’s authorized representative in the performance of his or her duties under this chapter nor shall the operator give false information to mislead the commissioner or his or her authorized representative.

f. Violation of this section may result in progressive enforcement action, including revocation of a license.

3. PRE-INSPECTION. a. New Operation or Establishment. A pre-inspection shall be required prior to the issuance of any new food dealer license or food peddler license. Additional
inspections may be required if construction or remodeling of the food preparation or display area are being performed.

b. Existing Operation or Establishment. A pre-inspection shall be required prior to implementing any significant modification to a food operation or establishment as specified in s. 68-11. Additional inspections may be required for any significant remodeling or significant equipment change of a food operation or establishment.

4. ROUTINE INSPECTION. a. Food Dealer License Inspection. The initial routine inspection of a food dealer license shall be conducted within 60 days of license issuance. The department shall routinely inspect all licensed food dealer establishments once every 12 months. The department may increase the frequency of routine inspections based on an evaluation of the risk posed by an establishment. Baseline establishment of risk shall be based upon the properties of the food being sold or prepared, the quantity of food being prepared or sold, the population being served, and the food preparation or processes performed.

b. Food Peddler License Inspection. The department shall inspect prior to license issuance all vehicles, carts, or carried containers of food peddlers licensed under this chapter. A renewal food peddler license shall not be issued until an inspection is performed and all priority and priority foundation violations have been corrected.

c. Seasonal and Temporary Food Dealer License Inspection. The department shall inspect all seasonal or temporary food dealer operations or establishments licensed under this chapter.

d. Wisconsin Department of Agriculture, Trade and Consumer Protection License Inspections. The department is authorized by the state to inspect all state-licensed mobile restaurants and temporary events.

5. REINSPECTION. a. General. The department shall reinspect all violations found during an inspection or a compliant investigation regardless of a licensee’s or perimitee’s ability to correct a violation during the inspection to ensure the violation remains corrected. The department shall make as many additional reinspections as are necessary for the enforcement of this chapter.

b. Repeat Reinspection. Any food operation or establishment that has excessive, repeat or recurring violations who after 2 reinspections has failed to correct, or maintain correction of, all priority or priority foundation violations, or for any food operation or establishment that fails on 3 consecutive reinspections to correct, or maintain correction of, all priority or priority foundation violations shall undergo more frequent routine inspections. A full routine inspection shall be performed within 60 days of completion of the inspection cycle resulting in an operation or establishment being placed on more frequent inspections. An operation or establishment once placed on an accelerated inspection schedule shall remain on an accelerate inspection schedule until all of the following criteria are met:

b-1. The requirements of all outstanding orders including, compliance orders are met.

b-2. For initial placement on an accelerated inspection, an operation or establishment shall successfully complete one routine inspection. Any food operation or establishment placed on an accelerated inspection schedule for a second or subsequent time shall demonstrate 2 successful routine inspections prior to reverting to a standard inspection schedule. Successful completion of a routine inspection means an inspection without any violations being found or, if violations are found, the number of violations shall not be excessive, the violations shall not be repeated or recurring, and all violations shall be corrected upon the initial reinspection.

b-3. A minimum of 12 months has elapsed or for a food operation or establishment whose license was suspended due to failure to comply and a minimum of 24 months has elapsed for an operation or establishment whose food operation was suspended due to the identification of an imminent health hazard.

c. Reinspection Fee. The department shall charge a reinspection fee as specified in s. 60-70. The department shall charge a reinspection fee for any of the following:

c-1. Any reinspection of a violation in which the operator fails to obtain compliance of a previously uncorrected violation or fails to maintain correction of a violation that was corrected at the time of inspection.

c-2. Multiple violations that are split into multiple reinspections to accommodate multiple compliance timelines for correction of violations. Each reinspection is subject to its own inspection fee.

c-3. Each additional inspection required due to the operator’s history of noncompliance beyond that which would normally be performed for a food operation or establishment of a similar baseline operational risk shall be subject to the fees specified in s. 60-70. Payment shall be received before a request for an additional inspection is processed.
6. LICENSEE-INITIATED ROUTINE INSPECTION. At the discretion of a licensee, an additional routine inspection may be performed. A licensee-initiated routine inspection shall be in addition to any routine inspection required by the department. A request for a licensee-initiated routine inspection shall be submitted on a form provided by the department. One licensee-initiated routine inspection may be requested in a 12-month period. A licensee-initiated routine inspection shall be exempt from the noncompliance fees specified in § 60-70. A violation found during a licensee-initiated routine inspection shall have the same requirement for reinspection and shall be subject to the same reinspection fee as a department-initiated inspection. Routine inspection fee payment shall be received before a request for an additional inspection is processed.

7. COMPLAINT INVESTIGATION. The department shall investigate all complaints or referrals of food operations or establishments alleging violations of licensing, sanitation, foodborne illness or food handling. If the department identifies violations during a complaint investigation and orders are issued, the orders shall be subject to the same reinspection requirements and fee schedule as those identified during a routine inspection.

8. INSPECTION PLACARDS. a. Issuance. Upon completion of an inspection or investigation, the department shall post an inspection placard at every food establishment and on every food peddler vehicle, cart or container.
   b. Design. The placard shall show the name and address of the food operation or establishment for which it is issued, the date of the last inspection and the name of the licensee.
   c. Posting. Inspection placards shall be posted in a conspicuous place on the food operation or establishment premises that is readily and easily visible to the public.
   d. Placard to Remain Intact. An inspection placard shall not be defaced, marred, camouflaged, hidden or removed. It shall be unlawful to operate a food operation or establishment unless an inspection placard is posted in accordance with this subsection.

9. REINSTATEMENT. a. Determination of Reinstatement. Whenever a food operation or establishment is required to cease or suspend all or part of its food sales or processing due to public health concerns, an operation or establishment shall not resume food operations until an inspection determines that the conditions responsible for the requirement to cease or suspend food operations no longer exist.
   b. Reinstatement Inspection. Upon notification by the food operation or establishment that the violation has been corrected, the department shall perform an inspection to reinstate all or part of the license within one business day of the request.
   c. Written Notice. Upon determination that the basis for the suspension has been addressed, a licensee of a food operation or establishment shall be provided a written notice of reinstatement.
   d. Notification. The city clerk’s office and the police department shall be notified of any food operation or establishment ordered to cease or suspend operation and when an order is lifted. An email to the city clerk’s office and the police department shall be considered as meeting the notification requirement.
   e. Reinstatement fee. A licensee or permittee of a food operation or establishment shall pay a reinstatement inspection fee as specified in § 60-70.

10. REPORTS. When an inspection or investigation is made by the department of a food operation or establishment, the findings shall be recorded on a report form provided for this purpose. A copy of the inspection or investigation report shall be provided to a person in charge of a food establishment or to a person who is staffing a food peddler vehicle, cart or carried container, or a seasonal or temporary food operation.
   a. Report Issuance. The provision of a copy of an inspection or investigation report by email, fax or certified mail shall be considered as meeting the requirements of issuance.
   b. Report Receipt. b-1. An inspector shall request a signed acknowledgment of receipt of an inspection report when the report is issued at a food operation or establishment. The signed acknowledgement is not an agreement with the findings.
   b-2. Refusal to sign an acknowledgment of receipt shall not affect the license holder’s obligation to correct the violations noted in the inspection report within the time frames specified.
b-3. Refusal to sign the acknowledgment of receipt shall be noted on the inspection report in place of the signature.

c. Evidence of Issuance. Whether delivered by email, fax or mail, documentation of confirmation of delivery of the inspection report shall be retained by the department and shall be considered evidence of issuance.

d. Reports are Public Record. Inspection reports shall be public record and posted on the internet.

11. APPEAL OF INSPECTION. a. Request for Appeal. If after completion of an inspection a licensee disagrees with the inspection findings or the resulting inspection summary report, a licensee may request an appeal. A licensee shall:
   a-1. Submit a written request for an appeal to the department within 5 business days following an inspection. The request for appeal shall include the name and address of the operation or establishment, the date of the inspection and the violation that is being appealed and the reason why the licensee believes a provision of the code does not apply or was inappropriately applied.
   a-2. Verbally request that an inspection report or placard be held from posting pending the outcome of an appeal. The request shall be made at the time of issuance of the inspection report and placard, but no later than 2 business days following the inspection being appealed. A written request that an inspection report or placard be held from posting pending the outcome of an appeal shall still be required.
   b. Written Appeal Deadline. Failure to submit a written request for appeal within 5 business days shall be considered grounds to deny an appeal unless a request for an extension is received prior to the 5-business day period elapsing. Failure to submit a written request for an appeal within 5 business days following a verbal request to hold posting of an inspection report or placard shall result in the report or placard being posted.
   c. Appeal Hearing and Determination. An appeal shall be heard by the commissioner or his authorized representative within 5 business days following receipt of a written appeal request at which time the appeal shall be considered and a determination issued within 3 business days. The inspection report or inspection placard shall be updated based on the outcome of the appeal.

68-11. Plan Examination; Site Evaluation; Variance. 1. PLAN EXAMINATION  a. Food Operation Plan. No person shall operate a food establishment requiring licensure or an exempt food establishment requiring registration specified under s. 68-21-2-c and or s. 68-31-b without first receiving approval of submitted plans. Plans shall include sufficient operational detail to evaluate the potential risk of the proposed operation, including the magnitude of the food operation, the types of food sold, menu, the methods of food preparation, the methods of sale and the populations served. Submitted food operation plans shall be retained by the commissioner.
   b. Food Facilities Plan. No person shall erect, construct, enlarge or alter a food establishment or make significant changes to food processing equipment without first submitting to the commissioner, and the common council member in whose district the food establishment is located, plans consisting of drawings which clearly show and describe the nature and extent of the work proposed and without first receiving approval of the submitted plans. The plans shall include floor plans, equipment plans and specifications; wall, floor and ceiling finishes; and plans and specifications for food service kitchen ventilation. Submitted plans shall provide all information necessary to demonstrate compliance with applicable health code provisions. Submitted plans shall be retained by the commissioner.
   2. PLAN SUBMISSION. Plans for a food operation shall be submitted at the time of application for licensure or initial registration of an exempt establishment. Plans for the construction of a new food establishment, remodeling of an existing food establishment, conversion of an existing structure for use as a food establishment or plans for significant changes in food preparation equipment shall be submitted at the time of application or registration prior to any construction or equipment modification being implemented. Plan examination and pre-inspection fees for new food establishments shall be included in the application fee or initial registration fee for a food establishment.
   3. PLAN MODIFICATION. a. Renovation to a food preparation, storage or display area or changes in a food operation or establishment which impact licensure or operational risk classification or result in a change in the operational plan on file shall be
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submitted for review and approval prior to implementation of the operational change or initiation of any remodeling. Implementing a process specified in the Wisconsin Food Code as requiring a HACCP plan or requiring regulatory approval prior to implementation shall be considered a substantial operational change requiring plan submission. At the discretion of the commissioner, the requirement for plan submission may be waived for minor alterations to a food operation or establishment. Requests for modifications to an operational plan or food establishment shall be submitted on the forms provided by the department and are subject to the plan review fees specified in s. 81-55.3. Once a modification request has been approved, further changes to the plan shall not be made unless approval of the amended request shall have first been obtained from the commissioner, and the common council member in whose district the food establishment is located.

b. Modification of a food establishment or a food establishment operational plan when required prior to the approval of the department shall be considered a violation and shall be subject to progressive enforcement.

4. SHARED KITCHEN AGREEMENT. A signed shared kitchen agreement shall be submitted with any application proposing to share space in a commercial kitchen operated by an agent other than the applicant.

6. FEES. Plan examination and modification fees shall be submitted and paid prior to the plan examination as required in ss. 81-55 and 81-55.3. Fees shall be nonrefundable and include the cost of all inspections required for a plan, if applicable.

7. SITE EVALUATION. a. Site evaluations are optional and conducted upon request. The purpose of a site evaluation is to assess the general suitability of a facility for use as a food establishment prior to an operator developing a site-specific operational or facilities plan. A site evaluation identifies general modifications to the facility that would be needed to meet current health code requirements.

b. If a site evaluation has already been conducted for a particular location based on the current version of the food code, the evaluation shall be provided free of charge upon request of the operator.

c. A site evaluation provides general guidance rather than guidance based on a food establishment’s planned operation and does not replace the need to submit and obtain approval for a food establishment operation or facilities plan.

d. Request for a site evaluation shall be made to the department. Site evaluation fees shall be paid as required in s. 81-55.3.

8. VARIANCE. For processes identified in the Wisconsin Food Code as requiring a variance or at the commissioner’s discretion, where strict adherence to any public health-related provision of this chapter, ch. 214, or any state regulations adopted in s. 68-3 is impractical for a particular food operation or establishment, the commissioner may approve a variance for that food operation or establishment if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety or welfare.

a. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. d.

b. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the food operation or establishment’s file.

c. A variance shall be considered a change to a food operation or establishment’s operational plan requiring review and approval. No variance application shall be considered complete until the applicant has, obtained approval by the common council member in whose district the food establishment is located, and paid the application fee specified in s. 81-55.3.

d. Documentation supporting a proposed variance shall include each of the following information:

d-1. A description of the proposed variance from this chapter, ch. 214 or state regulations, citing relevant section numbers.

d-2. A description of how the potential public health hazards and nuisances addressed by the code requirement from which the variance is sought will be alternatively addressed if the variance is granted.
d-3. A hazard analysis and critical control points plan if relevant to the variance request or required by the commissioner.

e. A variance to health regulatory requirements shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall be required to submit a variance renewal request. Failure to file a request for variance renewal prior to expiration shall result in the application being considered a new application.

f. Failure by an operator to adhere to the terms of modification or variance approval shall be grounds for progressive enforcement, including revocation of the variance approval.


1. ESTABLISHMENT. There is established a food license review board consisting of 3 professional environmental health personnel, including sanitarians, appointed by the commissioner. Board members shall be appointed to serve 4-year terms and shall not be required to be city residents. Elected officials and municipal employees who serve on the board shall do so without remuneration.

2. DUTIES. The food license review board shall serve as an appeal board to all petitions for the reinstatement of food dealers’ licenses which have been suspended or revoked by the commissioner of health under the provisions of this chapter.


1. ESTABLISHMENT. The commissioner of health shall appoint and maintain a food safety advisory committee.

2. PURPOSE. The food safety advisory committee shall assist the city and the department in developing policies and regulations that enhance food safety and create an environment that is supportive for the continued growth of the food industry. The committee shall provide guidance to the commissioner on licensing, inspection fees, inspection criteria, grading of food establishments, and compliance and enforcement activities for the department.

3. COMPOSITION. This committee shall be comprised of representatives from restaurants, retail food establishments, peddlers, seasonal market and temporary event vendors, food manufacturers, consumers and academia.


1. DEFINITIONS. In this section:

a. "Certificate holder" means a person who holds a valid, current certificate of food protection practices issued by the Wisconsin department of health and social services under s. 254.71, Wis. Stats.

b. "Food handler" means a person engaged in the preparation, processing or service of food.

c. "Food protection practices certificate" means a current, valid certificate of food protection practices issued by the Wisconsin department of health and social services under s. 254.71, Wis. Stats.

d. "Food service operation" means a regular restaurant, as that term is defined under ch. DHS 196, Wis. Adm. Code, or a retail food establishment, as that term is defined under s. 97.30, Wis. Stats., except that the term does not include a retail food establishment that processes non-potentially hazardous food or sells prepackaged potentially hazardous food obtained from an approved source.

e. "Potentially hazardous food" has the meaning given to that term under ch. ATCP 75, appendix, and ch. DHS 196, appendix, of the Wis. Adm. Code.

f. "Ready-to-eat food" means restaurant-style food that is offered or prepared for sale and is ready for consumption, regardless of whether consumption is on the premises where the food is sold.

g. "Serious food-handling sanitation violation" means a violation that is the basis of a citation by the department and that involves a potentially hazardous food temperature violation, a food or equipment cross-contamination violation, a poor hygienic practice by a food handler violation or a confirmed case of food-borne illness.

2. CERTIFICATE HOLDER REQUIREMENT. a. Each person who is licensed to operate a food service operation shall employ, or shall personally be, a person who is a certificate holder.

b. Whenever potentially hazardous food is being processed at a retail food establishment or being prepared or served at a regular restaurant, the person who is licensed to
operate the food service operation shall have a certificate holder on the premises, unless the food service operation is exempted from this requirement under sub. 3.

c. Whenever a certificate holder is complying with the certificate holder requirement of this subsection, the certificate holder shall have in his or her possession a photo identification that verifies his or her identity.

d. The food protection practices certificate of a certificate holder shall be either posted on the premises of the food service operation or readily accessible to the commissioner upon request.

2.5. RECERTIFICATION. As provided in s. 254.71, Wis. Stats., each certificate issued by the Wisconsin department of health services upon a satisfactory completion of a written examination, approved by the department, shall be valid for 5 years from the date of issuance and, except as provided in s. 250.041, Wis. Stats., may be renewed by the certificate holder if he or she satisfactorily passes a Conference for Food Protection - accredited examination.

3. EXEMPTIONS. a. The requirement of sub. 2-b does not apply to a food service operation whenever the food service operation meets all of the following conditions:
   a-1. The food service operation has no more than 5 food handlers working.
   a-2. The food service operation has not had a serious food-handling sanitation violation at 2 consecutive inspections on or after January 1, 1996.
   a-3. The food service operation has at least one operator or manager who is a certificate holder.
   b. The requirement of sub. 2-b does not require a food service operation that includes one or more push carts to have a certificate holder at each push cart, if the food service operation:
      b-1. Has an owner, operator or manager who is a certificate holder who is held accountable for training each cart operator in food sanitation practices before operating a cart and who routinely monitors each cart during all periods of food service.
      b-2. Consists of one or more push carts that operate only during the summer season.
      b-3. Limits food preparation to hot dogs or similar precooked heated food items.
   c. These exemptions do not apply to any certificate holder requirement set forth by s. 254.71, Wis. Stats., or by any regulation implementing the terms of that statute.

4. TEMPORARY WAIVERS.
   a. Whenever the commissioner finds that a food service operation does not meet the certificate holder requirements of subs. 2-a, 2-b or 3-a-3, the commissioner may:
      a-1. Temporarily waive those requirements for up to a maximum of 6 months if the commissioner finds that a person is not a certificate holder because of the person’s difficulty with the English language or other disability as determined by the commissioner.
      a-2. Temporarily waive those requirements for up to a maximum of 6 months if the commissioner finds that a food service operation does not have a certificate holder because the food service operation has been sold or because a certificate holder has ceased employment with that food service operation.
      a-3. Temporarily waive those requirements on a case-by-case basis when the commissioner determines that the violations were due to sickness, emergency or other good cause.
   b. The commissioner may not waive a certificate holder requirement included within the terms of subs. 2-a, 2-b or 3-a-3 that is also required either under s. 254.71, Wis. Stats., or under any regulation implementing that statute.

5. PENALTIES. a. Any person that violates or fails to comply with this section shall be subject to a penalty under s. 61-15.
   b. Non-compliance with this section may be cause for the commissioner or the department to not renew a license, deny a license, suspend a license or revoke a license. The commissioner or department may take such action concerning a license regardless of whether a penalty for non-compliance has been imposed under par. a.
SUBCHAPTER 2
FOOD DEALER LICENSE

68-21. Food Dealer License. 1. REQUIRED.
   a. No person, partnership, association or corporation may establish a food operation, manufacture, offer for sale, store, distribute or sell food within the city without first having obtained a food dealer license or license with conditions allowing temporary or seasonal operation of a food establishment. The license shall be required of any person selling or distributing food, with the exception that a license shall not be required of a person holding a food peddler license or temporary or seasonal food license issued by the commissioner.
   b. Only a person, association or corporation in compliance with the applicable requirements of this section shall be eligible to receive and retain a food dealer license.
   c. A food dealer license may not be transferred from one person or entity to another or from one premise to another except an individual may transfer a license to an immediate family member, as defined in s. 254.64(4)(1)2, Wis. Stats., if the individual is transferring operation of the restaurant. See s. 85-19 for additional provisions relating to the transfer of licenses.
   d. The commissioner or an authorized agent may grant a license with conditions for the temporary operation of a food establishment prior to the completion of orders and the issuance of a regular food dealer license, provided that the business is in substantial compliance with this section and the operation of the food establishment will not jeopardize the life, health and safety of the public and property, and the department of neighborhood services has approved an occupancy permit. The issuance of a license with conditions shall be revoked after 30 days, and the operation shall cease unless all conditions are met and a regular license issued. The issuance of a license with conditions shall not apply to renewals.
   e. No person may sell food door-to-door, except for occasional sales by representatives of a religious, fraternal, youth, civic or patriotic organization, service club or church. In this paragraph, "occasional sales" means that food is offered for sale for not more than 3 days in any 12-month period.

