

Ordinance O-7-10

An Ordinance Relating Licensing of Restaurants and Retail Food Establishments

Introduced by Alderman Steve Pack

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 7, Chapter 6, SEC. 7-1-1(a), (d), (e) and (f) of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

Title 7 – Licensing and Regulation

CHAPTER 6

Restaurant and Retail Food Establishment Licensing

SEC. 7-6-1 LICENSING OF RESTAURANTS AND RETAIL FOOD ESTABLISHMENTS.

(a) **PERMITS OR LICENSES REQUIRED.** Upon the authority and scope of Chapters 97, 101 and 254 of the Wisconsin Statutes, this regulation adopts by reference Chapters HFS ~~474~~, 172, 175, 178, 195, 196, 197 and 198, ~~ADM 65~~, and ATCP ~~74~~ and 75 and Comm 26, of the Wisconsin Administrative Code Annex – Wisconsin Food Code and the FDA Food Code 2009 edition.

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(d) **PERMIT ISSUANCE AND REQUIREMENTS.**

(1) Permit Issuance.

- a. No person shall operate an eating and drinking establishment or a public facility or establishment covered in this regulation within the City of Menasha who does not have a valid permit issued by the Department, unless otherwise exempted in this regulation.
- b. Only a person who complies with the requirements of this regulation shall be entitled to receive or retain such a permit.
- c. Permits are not transferable.
- d. A valid permit shall be posted in plain public view in every public facility and/or public establishment as required in this Ordinance.

(2) Permit Requirements. The Menasha Common Council shall establish all pre-inspection fees and permit fees for all public facilities and establishments. Facilities and establishments requiring permits covered in this regulation are listed below:

- a. Public indoor and outdoor swimming pools each are subject to an annual permit fee (~~HFS 171 and~~ HFS 172).

- b. Restaurants are subject to an annual permit fee (HFS 196).
- c. Mobile home parks are subject to an annual permit fee [ADM 65, 85.5(3)].
- d. Eating and drinking establishments are subject to an annual fee.
- e. Hotels, motels and tourist rooming houses are subject to an annual permit fee (HFS 195).
- f. Bed and breakfast establishments are subject to an annual permit fee (HFS ~~197~~ 185).
- g. Vending machine operations shall be licensed and fees shall be issued, assessed and collected by the State of Wisconsin under the Wisconsin Administrative Code (HFS 198).
- h. Mobile restaurants are subject to an annual permit fee.
- i. Retail food establishments are subject to an annual permit fee unless specifically exempted by s. 97.30(1)(c) Wis. Stats.
- j. Temporary non-profit, non-licensed food stands are subject to an annual fee (up to three events per year).
- k. Recreational and educational camps are subject to an annual permit fee established by the Director of Public Health and approved by the Common Council (HFS 175).
- l. Campgrounds are subject to an annual permit fee established by the Director of Public Health and approved by the Common Council (HFS 178).

(e) **INSPECTIONS.**

- (1) Inspection Frequency. An inspection of public facilities and establishments and eating and drinking establishments shall be performed at least once per year. ~~Additional inspections of facilities and establishments shall be performed as often as necessary for the enforcement of this regulation.~~ All eating and drinking establishments shall be assigned a risk category based on the FDA Food Code 2009 Annex 5 – Table 1. Additional inspections over and above the one annual inspection shall be based on the risk category for each establishment. All category 2 and 3 establishments shall receive at least two inspections per year.
- (2) Report of Inspections. Whenever an inspection of a facility or establishment is made, the findings shall be recorded on an inspection report form. The inspection report form shall summarize the requirements of this regulation. A copy of the completed inspection report form shall be furnished to the holder of the permit, or his/her agent in charge of the facility or establishment, at the conclusion of the inspection.
- (3) Correction of Violations. The completed inspection report form shall specify a reasonable period of time for the correction of the violations found. Correction of the violations shall be accomplished within the period specified.
- (4) Access. Representatives of the Department, after proper identification, shall be permitted to enter any facility or establishment at any

reasonable time for the purpose of determining compliance with this regulation.

- (5) Hours of Inspection. Inspections shall be made during the regular operating hours of the ~~Health Department of the establishment and~~ primarily during the regular office hours of the Health Department (8:00 AM – 4:00 PM Monday – Friday), unless circumstances necessitate conducting an inspection at a time other than normal Health Department operating hours. In the case of temporary permits, an inspection will be made coinciding with the hours of operation, i.e., the Sanitarian will be available for an evening or weekend inspection to determine compliance with the regulations.

- (f) **PERMIT DENIAL.** Permits issued under this Section may be denied by the Health Officer upon annual application for renewal for continued violations of this Code of the applicable provisions of Wisconsin Administrative Codes or Wisconsin Statutes. Permits may also be denied until payment of re-inspection fees issued in the prior license year.

SECTION 2: This amending Ordinance shall take effect upon passage and publication as provided by law.

Passed and approved this day of , 2010.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk