

TITLE 7 – Licensing and Regulation

CHAPTER 6

Retail Food and Recreational Licensing

SEC. 7-6-1 RETAIL FOOD, RECREATIONAL LICENSING AND REGISTRATION

The City of Menasha shall hold Agent Status with the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) pursuant to the provisions of ATCP 74. City of Menasha Environmental Health Sanitarian shall act as Program Standard.

- (a) **PERMITS AND LICENSES REQUIRED.** Upon the authority and scope of Chapters 97, 101 and 254 of the Wisconsin State Statutes, this regulation adopts by reference Wisconsin Administrative Code Sections ATCP 72 Hotels, Motels and Tourist Rooming Houses, ATCP 73 Bed and Breakfast, ATCP 74 Designation of Agents, ATCP 76 Swimming Pools and Water Attractions, ATCP 78 Recreational Educational Camps, ATCP 79 Campgrounds, ATCP 75 Retail Food and Appendices (Wisconsin Food Code), SPS 221 Tattooing and Body Piercing, SPS 326 Regulation of Manufactured Home Communities and the most recent edition of the United States Food and Drug Administration (FDA) Food Code and appendices.
- (b) **RETAIL FOOD ESTABLISHMENTS AND RECREATIONAL ESTABLISHMENTS**
- (1) No person shall conduct a business of or operate a retail food or recreational establishment without obtaining a license therefor from the Menasha Health Department.
 - (2) Retail Food Establishment shall mean an operation that stores, prepares, vends, sells or otherwise provides food for human consumption based on a fee. Retail Food establishment refers to restaurants, mobile restaurants, temporary restaurants, vending and retail food establishments as defined by Wisconsin Administrative Code, Section ATCP 75.
 - (3) Recreational Establishment includes all swimming pools and water attractions covered by Wisconsin Administrative Code, Section ATCP 76, ATCP 72 Hotels, Motels and Tourist Rooming Houses, ATCP 73 Bed and Breakfast, ATCP 78 Recreational Educational Camps, ATCP 79 Campgrounds, ATCP 75 Retail Food and Appendices (Wisconsin Food Code), SPS 221 Tattooing and Body Piercing, and SPS 326 Regulation of Manufactured Home Communities.
- (c) **APPLICATION FOR LICENSES**
- (1) Applications for all licenses shall be made upon such forms supplied and prescribed by the Menasha Health Department.
 - (2) Prior to approval of an application for a license, the Menasha Health Department shall inspect the retail food establishment or recreational establishment to determine compliance with this regulation.
 - (3) The fee for licenses required by this regulation shall be payable before the issuance of a license and annually before July 1 every year. An additional penalty fee shall be assessed for license renewals received on or after July 1. Applications post marked before July 1 shall be accepted regardless of the date of receipt.
 - (4) A pre-inspection fee shall be collected at the time of application from an operator of a new retail food or recreational establishment or a new operator of an existing at change of operator.
- (d) **REGISTRATION AND LICENSE ISSUANCE AND REQUIREMENTS**
- (1) License Issuance.
 - a. No person shall operate a retail food establishment, or recreational establishment covered by this regulation within the City of Menasha who does not have a valid

license issued by the Menasha Health Department, or the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP), unless otherwise exempted.

- b. City of Menasha Health Department shall issue a license to mobile, temporary or transient food establishments who operate within the City limits of Menasha. City of Menasha Health Department shall honor licenses issued by other Agent Health Departments or WDATCP. If the mobile food establishment service base is within the City limits of Menasha, the Menasha Health Department shall license that service base. The Menasha Health Department reserves the right to charge an inspection fee for inspections performed on mobile temporary or transient restaurants licensed by other Agent Health Departments or WDATCP while operating within the City limits of Menasha.
 - c. Only a person who complies with the requirements of this regulation shall be entitled to receive or retain such a license.
 - d. Transferability of licenses shall be pursuant to Wis. Stats. Chapter 97 and ATCP 75.
 - e. A valid license shall be posted in plain view in every retail food establishment or recreational establishment as required by this ordinance.
 - f. At least one employee responsible for food safety shall be certified as a food manager through the State of Wisconsin as evidenced by an approved Certified Food Manager Exam certificate with identification number and expiration date. A Person in Charge (PIC) shall be designated at all times during hours of operation. Provided there is one certified food manager the alternate employees designated as PIC are not required to be certified by the State of Wisconsin. Enforcement of violations of this section shall be consistent with the most current guidance from WDATCP. Fee for the failure to employ a Certified Food Manager following required 90 day notification shall be \$125.00. Continued violation shall result in the temporary revocation of license.
 - g. Retail food establishments and Recreational establishments shall only be issued a license if the property taxes for that establishment are current as evidenced by the Winnebago or Calumet County Treasurer.
- (2) License Requirements. The City of Menasha Common Council shall establish all fees related to licensing facilities and/or establishments covered by this ordinance.
- (3) INSPECTIONS.
- (a) Inspection Frequency. An inspection of licensed facilities under the scope of this ordinance shall be performed at least once per year. Inspection frequency of Retail Food establishments shall be based on risk category where complex establishments and establishments with a history of chronic priority violations shall be prioritized for inspections over the annual inspection as required by the WDATCP agent contract. (b) Report of Inspections. Whenever an inspection of a retail food or recreational establishment is conducted the findings shall be entered into the HealthSpace program. The inspection shall include observations and violations to this ordinance. A copy of the completed inspection shall be left with the PIC and a copy shall be provided to the Licensee at the conclusion of the inspection. A signed copy of the inspection shall be maintained in the permanent file for that establishment.
 - (c) Correction of Violations. The completed inspection report shall specify a reasonable amount of time for the correction of the violations found during the inspection. It shall be the expectation that violations will be corrected during the inspection when possible at the discretion of the Sanitarian.

- (d) Access. Sanitarian, after providing proper identification, shall be permitted to enter the retail food establishment or recreational establishment at any reasonable time to determine compliance with this regulation.
- (e) Hours of Inspection. Inspections shall be made during the regular operating hours of the establishment and primarily during the regular office hours of the Menasha Health Department. In the event a mobile or temporary permit is issued to an operator conducting business only within the City of Menasha, an inspection shall be done in conjunction with the event including weekends or evenings.
- (4) LICENSE DENIAL. Licenses issued under this Section may be denied by the Menasha Health Department Sanitarian, upon annual application for renewal for continued violations of this Code as it relates to payment for re-inspection fees levied in the previous license year or delinquent property taxes for that business address.
- (5) REINSTATEMENT OF LICENSE. The licensee of any establishment addressed in this Section whose license has been suspended may, at any time, make application for the reinstatement of the license within three (3) business days of the receipt of a written application accompanied by a written statement signed by the applicant to the effect that all violations have been corrected. Sanitarian, shall conduct a re-inspection to determine if violations have been corrected and findings indicate compliance. The license may be reinstated pending payment of any re-inspection fees which may have been levied on the establishment.
- (6) LICENSE REVOCATION. Licenses issued under this Section may be revoked after an opportunity for hearing by the Menasha Board of Health. The Board of Health may determine that the license revocation is necessary if a license is suspended twice in any two (2) year period, if the health violations pose an immediate health risk or have resulted in serious injury or illness to person(s).
- (7) APPEAL. Whenever a license is suspended or revoked, the person to which the license is issued shall be afforded the opportunity of a hearing before the City of Menasha Common Council within fifteen (15) days of the receipt of a written request for such hearing, unless both parties agree to a later date. Opportunity for a hearing before the Common Council will be provided if the written request is submitted by the person issued the license and received by the Menasha Health Department within ten (10) days of the suspension or revocation.
- (8) REQUIREMENTS AND FEES. The application for license or the request for renewal of license or registration covered in this Section shall be accompanied with an appropriate fee to be established by the Common Council. A list of fees shall be maintained by the City Clerk and the Menasha Health Department.
 - (a) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a fee equal to twice the amount of the normal fee if the failure is due to a late payment, insufficient funds or account closed checks, or for any other reason the City has not received the proper payment.
 - (b) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a fee equal to twice the amount of the normal fee if such establishment opens for business without paying the required fee. The Public Health Director, or designee, may also order such establishment to close until the fee is paid.