2. LICENSE NOT REQUIRED. A food dealer license shall not be required for the following:
   a. A person selling only bottled or canned non-alcohol drinks that do not require refrigeration and no other food items.
   b. A stand, not connected with any temporary event as defined in s. 68-1-58, located on private property in a residential area operated by a child under the age of 14 who sells homemade beverages or food items not requiring heating or refrigeration.
   c. A community food program, provided all of the following conditions are met:
      c-1 All food is provided free of cost to persons in need or organizations serving persons in need.
      c-2. The community food program registers bi-annually with the department and pays the registration and inspection fees specified in s. 81-55.5.
      c-3. Upon initial registration with the department, a community food program submits plans in compliance with s. 68-11 for review and approval, and undergoes pre-inspection prior to operating.
      c-4. A community food program undergoes an annual inspection. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.
   d. Any public or private primary and secondary school meal program, provided all of the following conditions are met:
      d-1. Food service is limited to students who attend the school or to children as part of a free summer meal program.
      d-2. All food preparation and service is performed by staff directly employed by the school.
      d-3. The school registers annually with the department at least 10 days prior to operating or prior to the first day of the school year and pays the registration and inspection fees specified in s. 81-55.5.
      d-4. Prior to initial operation, a school meal program submits plans in compliance with s. 68-11 for review and approval, and undergoes pre-inspection.
      d-5. A school meal program undergoes 2 inspections administered by the department per school year. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.
   e. A food manufacturer that derives 25% or more of its gross sales from wholesale trade, has obtained a food processing plant license from the state, and does not serve meals to the public.
f. A food distributor that derives 25% or more of its gross sales from wholesale trade, has obtained a food warehouse license from the state, and does not serve meals to the public.

3. APPLICATION. Applications for a food dealer license shall be made in writing to the office of the city clerk on forms provided by the city clerk and shall contain the following information:
   a. The name, address and date of birth of the applicant.
   b. The trade name and address of the food service establishment.
   c. Whether the applicant is a person, corporation or partnership.
   c-1. If the applicant is a corporation, the application shall contain the registered agent’s name, address and date of birth, and verification that the corporation has been registered with the secretary of state as provided in ch. 180, Wis. Stats.
   c-2. If the applicant is a partnership, the application shall include the names and addresses of the partners.
   d. Such other reasonable or pertinent information the city clerk, commissioner or chief of police may require.

3.5. FINGERPRINTING. All applicants for food dealer licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. The commissioner shall issue a license to each applicant for a new or renewal license who meets all the requirements of this section and has paid to the city treasurer the fee specified in s. 81-55 unless there is an objection by the commissioner, the department of neighborhood services, the common council member in whose district the food establishment is located, or any person affected by the operation or proposed operation of the applicant.
   b. If either the common council member or the commissioner objects to an application, no license shall be issued unless the applicant requests in writing an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the commissioner and the common council member. Appeals shall be forwarded to the licensing committee for its recommendation as to whether a license should be granted or renewed. The procedure for considering an appeal shall be as provided in sub 8.
   c. If there is an objection to the renewal of a license, the procedure for considering the renewal license application shall be as specified in sub 7.
   d. The late renewal fee for a license issued under this chapter may not be waived unless definite proof exists that the delay is the fault of the health department or the city clerk.

5. POSTING. Each licensee shall post his or her license in a conspicuous place on the food establishment premises.

6. CHANGES TO BE REPORTED.
   a. Changes in the food facility or operational plan submitted as part of a supplemental application shall be submitted in accordance with s. 68-11.
   b. The owner of any premises for which a license has been granted shall promptly notify the city clerk in writing of his or her intention to cease operations.
   c. An individual applicant or licensee who resides outside Wisconsin or who leaves the state for more than 30 days shall provide the commissioner or the commissioner’s authorized agent with the name, address and telephone number of a responsible person or agent within the state of Wisconsin upon whom any process, notice or demand required or permitted under this section to be served upon the licensee may be served, and the commissioner shall notify the city clerk. Violation of this subsection may result in suspension or revocation of the license.
   d. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

7. SUSPENSION FOR NONRENEWAL. The city clerk shall notify the appropriate city officials, and the commissioner shall order the immediate enforcement of this section in cases involving failure to renew a food dealer’s license. The licensee shall be prohibited from manufacturing, offering for sale, distributing or selling food until a valid license has been applied for and obtained under this section.

8. PROCEDURE FOR DENIAL OR NONRENEWAL OF LICENSE. If there is an objection to an application for a new or renewal license, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 to 85-5.

9. CAUSES FOR COUNCIL DENIAL, REVOCATION OR SUSPENSION OF LICENSE. An application for a new or renewal food dealer license may be denied, or any license issued
under this section may be suspended or revoked, by the common council for any of the following causes:

a. Failure of the applicant or licensee to meet the statutory and municipal license qualifications, except for failure to meet sanitary or other health-related qualifications or other circumstances specified in s. 68-69 as grounds for license revocation or suspension by the commissioner of health.

b. A false or materially incorrect statement made by the applicant in his or her application.

c. Violation of any provision of this section by the applicant, licensee or any employee of the food establishment.

d. The conviction of the applicant or licensee, his or her agent, manager, operator or any other employee for sale or possession with intent to sell any controlled substance or for any felony related to the licensed operation which, in the judgment of the common council, is pertinent to the license being applied for or renewed.

e. A showing that the applicant or licensee has violated any state law or city ordinance prohibiting the sale of tobacco products to underage persons.

f. The violation of any of the excise laws of the state.

g. A showing that the licensed premises has been the source of congregations of persons which have resulted in one or more of the following:

  g-1. Disturbance of the peace.
  g-2. Illegal drug activity.
  g-3. Public drunkenness.
  g-4. Drinking in public.
  g-5. Harassment of passers-by.
  g-6. Gambling.
  g-7. Prostitution.
  g-8. Sale of stolen goods.
  g-9. Public urination.
  g-10. Theft.
  g-11. Assaults.
  g-12. Battery.
  g-13. Acts of vandalism, including graffiti.
  g-14. Excessive littering.
  g-15. Loitering.
  g-16. Illegal parking.
  g-17. Loud noise at times when the licensed operation is open for business.
  g-18. Traffic violations.
  g-19. Curfew violations.
  g-20. Lewd conduct.
  g-21. Display of materials harmful to minors, pursuant to s. 106-9.6.

h. A showing that the premises proposed for licensing will be a convenience store as defined in s. 68-1-12, whether or not exempt as provided in s. 68-55-2, and that the proposed operation of the premises will tend to contribute to neighborhood incidents and conditions identified in par. g as the result of an over-concentration of food dealers licensed under s. 68-21 to offer for sale, sell or distribute food in the neighborhood. Evidence that a neighborhood is adequately served by existing retail food establishments may be considered in reaching a determination about whether granting a new license will result in over-concentration.

i. The city clerk shall promptly inform the commissioner, the police department and commissioner of neighborhood services upon receipt of an application for a new food dealer license. The city clerk shall also promptly advise the common council member in whose district a new food dealer licensee proposes to operate licensed premises. The city clerk shall establish a written procedure for informing persons and parties neighboring the premises of a proposed new food dealer licensee intending to operate a convenience store within the definition of s. 68-1-12, whether or not the convenience store may be exempt under s. 68-55-2, and the persons and parties neighboring the premises of a licensed convenience store proposed for renewal if written objections to renewal have been received by the city clerk as provided in s. 85-3-3, and not considered in previous licensing proceedings.

j. Any person has the right to object to a new or renewal food dealer license based upon any matter specified in par. g and, upon receipt of a written objection, the city clerk shall request that the licensing committee schedule a hearing upon the application. The procedures of ch. 85 shall apply to the conduct of the hearing and to common council consideration of the recommendations of the licensing committee, except that the applicant shall not have the right to be heard orally before the common council.

k. A proceeding for revocation of a food dealer license may be commenced upon a sworn complaint to the city clerk by any interested party alleging that the operation of the licensed premises contributes to any of the conditions specified in par. g. If the common council finds that the licensed food dealer has contributed to any of the conditions or circumstances described in par. g, it may revoke the food dealer license or suspend the food dealer license for a period of not less than 10 days nor more than 90 days.
L. Nothing in this section shall affect the authority or responsibility of the commissioner of health to suspend or revoke a food dealer license whenever the commissioner finds unsanitary or other conditions in the operation of a food service establishment as provided in s. 68-69.

10. **DISQUALIFICATION FOR LICENSE.** Whenever any application is withdrawn, denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

11. **PROCEEDINGS TO SUSPEND OR REVOKE LICENSE.**

   a. Reasons Relating to Unsanitary Conditions. Proceedings to suspend or revoke a food dealer's license for reasons relating to unsanitary or other health-related conditions or for serious or repeated violations of any of the requirements of this chapter shall be conducted in accordance with the provisions of s. 68-69.

   b. Reasons Unrelated to Unsanitary Conditions. Proceedings to suspend or revoke a food dealer's license for reasons other than the grounds for suspension or revocation provided in s. 68-69 may be initiated by the licensing committee upon its own motion, upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

12. **PROCEDURE FOR REVOCATION OR SUSPENSION.**

   a. Notice and Service. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee relating to any of the causes for revocation or suspension of a license set forth in sub. 9, the procedures for notice and service of notice provided in s. 85-3 shall apply.

   b. Committee Hearing. The licensing committee shall convene and hear the matter upon the complaint for revocation or suspension filed and noticed under par. a in the manner provided in s. 85-4-1 and 2 and shall prepare and submit a report as required by ss. 85-4-5 and 85-5-1. Grounds for revocation and suspension shall be those provided in sub. 9.

   c. Council Action. Written statements in response to the findings and recommendations of the licensing committee shall be filed with the city clerk in the manner provided in s. 85-5-2, and copies shall be provided to common council members in the manner provided in s. 85-5-3. The procedures provided in s. 85-5-4 shall govern the conduct of the meeting of the common council.

68-23. **Shared Kitchens.**

1. **REVIEW AND APPROVAL.** a. Anytime one or more food establishments proposes to operate out of the same commercial kitchen, the primary license holder shall notify the department of his or her intent to share kitchen space.

   b. If not previously approved by the department, the addition of other users sharing commercial kitchen space shall be considered a significant operational change requiring plan review and approval as specified in s. 68-11.

   c. The commissioner may place an operational restriction on a food establishment based on either size of the kitchen or the compliance history of the establishment prohibiting use as a shared kitchen.

   d. Unless operated by the same licensee, each shared kitchen user shall obtain his or her own food dealer license.

2. **OPERATOR DUTIES.** The primary license holder shall be referred to as a shared kitchen operator and shall:

   a. Ensure the physical facilities and all equipment provided by the operator in the shared kitchen are in compliance with all local, state and federal regulations, including compliance with all health and sanitation requirements.

   b. Ensure that any person engaged in food preparation or storage within his or her facility is properly licensed. Allowing an unlicensed operator to prepare food for sale shall be considered a violation and grounds for progressive enforcement including revocation of the food dealer license.

   c. Maintain records on site regarding the use of the shared kitchen for a period of 24 months from the date of entry and shall make the records immediately available upon request by the department at the time of inspection or investigation. Failure to maintain records or to provide required records to the department shall be grounds for the department to rescind approval to permit shared use of the kitchen. Each of the following records shall be maintained and made available by the shared kitchen operator:

      c-1. A list of all shared kitchen users and current contact information.

      c-2. For each such shared kitchen user, a copy of the following documents:

         c-2-a. Menu approved by the department for use by a shared kitchen user.
c-2-b. A valid food dealer license.
c-2-c. All agreements entered into by the shared kitchen operator with each shared kitchen user, including the effective date, and if applicable, the termination date of each agreement.
c-2-d. Valid food service manager certificate if the user is processing or storing potentially hazardous foods at the site.
c-3. A weekly or monthly schedule of the proposed dates and times when each user, including the operator, intends to use the shared kitchen.
c-4. A shared kitchen user sign-in log indicating the date and times each shared kitchen user arrived and departed.
d. Report a shared kitchen user to the department if the user discontinues, terminates or otherwise withdraws from any contract or agreement with a shared kitchen operator or if the shared kitchen user repeatedly fails to use the space during his or her scheduled time without contacting the shared kitchen operator.
e. Provide access for inspection by the department to all locked equipment located in any storage area maintained in the shared kitchen.
f. Ensure that the total number of operators working out of the kitchen or the number of shared kitchen users preparing food in the shared kitchen at any one time does not pose a health or safety risk and remains within the total number of users and total number of simultaneous users the establishment is approved for.

3. USER DUTIES. Secondary or subsequent licenses issued for an establishment shall be considered a shared kitchen user. A shared kitchen user shall do each of the following:
a. Conform to the requirements provided in s. 68-11 for licensable food establishments.
b. Comply with all food safety requirements and regulations set forth in this chapter. A shared kitchen user and applicable shared kitchen operator shall be jointly and individually liable for any equipment or facility violations.
c. At all times that potentially hazardous food is being prepared, tasted, handled, packaged, prepared for storage, served or otherwise used at a shared kitchen by a shared kitchen user, a shared kitchen user shall have a certified food manager on site. Upon request, the shared kitchen user shall make a certificate immediately available for inspection by the department.
d. Have a copy of a city-issued license posted on site at all times when a shared kitchen user is using a shared kitchen.
e. Keep and maintain on file each of the following records:
e-1. A list identifying the dates and times a user utilizes a shared kitchen.
e-2. A copy of the written statement signed by the owner or operator of the shared kitchen stating that the shared kitchen user has been authorized by the owner or operator to rent, lease or use a shared kitchen and identifying the start date, and if any, the end date to which the authorization applies.

4. USER RECORDS. The records required under sub. 3-e shall be maintained by the user for a period of at least 2 years after the date of entry of a record. Upon a request by any authorized city official, the shared kitchen user shall make these records immediately available for inspection by an authorized city official.
68--Food License Regulations

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1. LICENSES. a. General. Each individual temporary food operation, site, location or stand where food is prepared, processed, served or sold shall be connected to a temporary event or a fundraiser for a nonprofit organization when issued a temporary food dealer’s license and be assessed fees in accordance with this section.

b. Exemption. The following shall be exempt from the requirement provided in par. a:

b-1. A licensed food establishment that extends its operation to the outside on a temporary basis and has obtained a temporary change of plan permit.

b-2. A food peddler with a food peddler license who operates on private property as part of a festival as defined in s. 261-103-6, street festival as defined in s. 95-1-2, or special event as defined in s. 105-55.5, provided the food operation remains unchanged from that conducted routinely under the operator’s existing food peddler license.

b-3. A food peddler holding a state mobile retail food establishment license valid for the food being sold.

b-4. A food peddler holding a state mobile restaurant license valid for the food being sold.

b-5. A nonprofit organization, as defined in s. 68-1, operating three or less days per year.

c. Application and Issuance. Applications for a temporary food dealer license shall be made pursuant to the procedures set forth in s. 68-21-3 and 4. An individual who has applied for, but has not been issued, a food dealer license pursuant to s. 68-21, shall not be issued a temporary food dealer license at the location where the food dealer license application is pending, unless the common council member in whose district the food dealer license is pending has approved the temporary food dealer license application. Licenses shall be issued for the following categories:

c-1. Restaurant.

c-2. Retail.

d. Application Deadline. Failure to pay for and obtain a license to operate a temporary event one business day prior to the event occurring may result in the applicant not being allowed to participate in the event. The city clerk’s office may accept an application on the initial day of the event or after the event has started and charge an expedited application fee in addition to the late fee specified in s. 81-56. An application shall not be made or paid at the location of the temporary event. Any applicant who has failed to pay for a previous temporary event and has not withdrawn the application prior to the previous event shall pay any outstanding fee prior to any other temporary event application being accepted. An application, license or registration fee is nonrefundable unless the application is withdrawn prior to issuance or approval.

e. Fees. Application for a temporary food dealer license shall be accompanied by the fees specified in s. 81-56.

68-33. Seasonal Food Dealer License.

1. LICENSES. a. General. Each individual seasonal food operation, site, location or stand where food is prepared, processed, served or sold shall be connected to a seasonal market, community garden or commercial farming enterprise when issued a seasonal food dealer license and be assessed fees in accordance with this section.

b. Exemptions. The following shall be exempt from the requirement provided in par. a:

b-1. A food peddler with a valid food dealer license who operates within the limits of the existing peddler license and food is prepared and sold from his or her permitted carried container or food peddler vehicle. If a booth or stand is set up other than for the display of food, a separate seasonal food dealer’s license shall be required.

b-2. Fresh produce grown on a private residence, provided processing is limited to that needed to harvest the product and the produce is sold on site at the residence where the produce was grown by the individual who grew it.

b-3. A food peddler holding a state mobile retail food establishment license valid for the food being sold.

b-4. A food peddler holding a state mobile restaurant license valid for the food being sold.

c. Application and Issuance. Applications for a seasonal food dealer license shall be made pursuant to the procedures set forth in s. 68-21-3 and 4. Licenses shall be issued for the following categories:

c-1. Seasonal market food vendor.

c-2. Farm stand.

d. Application Deadline. Applications shall be submitted at least 15 days prior to the initial date of operation or late fee shall apply. Applications filed less than one day prior to the initial date of operation shall be assessed the late fee and an expedited application fee shall be required as specified in s. 81-56.
e. Fees. Application for a seasonal food dealer license shall be accompanied by the fees specified in s. 81-56.
f. Limitations and Expiration. f-1. A license shall be valid for only the markets listed on the operational plan on file with the department.
f-2. Any license issued before January 1, 2015, shall be valid for 180 days. Any license issued on or after January 1, 2015, shall be valid for one year.

2. SEASONAL MARKET REGULATIONS.
a. Seasonal food dealer licenses shall only be issued for locations where seasonal markets are a permitted use, as provided in s. 295-603-2-x, or for locations on city or county property.
b. A seasonal market food dealer license shall be valid at markets listed on the approved operational plan. A separate license is required for each stand or booth operated concurrently.
c. A single stand or booth may be no larger than 100 square feet.
d. Food sales shall be limited to fresh produce or other retail food items. The sale of meals shall require a temporary event license.
e. Other than cutting produce to offer free food samples of not more than 2 ounces each, including packaging, an operator may not process any food at a seasonal market. Any other onsite processing shall require a temporary event license. Any offsite processing other than the production of cottage food products shall be done in a licensed food establishment.
f. At the time of inspection, operators may be required to show proof that processed food products were purchased from or prepared in licensed food establishments. Failure to provide documentation shall result in a food item being prohibited from sale until the proper documentation is provided to the department.

3. FARM STAND REGULATIONS.
a. A seasonal farm stand food dealer license may only be issued for a location where a community garden or commercial farming enterprise is a permitted use as provided in s. 295-423, or on city or county property.
b. Food sales shall be limited to fresh produce, herbs, nuts, honey, cider, maple syrup, sorghum and cottage food products.
c. All food items may not require temperature control for food safety.
d. Other than cutting produce to offer free food samples of not more than 2 ounces each, including packaging, the operator may not process any food at a farm stand. Any processing after harvesting other than preparation of cottage food products shall be done in a licensed food establishment.

e. A seasonal farm stand may not be located on the public way. If operated on public property, permission from the appropriate city department shall be obtained.
f. A farm stand shall be built in accordance with requirements established by the department of neighborhood services. Food display areas shall meet the requirements of the Wisconsin Food Code.
g. A farm stand may have one sign that shall comply with the provisions provided in ch. 244. The sign may only be displayed when the stand is in operation.
h. A temporary hand-washing station shall be maintained at all times a stand is in operation. If restrooms are unavailable onsite, the operator shall have and maintain a plan on how to access restrooms.
SUBCHAPTER 4
FOOD PEDDLER LICENSE

68-41. Food Peddlers. 1. FINDINGS. The common council finds that regulation of the health conditions of food sold by food peddlers is necessary for the prevention of disease and sickness within Milwaukee and such regulation is vital to the health, safety and welfare of residents of and visitors to the city.

2. LICENSE REQUIRED. a. General. No person shall engage in the sale of any food from any vehicle, cart or container on public streets without first obtaining a food peddler license issued under this chapter or a mobile food license issued by the state of Wisconsin for the food being sold. A separate license shall be required for each vehicle, cart or container from which food is sold.

b. Exceptions. A person selling only bottled or canned non-alcohol drinks that don’t require refrigeration and no other food items is not required to have a license issued under this section but shall comply with all other requirements of this section.

3. APPLICATION. Application for a food peddler license shall be made in writing to the city clerk on forms provided by the city clerk and shall contain the following information:

a. Name, home address and telephone number of the applicant. Post office box numbers shall not be acceptable for addresses required on applications.

b. Applicant’s date of birth.

c. Motor vehicle driver’s license number used.

d. If the applicant intends to sell food provided by a food service establishment, the name and address of the establishment.

e. The category of license being applied for specified in sub. 5, including whether the applicant is a veteran or is applying for a night operation license.

f. A description of the location or locations where the applicant intends to sell food.

g. The hours of the day during which the applicant intends to sell food.

h. Whether the applicant is an individual, corporation or partnership, including:

h-1. If the applicant is a corporation, the registered agent’s name, address and date of birth, and verification that the corporation has been registered with the secretary of state as provided in ch. 180, Wis. Stats.

h-2. If the applicant is a partnership, the names and addresses of the partners.

i. A unique serial number, vehicle identification number or a permanent unique number or alpha identifier distinguishing each food peddler vehicle or carried container to be permitted.

j. A physical description of the unit proposed to be licensed.

k. If using a shared kitchen as an operational base, a signed copy of the shared kitchen agreement. If the operational base is outside the city, a copy of the food license and the recent inspection report.

l. A menu of the food items to be sold along with information on the food processing to be performed.

m. Such other reasonable and pertinent information the city clerk, commissioner or chief of police may from time to time require.

n. Fingerprints, as provided in s. 85-21-1.

4. FEE. a. All new and renewal applications shall be accompanied by the applicable fees specified in s. 81-56.3.

b. A veteran, upon presenting proof to the city clerk that he or she satisfies the conditions provided in s. 68-1-64, shall be granted a food peddler license for one motorized, pushed, pedaled or motorized vehicle or container without payment of any fee. The veteran shall be the operator of the food peddler vehicle or carried container for which the fee has been waived.

5. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. Issuance. All applications shall be referred to the commissioner who shall cause an investigation to be made. The city clerk shall issue a license to each applicant for a new or renewal license who meets all the requirements of this section, has paid to the city treasurer the applicable fees, provided approval has been made by the commissioner of a satisfactory investigation. Licenses shall be issued for the following categories:

a-1. Pushed, pedaled or pulled vehicles.


a-3. Carried containers.

b. Night Operation. The city clerk shall provide for issuance of a of a sub-category of each of the license types identified in par. a to allow for a food peddler to sell food between the hours of 9 p.m. and 3 a.m., in addition to sales between 6 a.m. and 9 p.m., except that a food peddler with a nighttime sales license may sell food until 3:30 a.m. on Saturday and Sunday and at any time on January 1. The applicant for a license allowing nighttime sales shall pay a surcharge required under s. 81-56.3-2.
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c. Peddler License Sticker. Together with each license, the city clerk shall issue a peddler license sticker with the words "City of Milwaukee Food Peddler - license no......," stamped on it. Any food peddler, before engaging in the sale of any food products, shall have the peddler license sticker affixed to the peddler's vehicle or container in a prominent place. Each peddler shall at all times have available for inspection the paper license whose number matches the number on the peddler license sticker.

6. TRANSFER OF LICENSE OR CHANGE OF NAME. A food peddler license may not be transferred from one person or entity to another or from one food peddler vehicle, cart or carried container to another, except an individual may transfer a license to an immediate family member, as defined in s. 254.64(4)(1)2, Wis. Stats., if the individual is transferring operation of a restaurant. A food peddler who changes operational bases may amend a food peddler license to reflect the new operational base. See s. 85-19 for additional provisions relating to the transfer of licenses and change of licensee names.

7. RULES AND OPERATING REGULATIONS. a. Identifying Signage. Each food peddler vehicle or carried container used for business purposes and operated within the city limits shall have identifying signs printed or affixed, in a prominent position, to 2 sides of the vehicle or container. Each identifying sign shall include the name of the business or person operating the vehicle or container, a valid telephone number for the business, and the unique serial number, vehicle identification number, permanent unique number or alpha identifier distinguishing the food peddler vehicle or carried container in lettering not less than 3 inches high.

b. Agents of License Holders. Whenever a business, organization or individual holds a food peddler license and individual peddlers make sales under the authority of that license, each individual peddler shall be an agent of that business, organization or individual for purposes of those sales. Any violation of this section by an agent shall be imputed to the business, organization or person that holds the food peddler license under which the agent's sales are made.

c. Sales on the Public Way Only. All sales shall be made on the public way directly from pushed, pedaled, pulled or motorized vehicles or carried containers unless one of the following exemptions is met:

   c-1. A food peddler is participating in a seasonal market, temporary event or permitted festival or special event.

   c-2. A food peddler is selling food at the invitation of a business owner, provided all sales are made only to employees of the business and not to the general public.

   c-3. The proposed food activity falls within the permitted activities for which a property is zoned and a special occupancy permit for the property is issued by the department of neighborhood services allowing food sales by food peddlers at that location.

   d. Parking Restrictions. A food peddler shall comply with all city parking regulations provided under ch. 101, ss. 105-56 and 115-45, as enforced by the commissioner of public works or the chief of police. Repeat violation of parking restrictions is considered grounds for revocation or nonrenewal of a food peddler license.

   d-1. Whenever any street or portion thereof has been closed to traffic by common council resolution in connection with any civic event, the city clerk may, upon receipt of the required fee, issue a license to any person holding a license for the sale of food from a vehicle further licensing the person to park on the closed streets longer than the one-hour limit provided in this paragraph. The license shall specify the dates for which it is issued, and the fee required in ch. 81 shall be charged for each date. No license shall be issued without the approval of the chief of police, unless the common council by resolution shall so direct.

   d-2. A motorized food peddler vehicle may be parked in one location on a nonresidential block in excess of the one-hour limit specified in this paragraph, provided the vehicle is parked in compliance with all posted time limits on parking and with all other applicable parking regulations.

   d-3. The number of vehicles at any given event, in any given block, and the spacing of vehicles, as well as the number of blocks within the closed traffic section allocated for vehicles, shall be determined by the police department in cooperation with the local council member and sponsoring group.

   e. Exceptions. The common council may, by resolution, designate specific exceptions as to locations, dates or individual events, to the provisions of par. d.

   f. Penalty. Any vehicle parking in a closed traffic section, or parking outside the barricaded street section longer than allowed under par. d by existing code provisions, without a license shall be fined $100, and the vehicle shall be towed away at the owner's expense.

   g. Keeping of Perishable Food. All perishable foods shall be kept in one of the following ways:
g-1. Frozen.
g-2. Refrigerated at 41° F or lower by means of mechanical refrigeration.
g-3. Heated and maintained at 135° F.

h. Scale Required. A food peddler shall provide a scale for items that are sold by weight and weighed at the time of sale. The scale shall be approved and licensed under ss. 81-135 and 82-14.
i. Noise Restricted. A food peddler shall comply with the noise nuisance regulations of s. 80-65-4 and all other noise regulations of this code.
j. Compliance with Police Department. A food peddler shall comply with any request from the police department to relocate for public health, safety or welfare reasons.
k. Sale of Soda Water. Soda water shall be sold in single-service bottles, cups or aluminum cans only.

L. Fire Extinguisher. A food peddler doing any cooking or heating, whether that heating uses a combustible gas, electric heating device or an open flame, shall have and maintain a fire extinguisher appropriate for the operation.
m. Base of Operation. The operational base for a food peddler shall be a licensed food establishment. Unless operated at a licensed temporary event where facilities are provided on site or granted a variance by the department, each food peddler vehicle, cart or carried container shall return to its operational base every 24 hours for food, water and supplies or for cleaning and servicing operations, including the emptying and cleaning of waste containers. An accurate log shall be maintained indicating the dates and times the food peddler vehicle, cart or carried container was last serviced at a base of operation. Failure to use or maintain an operational base or failure to maintain an updated service base log shall be considered grounds for suspension or revocation of the food peddler license.
n. Unattended Vehicles or Carts Prohibited. A food peddler shall not at any time leave a pushed, pedaled or pulled vehicle or cart unattended on any city street or sidewalk.

8. PROHIBITED ACTIVITIES. a. Licenses and Peddler License Stickers Not Transferable. License and peddler license stickers shall be nontransferable, except upon order of the commissioner or as otherwise permitted under s. 68-41-6. Any food peddler selling, giving away or exchanging any license or license sticker, or any food peddler obtaining a license by misrepresentation, or improperly registering his or her name or address shall be subject to the forfeitures provided for in sub.10.

b. Sale of Unwholesome Food Prohibited. No food peddler shall sell any food or food product that is unwholesome, as defined in s. 97.42(1)(m), Wis. Stats., or tainted, or that is unclean, or that has been handled in an unclean manner, or has been exposed to unclean or contaminating things or conditions, or contrary to any rules or regulations adopted by the commissioner.
c. Sales from the Median or Safety Island Prohibited. No food peddler shall sell or offer for sale any food while the person is on a roadway median or safety island, except when the roadway has been closed to traffic under sub. 7-d-1 and the peddler is otherwise in compliance with this section.
d. Sale of Food Between the Hours of 9 p.m. and 6 a.m. Prohibited. The sale of food between the hours of 9 p.m. and 6 a.m., the following morning shall be prohibited. This prohibition shall not apply on January 1, Memorial Day, Juneteenth, the 3rd and 4th of July, Labor Day, on city streets adjacent to State Fair Park during the run of the Wisconsin State Fair or during any other specific dates specified by the common council by resolution. Nor shall it apply to a food peddler to whom the commissioner has issued a food peddler license allowing nighttime operation, pursuant to sub. 5-b.
e. Blocking Pedestrian Access to Doorways Prohibited. Blocking or restricting an individual's access to a business or residential doorway shall be prohibited.
f. Blocking Sidewalk Prohibited. Occupying any sidewalk so as not to permit any pedestrian at any time to have a minimum 5-foot clearance shall be prohibited.
g. Lewd Comments Prohibited. Making any comment, request, suggestion or proposal which is obscene, lewd, lascivious, profane, filthy or indecent shall be prohibited.
h. Door-to-Door Sales Prohibited. Selling food door-to-door shall be prohibited except as provided under s. 68-21.
i. Horn Use Prohibited. A food peddler with a license for a carried container or pushed, pedaled or pulled vehicle shall not use any type of horn.

9. CARRIED CONTAINER AND VEHICLE DESIGN AND CONSTRUCTION REGULATIONS.
a. Compliance with National Standards. All food peddler vehicles and carried containers shall be American National Standards Institute (ANSI) and National Sanitation Foundation (NSF)-certified or meet the requirements of applicable ANSI/NSF standards, including standard 59 for mobile peddler cart construction.
b. Self-Contained Food Peddler Vehicles. Each food peddler vehicle shall be self-contained so that all extensions, counter space, foldouts, awnings, or other contrivances for the preparation and sale of food shall be attached to the main body of the food peddler vehicle or cart and move along with it.

c. Size Limitations. Each food peddler vehicle shall conform to the following size limits:

c-1. A motorized food peddler vehicle shall be 25 feet or less in length.

c-2. A pushed, pedaled or pulled food peddler vehicle shall conform to the following size limits:

c-2-a. Width including wheels shall be 4 feet or less.

c-2-b. Length shall be 9 feet or less, of which not more than 6 feet of length shall be used for the display storage, or preparation of items for sale.

c-2-c. Height shall be 6 and one-half feet or less excluding awnings or umbrellas.

d. Generator Noise. A food peddler vehicle using a generator shall produce less than an average of 80 decibels of sound as measured 4 feet from the generator.

e. Unique Identifier. A unique identifier shall be affixed to each food peddler vehicle and carried container by the department to individually identify each food peddler vehicle or carried container. Each food peddler license shall only be valid for a food peddler vehicle or carried container that displays the department-issued unique identifier.

