

CHAPTER 17
LICENSURE AND REGULATION OF RETAIL FOOD ESTABLISHMENTS,
HOTELS, MOTELS, RESTAURANTS, TOURIST ROOMING HOUSES,
BED AND BREAKFAST ESTABLISHMENTS,
CAMPGROUNDS AND CAMPING RESORTS,
RECREATIONAL AND EDUCATIONAL CAMPS,
PUBLIC SWIMMING POOLS AND ESTABLISHMENTS POSSESSING
CLASS B AND CLASS C ALCOHOL BEVERAGE LICENSES
AND INSPECTIONS OF FOOD VENDING MACHINES,
THEIR OPERATORS AND VENDING MACHINE COMMISSARIES

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17.01 AUTHORITY AND PURPOSE. This Ordinance is adopted pursuant to that authority provided by Wis. Stats. §§ 97.41, 97.615(2), and 251.04(3) and by Wisconsin Administrative Code Chapters 72, 73, 75, 76, 78, and 79 and such other provisions adopted in conformity therewith. The purpose of this Ordinance is to protect and improve the public health and to authorize the Sheboygan County Health and Human Services Department to become the designated agent of the State Department of Agriculture, Trade and Consumer Protection for the purpose of establishing license fees, issuing licenses, and making investigations or inspections of retail food establishments, hotels, motels, restaurants, tourist rooming houses, bed and breakfast establishments, campgrounds and camping resorts, recreational and educational camps, public swimming pools, and establishments possessing Class B and Class C alcoholic beverage licenses, and in making investigations and inspections of food vending machines, their operators and vending machine commissaries.

17.02 APPLICABILITY. The provisions of this Ordinance shall apply to the owner, operator or agent thereof of any retail food establishment, hotel, motel, tourist rooming house, restaurant, bed and breakfast establishment, campground and camping resort, recreational and educational camp, public swimming pool, establishments possessing Class B or Class C alcoholic beverage licenses, vending machine commissary or vending machines in Sheboygan County.

17.03 DEFINITIONS.

- (1) All definitions as set forth in Wis. Stats. chs. 97, 125, 251, and 254; and Wisconsin Administrative Code Chapters ATCP 72, 73, 75, 76, 78, and 79 and such other provisions adopted in conformity therewith, are incorporated in this Ordinance by reference and they shall be construed, read, and interpreted as fully set forth herein until amended and then shall apply as amended.
- (2) "Health and Human Services" or "Department" shall mean the Sheboygan County Health and Human Services Department, Division of Public Health.
- (3) "Mobile Restaurant" shall mean a restaurant operating from a movable vehicle, pushcart, trailer, or boat which periodically or continuously changes location and wherein meals or lunches are prepared or served or sold to the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant.

17.04 ENFORCEMENT. The provisions of this Ordinance shall be administered by or under the direction of the Division of Public Health of the Department by its duly authorized representatives who shall have the right to enter, at reasonable hours, upon premises affected by this regulation to inspect the premises, secure samples or specimens, examine and copy relevant documents and records, or obtain photographic or other evidence needed to enforce this Ordinance.

17.05 LICENSE.

(1) No person shall operate retail food establishments, hotels, motels, restaurants, tourist rooming houses, bed and breakfast establishments, campgrounds and camping resorts, recreational and educational camps, public swimming pools and establishments possessing Class B and Class C alcohol beverage licenses and inspections of food vending machines, their operators and vending machine commissaries without first obtaining a non-prorated license from the Department. Such licenses shall expire on June 30 of each year following their issuance except that licenses initially issued during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year. The issuance of a license may be conditioned upon the licensee correcting a violation of this Ordinance within a specified period of time. If the condition is not met within the specified period of time, the license shall be voided. The license shall not be transferable to a location other than the one for which it was issued, nor shall a license be transferred from one operator to another subject to the express exception of:

(a) As to location, temporary licenses may be transferred;

(b) As to operator, a license of a food establishment operator may be transferred to an individual who is an immediate family member of the operator if the operator is transferring operation of the establishment or vending machine to that immediate family member. A parent, child, step-child, grandchild, sibling, or step-sibling shall be considered an immediate family member for purposes of this Ordinance.

(2) Operators or licensees of temporary restaurants whom the Department has found to be uncooperative or habitual violators of this Ordinance may be denied a license to operate. Temporary licenses may be transferred to a premises other than that for which it was issued, provided that the approval of the new premises is secured from the Department prior to operating at the new premises.

(3) No licenses shall be granted to any person under this Ordinance without a pre-licensing inspection by the Department of the premises for which the license shall be granted.

(4) No license shall be issued until all application fees have been paid.

17.06 APPLICATION. Application for licenses shall be made in writing to the Department on forms developed and provided by the Department stating the name and address of the proposed applicant and operator, and the address and location of the proposed establishment, together with any such other information as may be required. The Department shall either approve the application or deny the license within thirty (30) days after receipt of a complete application.

17.07 FEES. Fees for the issuance of licenses, the making of investigations, inspections, providing education, training, and technical assistance to all establishments covered pursuant to this Ordinance, plus the costs required to be paid to the state for each license issued, are established by and may be amended upon the approval of the Sheboygan County Health and Human Services Committee. In addition, separate pre-licensing fees are hereby established with regard to new establishments or existing establishments which have been transferred to a new operator. The fee schedule for a license shall be on file with the Department.

17.08 LICENSE PUBLIC DISPLAY. Every establishment required to obtain a license pursuant to this Ordinance shall display said license at all times in a conspicuous public place.

17.09 LICENSE SUSPENSION AND REVOCATION. Any license issued by the Department pursuant to this Ordinance may be temporarily suspended and the premises ordered closed by the Department for a violation of any provision of this Ordinance or rules adopted by reference by this

Ordinance if the Department determines that an immediate danger to health exists or as may otherwise be allowed by law, including failure to pay any fees required hereunder. The Department may establish such protocols as it deems appropriate to allow license holders opportunities to correct in lieu of suspension and closure. Such licenses may be permanently revoked after repeated violations.

- 17.10 REGULATIONS, RULES, AND LAWS ADOPTED BY REFERENCE. The applicable laws, rules, and regulations as set forth in Wis. Stats. chs. 97, 125, 251, and 254; Wisconsin Administrative Code Chapters ATCP 72, 73, 77, 76, 78, and 79 and such other provisions adopted in conformity therewith are incorporated in this regulation by reference and they shall be construed, read, and interpreted as fully set forth herein until amended and then shall apply as amended. The expressed provisions of this Ordinance shall control where more restrictive.
- 17.11 VIOLATION/PENALTIES. Any person who violates or refuses to comply with any provisions of this Ordinance shall be subject to a forfeiture of Two Hundred Fifty Dollars (\$250.00) for each offense and/or revocation or amendment of their applicable license. Each day a violation exists or continues shall be considered a separate offense. Where appropriate, injunctive relief may be sought by the Department against continuing violations. In the alternative, the Department may pursue enforcement of such Section of these regulations as are prosecutable. Representatives of the Department charged with the administration and enforcement of this Ordinance are authorized to issue citations pursuant to Chapter 90 of this Code with respect to Ordinances which are directly related to their official responsibilities.
- 17.12 CONSTRUCTION OR ALTERATION OF FOOD ESTABLISHMENTS: PLAN EXAMINATION. No person shall erect, construct, enlarge, or alter a food establishment without first submitting to the Department plans (drawings) which clearly show and describe the amount and character of the work proposed and without first receiving approval of submitted plans. Such 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 give all information necessary to show compliance with applicable health codes. At the option of the Department, plans need not be submitted to execute minor alterations to a food establishment. Approved plans shall not be changed or modified unless approval of such changes or modifications shall first be obtained from the Department. Plan examination fees shall be paid pursuant to Section 17.07 of this Code.
- 17.13 CONSTRUCTION OR ALTERATION OF FOOD ESTABLISHMENTS: SITE EVALUATION. A site evaluation by the Department is required when any food establishment begins operation in a location where the immediate predecessor was not a food operation. Site evaluation by the Department is not required for any food operation that has a change in operator or that is remodeled or altered. Such a food operator may voluntarily request site evaluation by the Department which shall provide such evaluation whenever a request is made. Any food operation which voluntarily requests a food evaluation shall pay a site evaluation fee. Site evaluation fees shall be paid as required by Section 17.07.

History: Ord. ____ (2001/02); Ord. 2 (2002/03); Ord. 16 (2015/16)