10. PENALTIES. a. Any person who shall sell any food product from any vehicle or any carried container as provided in this section without having first received a license in accordance with the provisions of this section, or who shall violate any of the other provisions of this section, except sub. 7-c, g to i and sub. 8-d to i, shall be subject to penalty as set forth in s. 61-8.

b. A person who violates sub. 7-c, g to i and sub. 8-d to i shall be subject, at the discretion of the court, to any or all of the following penalties:

b-1. A forfeiture of not less than $20 nor more than $200 for each violation.

b-2. A suspension of the peddler license sticker described under sub. 5-d for not less than 10 days nor more than 30 days, or a revocation of the identifying device for the remainder of its term.

b-3. A suspension of the food peddler's license for not less than 10 days nor more than 30 days, or a revocation of the food peddler's license for the remainder of its term.

c. At the discretion of the court, a penalty under par. b may be imposed as follows:

c-1. A penalty may be imposed on an agent.

c-2. Whenever the court finds that the business, organization or person that holds the food peddler's license under which the agent's sales are made has failed to properly supervise the agent, a penalty may be imposed on the business, organization or person.

c-3. A penalty as provided under subds. 1 and 2 may be imposed on both an agent and the business, organization or person that holds the food peddler's license under which the agent's sales are made.

68-43. Ice Cream Peddler License. 1. FINDINGS. The common council finds that individuals involved in the business of ice cream peddling are placed in substantial contact with children. Additionally individuals peddling ice cream from an ice cream vending vehicle are also responsible for driving safely when operating a motor vehicle making frequent stops and dealing with customers congregating near the path of the vehicle. Therefore, on that basis, the common council finds it necessary for the safety and welfare of the public to license individuals peddling ice cream.

2. LICENSE REQUIRED. No person shall operate or act as an ice cream peddler within the city without first having obtained an ice cream peddler license. The ice cream peddler license required by this section shall be in addition to the food peddler license required in s. 68-41. No ice cream peddler license shall be required if all retail sales are conducted at a temporary event as defined in s. 68-1-58, provided that average daily attendance is estimated at 5,000 persons or more.

3. APPLICATION. Application for a new or renewal license shall be filed with the city clerk. The application shall contain:

a. The applicant's name, date of birth, permanent address and telephone number.

b. A driver's license or some other proof of identity as may be reasonably required.

c. Fingerprints, as provided in s. 85-21-1.

d. One recent photograph suitable in size and form, as determined by the city clerk, for inclusion on the applicant's official license.

e. Such other reasonable or pertinent information the commissioner, city clerk or the chief of police may from time to time require.
4. DEPOSIT OF FEE. At the time of application, each applicant shall deposit with the city clerk the full amount of the fee required in s. 81-60.7. The city clerk shall to accept the deposit, issue a receipt therefore, and cause a record to be kept thereof.

5. INVESTIGATION. a. An application received by the city clerk shall be forwarded to the chief of police for review and criminal check.
   b. Upon review and report of the chief of police and subject to the requirements of s. 111.335, Wis. Stats., the license shall be granted to an applicant who has not been required to register as a sex offender pursuant to s. 301.45, Wis. Stats.; or who has not been convicted of violating s. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, or 948.30, or s. 940.30 or 940.31, Wis. Stats., if the victim was a minor; or who has not been convicted of operating a vehicle under the influence of an intoxicant or other drug pursuant to s. 346.63, Wis. Stats., in the past 3 years. These provisions shall also apply to the granting of this license to any applicant who has been convicted pursuant to similar statutes in foreign jurisdictions.
   c. In addition to the provisions of par. b, the chief of police may object to granting of the license based on the applicant’s criminal history, including whether that applicant has been charged with or convicted of any felony, misdemeanor, municipal offence or other offence, the circumstances of which substantially relate to the licensed activity.
   d. If an application for a new or renewal license is denied, the applicant may appeal the denial to the licensing committee of the common council.

6. REVOCATION. a. Any license issued under this section may be revoked by the health department upon conviction of a licensee for violation of any provision specified in sub. 5-b. The commissioner shall promptly notify the city clerk of any revocation.
   b. Any license revoked by the health department under this section may be appealed to the administrative review appeals board. If the commissioner has cause to seek revocation of a license under this section, he or she shall give prompt notice to the licensee of the intent to revoke the license with an opportunity to appeal the revocation to the administrative review appeals board.

7. PENALTY. a. Any person who violates sub. 2 shall be liable upon conviction to a Class I penalty under s. 61-15.
   b. Any person licensed under s. 68-41, who employs a person required to obtain a license under sub. 2 and who is not licensed, shall be liable upon conviction to a Class I penalty under s. 61-15.

68-45. Peddling of Food by Minors. 1. PURPOSE. The common council finds that minors under 18 years of age are susceptible to injury and other harm when engaged in street trades, and particularly when engaged in activities involving the sale or distribution of food and beverages, including water on highways, streets and alleys of the city. The common council further finds that state policy, which defines street trades in setting child labor standards at s. 103.21(6) Wis. Stats., to include the selling, offering for sale, soliciting for, collecting for, displaying or distributing any articles or goods on any street or public place. Section 103.23(1), Wis. Stats., further provides that a minor under 12 years of age shall not be employed or permitted to work at any time in any street trade. This section has for its purpose, among other objects, to secure the health, safety and welfare of minors engaged in activities on the city highways, and to promote the responsible and lawful care, supervision and control of younger children by older youth and adults who are in a position to direct, supervise or otherwise control the activities of children engaged in peddling food or beverages.

2. DEFINITION. In this section, “food” has the meaning defined in s. 68-1-20, and includes canned or bottled soda, water and all other beverages.

3. REGULATION; PROHIBITED ACTIVITIES. a. No minor under 12 years of age may engage in or participate in the activities of a minor food peddler.
   b. No responsible older youth or adult shall engage a minor less than 12 years of age in the activities of a minor food peddler.
   c. No minor shall engage in, nor be permitted to engage in, the activities of a minor food peddler except in accordance with applicable license and other requirements of state law and this code.
d. No minor food peddler shall sell, distribute or offer for sale any food or beverage, including water, while on a roadway median or safety island, and no minor food peddler may be directed, instructed or permitted to sell, offer for sale, or distribute any food or beverage, including water, by any responsible older youth or adult while the minor is on a roadway median or safety island.

e. No person, whether a responsible older youth or adult or a minor food peddler, shall enter on foot into any street or roadway, including any alley in which there is vehicular traffic and no responsible older youth or adult shall encourage or permit a minor food peddler to enter on foot into any street or roadway, including any alley in which there is vehicular traffic, while engaged in activities related to the activities of a minor food peddler, except while proceeding across designated pedestrian crosswalks and crossing areas.

4. EXCEPTION. The provisions of sub. 3-d shall not apply when the roadway, street or alley has been closed to traffic under s. 68-41-7-d-1 and the minor food peddler and any responsible older youth or adult are otherwise in compliance with this chapter and with the provisions of chs. 68 to 73, where applicable.

5. PENALTIES. a. Any person violating the provisions of sub. 3-b shall be subject to a Class D penalty, as provided in s. 61-10.

b. Any person violating sub. 3-c shall be subject to the fine for a Class A penalty, as provided in s. 61-7.

c. Any person violating sub. 3-d and e shall be subject to a Class F penalty, as provided in s. 61-12.

d. Any person violating any provision of this section who is subject to sanction as a juvenile, shall not be subjected to a forfeiture or other penalty greater than that permitted by state law.
SUBCHAPTER 5
OPERATING REGULATIONS

68-51. Sanitary Regulations. No person shall manufacture, prepare for sale, offer, expose for sale or sell food as defined in s. 68-1-20 unless it is securely protected from filth, flies, dust or contamination or unclean, unhealthful or unsanitary conditions.

68-53. Impure Food, Drugs, Water or Ice. It shall be unlawful for any person, firm, company or corporation, or any agent or employee thereof, to keep for sale, offer for sale, or exchange or sell or deliver or expose for sale any food or drugs not conforming to the rules and standards adopted pursuant to s. 68-3 and any water, liquids, ice or human food which shall be impure, unwholesome, adulterated, or to which any harmful or injurious foreign substance has been added.

68-55. Security in Certain Convenience Food Stores. 1. REGULATIONS. All convenience food stores not exempted under sub. 2 shall:
   a. Locate the cash register in a manner so that at the time of a sales transaction, the employee and customer are both visible from the sidewalk, if any, if the location can be accomplished without incurring additional cost that would not otherwise be ordinarily incurred. If there is no sidewalk, the cash register shall be located so that at the time of a sales transaction, a person directly outside the store has an unobstructed view of the employee and customer, if such location can be accomplished without incurring additional cost that would not otherwise be ordinarily incurred.
   b. Keep glass entrance and exit doors clear of any signs or advertisements, with the exception of a sign which states that the cash register contains $50 or less and that the safe is not accessible to employees.
   c. Maintain one of the following on the licensed premise:
      c-1. A safe that was in use at the convenience food store on August 17, 1994.
      c-2. A drop-safe or time release safe that weighs at least 500 pounds or which is attached to or set into the floor in a manner approved by the police department.
   d. Provide lighting for the store’s parking area during all hours of darkness when employees or customers are on the premises at a minimum average of 2-foot candles per square foot, unless the store is not open for business after sunset and before sunrise.
   e. Install, maintain in proper working order and operate during all hours the store is open to customers at least 2 high resolution surveillance security cameras which can produce reproducible digital color images from a digital video recorder. Each camera shall display a date and time stamp on each image, and produce retrievable images suitable for permanent police records. Digital video recording equipment shall be maintained in proper working order at all times during store operating hours. Additional cameras shall be installed as needed to record views and images stipulated in s. 68-1. The police may encourage convenience stores to position and use cameras in addition to the 2 required by this section to bolster overall crime prevention efforts.
   e-1. At least one camera shall provide an overall view of the counter and register area, and at least one camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the store. Camera views shall not be obstructed by store fixtures or displays.
   e-2. If a time-lapse digital video recorder is operated, recorded images shall not be recorded at a slower speed than 24 hours.
   e-3. All digital video records shall be stored on CD-Rs or DVD-Rs and maintained in good viewing order for 30 days after recording, and made available upon request to the licensing committee and law enforcement officers. Digital video recordings shall be dated and time stamped, and all CD-Rs and DVD-Rs used to store video recordings shall be marked with the date the media was recorded. At least one blank CD-R or DVD-R per camera shall be available during all hours the store is open to customers to replace CD-Rs or DVD-Rs provided to the licensing committee or law enforcement officers, or to replace video recording media that fail.
   e-4. CCDTV systems must be capable of copying all images to CD-Rs or DVD-Rs while maintaining the native format. Digital video recordings recorded by CCDTV systems on CDs or DVDs shall to copied onto CD-Rs or DVD-Rs whenever the system’s video recording media reaches capacity, but not less frequently than once every 30 days. All CCDTV system recorded images requested by the licensing committee and law enforcement officers shall be provided on CDRs or DVD-Rs. CCDTV playback software needed to view recorded images shall be copied onto each CD-R or DVD-R used to store CCDTV recorded video images.
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e-5. On-duty store employees shall provide a copy of recorded digital images to law enforcement officers immediately upon request.

f. Have customer entrance and customer exit doors that are made of glass or other transparent material, except that a store that does not have such doors on August 17, 1994 shall not be required to install such doors until the holder of the store's food dealer license changes.

2. EXEMPTIONS. a. The requirements of this section do not apply to a convenience food store that conforms to either of the following descriptions:

a-1. The store is located in an enclosed shopping structure, enclosed commercial building or hospital. A convenience food store is not in an enclosed structure or building if a customer can enter it directly from the outside.

a-2. The store physically separates employees from customers with a solid partition that bars a person from entering the employee area from the customer area, has a secure lock on the employee side of any door between the employee area and the customer area, and conducts all transactions through a service window or similar arrangement.

b. At the commissioner's discretion, a convenience store may be exempted from any or all of the regulations specified in sub. 1. The owner or operator of a convenience food store that seeks an exemption under this paragraph shall submit to the commissioner a written exemption request that includes the specific reasons that the applicant believes the exemption should be granted. The commissioner may grant an exemption to a requestor if the commissioner finds that the security provisions at the location are adequate.

3. ROBBERY PREVENTION TRAINING. Owners and employees of convenience food stores shall be required to complete a training course in robbery prevention approved of or provided by the police department within 120 days of ownership or employment.

68-57. Food Wrappers; Premiums or Tokens.

1. CONTAMINATION. a. Subject to Spoilage. No person, firm or corporation shall within the city give away, sell or offer for sale any food, as defined in s. 68-1 which is pronounced by the commissioner liable to contamination, putrefaction or other types of spoilage, by using wrappers, covers, containers, or include in the package or wrapping any token or other symbol which may be returned to any person, firm or corporation for premiums, or anything of other value.

b. Use of Token. Whenever the condition of sale provides that the token, symbol, or other item, which is to be returned for anything of value, can be mailed only to an office or other location where food as defined in s. 68-1 is not prepared, processed, stored or offered for sale, in order to receive a premium or other thing of value; and where the premium or other items of value do not include articles of primary interest to children, the use of such tokens, symbols or other items shall not be in violation of the provisions of this section.

2. FEDERAL REGULATIONS. Nothing herein contained shall be construed as in any way interfering with or contrary to any federal regulation in regard to the return of any of the classes of articles specified in this section.

68-59. Use of Common Drinking Cup. 1. PROHIBITED. The use of the common drinking cup or receptacle for drinking water in any public place or in any public institution, hotel, theater, factory, department store, public hall or public school, or in any railroad station, in the city, or the furnishing of such common drinking cup or receptacle for use in any such place, shall be prohibited.

2. PENALTY. Any person who shall furnish, install or offer for public use such common drinking cup or receptacle for drinking water in any public place, or in any public institution, hotel, theater, factory, department store, public hall or public school, or in any railroad station in the city, shall be punishable by a fine of not less than $5 nor more than $25.
SUBCHAPTER 6
COMPLIANCE AND ENFORCEMENT

68-61. Notices and Orders. 1. ORDER TO CORRECT. a. If upon inspection or investigation the department finds that any food establishment or operation is conducted or managed in violation of any provision of this chapter or in violation of any of the ordinances or regulations of the city, or the laws of the state of Wisconsin, it shall be the duty of the health department to serve written orders upon an establishment operator, licensee, the licensee's agent, or employee in charge of the premises, stand or food peddler vehicle, cart or carried container notifying the operator of the violations.

b. A violation shall be recorded on an inspection or investigation form. For each violation identified, the written order shall include:

b-1. The code section that was violated.

b-2. A brief description of what the department observed that was in violation.

b-3. The corrective action the operator needs to make.

b-4. A specific time by which each violation shall be corrected.

c. When reasonable to do so, all Wisconsin Food Code priority and priority foundation violations shall be corrected onsite. The maximum time interval for correction of a priority or priority foundation violation shall be 72 hours.

d. The time interval allowed to correct a core violation shall be 90 days. The time limit may be extended upon mutual agreement of the department and the operator, provided no health hazard exists or will result from allowing an extended schedule for compliance. The time limit shall be no longer than the interval until the operator's next routine inspection.

e. An inspection report shall indicate whether an operator was able to correct the violation on site and if the order is considered to be a repeat violation.

f. Orders may be appealed within 5 days of the inspection or investigation to the commissioner of health.

2. ORDER TO OBTAIN ACCESS. If a food establishment or operation or a suspected food establishment or operation denies the department access to the establishment or operation to enforce the provisions of this chapter, the agent of the department shall present to the person in charge his or her official credential, explain the authority upon which access is requested, and make a final request for access. If the person in charge continues to refuse access, the department shall issue an order to obtain access to the food establishment or operation, or suspected food establishment or operation. Failure to comply with the order to obtain access shall result in either an emergency order to suspend or cease food operations. Repeated failure by a licensed establishment or operation to provide the department access to inspect shall be grounds for citation, suspension or revocation.

3. EMERGENCY ORDER TO SUSPEND. a. The department may summarily suspend any food license without prior warning, notice or hearing if it determines through investigation, inspection, or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code that an imminent health hazard exists.

b. A summary suspension notice shall state:

b-1. That the food license is immediately suspended and that all food operations shall immediately cease.

b-2. The reasons for summary suspension with reference to the provisions of the city code or state statute that are in violation.

b-3. The conditions that must be met before the emergency order is removed.

b-4. The process of requesting a reinstatement inspection to certify that reasons for the suspension were eliminated.

b-5. That a fee shall be assessed for the inspection or investigation that the hazard was identified and a reinstatement inspection fee shall be charged for each inspection performed to assess hazard elimination as specified in s. 60-70.

c. An emergency order to suspend shall be valid for up to 14 days. The emergency order may be extended for an additional 14 days, provided the establishment or operation is offered the opportunity for a license review hearing before the commissioner. The license review hearing may be waived upon mutual agreement of the department and the food establishment or operation. If after 28 days the hazard remains the emergency order shall be rescinded and reissued as a notice of suspension.

d. The commissioner shall promptly notify the city clerk and police department when any suspension is placed or when a suspension is removed.

e. Any person to whom an emergency order to suspend is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.
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f. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension and the commissioner shall promptly notify the city clerk of this failure.

4. ORDER TO CEASE FOOD OPERATIONS. a. The commissioner may order, without prior warning, notice or hearing, a food establishment or operation exempt from licensure or an unlicensed food establishment to cease its operations if it is determined through investigation, inspection or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code, that an imminent health hazard exists or that an establishment is operating without a license, or that the establishment has failed to register with the department prior to operation.

b. The order to cease operation for a licensed establishment or operation shall state:
   b-1. That all food operations shall immediately cease.
   b-2. The reasons for the order to cease operation with reference to the provisions of the city code or state statute that the food establishment or operation are in violation.
   b-3. The conditions that must be met before the order is removed.

c. The order to cease operation for an exempt food establishment or operation whose food operation was suspended due to a health hazard:
   c-1. The process of requesting a reinstatement inspection to certify that reasons for the order were eliminated.
   c-2. That a fee shall be assessed for the inspection or investigation that the hazard was identified and a reinstatement inspection fee will be charged for each inspection performed to assess hazard elimination as specified in s.60-70.

d. The commissioner shall promptly notify the city clerk and the police department when any order to cease operations is placed or when an order to cease operations is removed.

e. Any person to whom an order is issued shall comply immediately therewith, but upon written petition to the commissioner, shall be afforded a hearing.

f. Any person to whom an order to cease operations is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.

5. HEARING NOTICE. a. An operator shall be notified at least 3 days in advance of a hearing conducted by either the commissioner or the food license review board. The hearing notice shall include:
   a-1. The date, time and place of the hearing.
   a-2. The purpose of the hearing and the potential outcomes.
   a-3. A statement that an opportunity will be given to the appellant to challenge the order or action, present witnesses under oath and to confront and cross-examine opposing witnesses under oath.
   a-4. A statement that the appellant may be represented by an attorney of the appellant's choice at the appellant's expense, if the appellant so wishes.
   a-5. A listing of all inspections, investigations and orders under consideration.
   a-6. A listing of the applicable code provisions, rules or statutes.
   a-7 A short and plain statement of the matters asserted.
   a-8. A statement that the licensee may request a change of time or date until 48 hours prior to the hearing; however, the rescheduled hearing shall be no later than 5 days from the originally-scheduled hearing date.

b. The notice shall be sent by certified mail to the agent or hand delivered to the person in charge at the food establishment or operation.

6. COMPLIANCE ORDER. a. When an establishment or operation is determined to have a history of noncompliance, the commissioner shall order the establishment or operation to implement interventions necessary to ensure adequate controls are in place to prevent foodborne illness and continued violation of the provisions of this chapter.

b. Compliance orders shall require that the food establishment or operation complete one or more of the following actions:
   b-1. Risk control plan.
   b-2. Compliance plan.
   b-4. Self-inspection.
   b-5. Standard operating procedures.
   b-6. Recipe and process instructions.
   b-7. Equipment and layout changes

   c. Operational or equipment changes, risk control and compliance plans are subject to the fees specified in s. 60-70.
7. NOTICE OF INTENT. The department shall issue a notice of intent prior to suspending, revoking, or restricting a food establishment operations food operation. A notice of intent shall not be required when such actions are taken due to the identification of an imminent health hazard. The notice of intent shall clearly identify what actions must be taken, the time frame for the actions to be completed, and the consequence for not obtaining compliance.

8. NOTICE OF SUSPENSION, REVOCAATION OR RESTRICTION. a. If after being served the notice of intent a food establishment or operation fails to meet the requirements specified in the intent order, the department shall issue the notice of suspension, revocation or restriction to the operator. For suspensions or revocations the establishment or operation shall be required to immediately cease all or part of the food operation. For restrictions to the food establishment or operation the operator shall immediately comply with the limitations placed on food operations.

b. The notice of suspension shall state:
   b-1. That the food license is immediately suspended and all food operations shall immediately cease.
   b-2. The reasons for suspension, including the circumstances leading to the notice of suspension being issued.
   b-3. The minimum period for the suspension and the conditions that must be met before the suspension to be removed.
   b-4. The process of requesting a reinstatement inspection to certify that the conditions for reinstatement have been met.
   b-5. That a reinstatement inspection fee shall be charged for each inspection performed to assess that the conditions to lift the suspension have been met as specified in s. 60-70.
   b-6. That a statement of suspension of a food license may be appealed to the environmental review board. Appeals shall be submitted in writing to the department within 5 business days of the notice of revocation being issued.

c. The notice of revocation shall state:
   c-1. That the food license is immediately suspended, all food operations shall immediately cease, and unless appealed within 5 days the license is revoked.
   c-2. The reasons for revocation including the circumstances leading to the notice of revocation being issued.
   c-3. That revocation of a food license may be appealed to the food license review board. Appeals shall be submitted in writing to the department within 5 business days of the notice of revocation being issued.

d. The notice of restriction shall state:
   d-1. That the food license has been restricted and the restrictions placed upon the food operation.
   d-2. The reasons for the restrictions, including the circumstances leading to the notice of restriction being issued.
   d-3. Under what circumstances, if any, the department shall consider removing the restriction.
   d-4. A statement that restrictions may be appealed to the commissioner of health. Appeals shall be submitted in writing to the department within 5 business days of the notice of restriction being issued.

e. The department shall promptly notify the city clerk and police department when any suspension, revocation or restriction is placed or removed.

f. Any person to whom an order is issued shall comply immediately therewith, but upon written petition to the department shall be afforded a hearing.

68-63. Restrictions. 1. RESTRICTION OR EXCLUSION OF FOOD WORKER.

a. Food workers who are suspected of having a foodborne illness or being exposed to a foodborne illness may be restricted from handling food or excluded from working in a food establishment, as a food peddler or as a temporary or seasonal food vendor to prevent possible disease transmission.

b. The department may issue an order of restriction or exclusion to a food worker or the license holder without prior warning, notice of a hearing, or a hearing.

c. The exclusion or restriction order shall include:
   c-1. The reason for the restriction or exclusion that is ordered.
   c-2. The evidence that the food worker or licensee holder shall provide to demonstrate that the reasons for the restriction or exclusion are eliminated.
   c-3. The process for appealing the order to the commissioner of health.
2. OPERATIONAL RESTRICTIONS. a. The department may place limitations or conditions on a license if the department determines it necessary to protect public health.
   b. Restrictions shall remain in place until removed by the department or until vacated by the commissioner of health.
   c. Operators found engaged in practices in conflict with the limitations or conditions placed on their licenses shall be considered in violation of this ordinance and shall be subject to progressive enforcement action, including inspection fees, citation, suspension and revocation. Operation in violation of a restriction shall be an excessive violation and shall be subject to progressive enforcement and assessment of inspection fees.
   d. Restrictions or conditions ordered by the department shall be appealable to the commissioner of health.

68-65. Examination, Condemnation or Embargo of Food or Equipment. 1. EXAMINATION. Food may be examined or sampled by the department to determine freedom from adulteration or misbranding as often as necessary for enforcement of this chapter or the Wisconsin Food Code. The department shall bring any unwholesome, adulterated or misbranded food to the attention of the person in charge and request that the food be voluntarily destroyed.

2. VOLUNTARY CONDEMNATION. If an operator agrees to destroy the suspect food, a voluntary condemnation agreement shall be completed and signed. An operator shall denature the food under the supervision of the department. A copy of the voluntary condemnation agreement shall be provided to the operator.

3. INVOLUNTARY CONDEMNATION OR EMBARGO. If the operator refuses to destroy the suspect food, the department shall issue a condemnation and embargo order to the licensee. The commissioner or his or her authorized agent shall tag, label or otherwise identify any food subject to the order. No food subject to the order shall be used, served or moved from the establishment or peddler vehicle, cart, or carried container or from the temporary or seasonal food stand. The commissioner shall permit storage of the food under conditions specified in the order, unless storage is not possible without risk to the public health, in which case immediate destruction of the food shall be ordered and performed.

4. CONDEMNATION OR EMBARGO ORDER. No person shall remove or alter a condemnation or embargo order, notice or tag placed on food or food containers by the department. No food or container shall be relabeled, replaced, reprocessed, altered, disposed of or destroyed without the permission of the department, except on order by a court of competent jurisdiction.

5. DESTRUCTION OF EMBARGOED FOOD. The hold order shall state that a request for a hearing may be filed with the commissioner within 5 business days and that if no hearing is requested the food shall be destroyed under the observation of the department. The commissioner shall hold a hearing if requested and on the basis of evidence produced at that hearing, the embargo and condemnation order may be vacated or the owner or person in charge of the food may be directed, by written order, to denature or destroy the food or to bring the food into compliance with this chapter or the Wisconsin Food Code.

6. CONTAMINATION OF FOOD. In the event of a fire, flood including sewage backup, power outage, or similar event that may result in the contamination of food, or that may prevent potentially hazardous food from being held at required temperatures, the licensee, or person in charge shall contact the department. Upon receiving notice of this occurrence the department shall take all necessary actions to protect the public health.

7. FOOD EQUIPMENT TO BE MAINTAINED. If equipment used in the preparation of food products is found to be in a state of disrepair, unsafe, unsanitary, or unsuitable for use in the preparation, display or service of food, the equipment shall be removed from use. An order to repair or remove shall be placed on the equipment by the department. It shall be unlawful for any person to remove or alter a repair order, notice or tag placed on equipment by the department. The equipment shall not be returned to service until approved by the commissioner.

68-67. Conferences and Hearings.
   1. COMPLIANCE CONFERENCE. An operator having been found in violation of the provisions of this chapter shall be afforded the opportunity to participate in a conference with the department to provide specific guidance on obtaining and maintaining compliance with the provisions of this chapter. A compliance conference shall only be conducted if the licensee, or an individual with decision-making authority for the establishment or operation attends. Interventions proposed by the inspector as part of a compliance conference, shall be optional.

2. HEARINGS AND APPEALS. a. A hearing shall be convened by the commissioner of health whenever any of the following occur:
a-1. Upon identification of a food establishment or operation that after repeated attempts have failed to obtain or maintain compliance with the provisions of this chapter or the statutes, codes or laws, the food establishment shall be ordered to implement active managerial control of risk factors the department has identified as contributing to the establishment's history of noncompliance.

a-2. A food establishment or operation has been found to have failed to comply with an order, or failed to correct or maintain correction of all violations following an administrative review hearing, the commissioner shall issue an order to appear at a formal license review hearing for determining if the establishment's license shall be suspended or revoked, or if operational restrictions shall be placed on the establishment. For an establishment exempt from licensure, the purpose of the license review hearing shall be to determine if the food establishment will be ordered to cease operation.

a-3. The department receives an appeal request other than an appeal of a suspension or revocation of a food dealer license.

b. A hearing shall be convened by the food license review board to hear an appeal of the:

b-1. Findings issued by the commissioner of health.

b-2. Suspension or revocation of a food dealer license.

c. A person who seeks to appeal an order or other action of the department or the commissioner shall file a written appeal with the department within 5 working days after the person has received written notice of the order or action being appealed. The appeal shall state with specificity the reason that the appellant believes the order or action was taken in error.

d. Upon receipt of a written appeal, the department shall within 5 days notify the appellant and the city clerk of the date, time and place of the hearing.

e. Notices for hearings shall be issued pursuant to s. 68-61-5. If the agent fails to appear at the scheduled hearing after proper service of notice and no adjournment or further adjournment is granted, the hearing may continue and a decision may be made in the absence of the agent.

f. Hearings shall be conducted in the following manner:

f-1. All witnesses shall be sworn in.

f-2. The department or commissioner shall proceed first.

f-3. The appellant shall be permitted an opportunity to cross-examine.

f-4. After the conclusion of the evidence of the department or commissioner, the appellant shall be permitted to present his or her own witnesses, subject to cross-examination.

f-5. The commissioner or board members presiding over the hearing may ask questions of witnesses.

f-6. Both the department or commissioner and the appellant shall be permitted a brief summary statement.

f-7. The commissioner when presiding over the hearing or food license review board, in its discretion, may allow the filing of written briefs.

g. The hearing findings shall be based on evidence presented at the hearing and may affirm, reverse or modify the original order or action.

h. The hearing findings may be issued immediately following the hearing or at a later date. Written findings shall be issued to the appellant no later than 5 business days following a board hearing and 5 business days following a hearing before the commissioner.

i. A copy of findings of the food license review board shall be provided to the commissioner, the city clerk and the appellant.

68-69. Suspension or Revocation. The department may suspend or revoke a food dealer license for serious or repeat violations of any of the requirements of this chapter, for failure to address an imminent health hazard or for interference with the department in the performance of its duties. Licenses suspended due to repeat noncompliance shall be suspended at least 5 days but not more than 30 days.

a. Prior to a suspension or revocation action, the department shall:

a-1. Notify the operator of its intent to suspend or revoke as specified in s. 68-61-7.

a-2. Perform a reinspection to assess compliance and, if violations persist, issue a hearing notice as specified in s. 68-61-5.

a-3. Conduct a hearing in accordance with s. 68-67.

a-4. Perform a final reinspection of the establishment and, if violations persist issue a written notice of suspension or revocation in accordance with s. 68-61-8.
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b. All food operations within the scope of the suspension or revocation shall immediately cease. Food operations shall remain suspended until either the suspension is removed by the department or the suspension or revocation is reversed by the food license review board or the court.

c. To be considered, appeals must be submitted in writing to the department within 5 days of the notice of suspension or revocation being issued.

68-71. Penalty. Any person who violates or fails to comply with this chapter shall be liable upon conviction to a Class N penalty as provided in s. 61-20 in addition to any other penalty set forth herein. In addition, citations may be issued with or without prior notice as set forth in s. 50-25.

“For legislative history of chapter 68, contact the Legislative Reference Bureau.”

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