

CHAPTER 39 – FOOD SAFETY AND RECREATIONAL LICENSING PROGRAM

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39.01 Authority.

This Chapter is adopted pursuant to that authority provided by §§ 66.0417, 68, 97 Subchapters I, IV, V, 97.12, 97.41, 97.615(2), 97.625, 97.67 125.68(5), 251.04(3), 252.02, 252.03, 463.16 ; and by Wisconsin State Administrative Chapters ATCP 72, 73, 74, 75, 76, 78, 79 and SPS 221, and 390 all statutory and administrative code provisions contained therein. This authority is adopted and incorporated into this Chapter as though fully set forth herein, and as may be amended and/or renumbered periodically. The expressed provisions of this Chapter shall control where more restrictive as permitted by law.

39.02 Purpose.

The purpose of this Chapter is to protect and improve the public health and to authorize the 'Rural Environmental Health Alliance' (The Alliance) which consists of Marquette and Green Lake County Health Departments to become the designated agent of the State Department of Agriculture, Trade and Consumer Protection for the purpose of enacting local regulations governing; hotels, motels, tourist rooming houses, restaurants, retail food establishments, bed and breakfast establishments, campgrounds, recreational and educational camps, and public swimming pools.

Additional oversight for body piercing and tattooing establishments is covered under applicable Department of Safety and Professional Services rule.

39.03 Applicability.

The provisions of this Chapter shall apply to the owner and operator of any entity identified in the above statutory sections.

39.04 Definitions.

All definitions set forth in the statutes apply, except:

A. Fiscal Agent. The entity that attends to the fiscal and administrative issues pertaining to this Agent Program. Marquette County Health Department and Board of Health act in this capacity for the Rural Environmental Health Alliance.

B. Health Department. The Marquette County Health Department.

C. Master Fee Schedule. The schedule of all fees associated with this Chapter, amended as needed by the Fiscal Agent, posted on the Health Department website, and may be changed upon approval by the County Board.

D. Re-Inspection. A process for the subsequent inspections needed to address compliance issues with the statutes and administrative codes that govern a respective establishment. Re-inspections are conducted pursuant to the Alliance policy.

E. Special Organization. Churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which *occasionally* prepare, serve or sell meals to transients or the general public. Dates and locations of meals should be provided to the Health Department in advance.

Occasionally. Not more than 12 days for non-meal food sales and not more than 3 days for meal food sales during any licensing year

F. Transient Restaurant or Transient Retail Food Establishment. A restaurant or retail food establishment that operates at a fixed location in conjunction with a single event such as a fair, carnival, circus, public exhibition, anniversary sale, or occasional sales promotion for a period of no more than fourteen (14) consecutive days. Specific dates and locations of meals shall be provided to the Health Department in advance.

39.05 Enforcement.

The provisions of this Chapter shall be administered by or under the direction of the Fiscal Agent or local Health Officer, who in person or by duly authorized representatives 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 Chapter and issue citations or file a summons and complaint with Marquette County Corporation Counsel or any attorney serving The Alliance.

39.06 License and Permit.

- A.** No person shall operate any entities identified in the statutes set forth above without first obtaining a non-prorated license from the Fiscal Agent.
 - 1. Licenses issued to establishments covered under the master fee schedule are issued for one (1) year from July 1 through June 30. Exceptions listed in subparagraphs (a) and (b)
 - a. Licenses initially issued during the period beginning on April 1 and ending June 30 shall expire June 30 of the following year.
 - b. Transient food establishment permits may only be issued for the license period beginning July 1 and ending the following June 30.
 - 2. The issuance of a license may be conditioned upon the licensee correcting a violation of this Chapter within a specified period of time. If the condition is not met within the specified period of time, the license shall be voided.

3. 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, transient licenses may be transferred.

b. An individual license holder transfers ownership of the retail food establishment to an immediate family member, as defined in s. 97.605 (4) (a) 2., Stats.

c. A retail food establishment remains at the location for which the license was issued and at least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued retains an ownership interest in the newly formed sole proprietorship or business entity that will be the license holder.

B. Operators or licensees of transient retail food establishments whom the Alliance has found to be uncooperative or habitual violators of this Chapter may be denied a license to operate. Transient licenses may be transferred to premises other than that for which it was issued, provided that the approval of the new premises is secured from The Alliance prior to operating at the new premises.

C. With the exception of those establishments defined herein as transient, no licenses shall be granted to any person under this Chapter without a pre-inspection by the Rural Environmental Health Alliance of the premises for which the license shall be granted.

D. No license shall be issued until all application fees have been paid.

39.07 Application.

Operators must complete and submit the application form provided by the Alliance. The Alliance shall either approve the application or deny the license within thirty (30) days after receipt of a complete application.

39.08 Fees.

License fees outlined in this Chapter shall be included in the Master Fee Schedule, which may be amended by the Marquette County Board.

39.09 Permit Public Display.

Every establishment required to obtain a license pursuant to this Chapter shall display said license, at all times, in a conspicuous public place.

39.10 Temporary Orders.

Whenever, as a result of an examination, the Health Officer or designee has reasonable cause to believe that an immediate danger to health exists on the premises covered by this ordinance, the Health Officer or designee, may issue a temporary order in accordance with § 66.0417 (2), Wis. Stats.

39.11 Denial, Suspension or Revocation of License.

The Fiscal Agent, or designee, of the County of jurisdiction may deny any license application or suspend or revoke any license issued under this Chapter for non-compliance with this Chapter and regulations, rules and laws adopted by reference. The review procedure set forth in Chapter 68 of the Wisconsin Statutes shall be followed in the denial suspension or revocation of any license issued under this Chapter, except where any of the following applies:

- A.** A decision by the Fiscal Agent or designee, to deny, suspend or revoke a license shall be in writing and shall state, with specificity, the reasons for the decision and shall state any applicable statutes, ordinances, rules, regulation or orders which may have been violated. A copy of the written decision shall be sent to the licensee by mail or by personal service. Said notice shall inform the licensee or applicant of the right to have this decision reviewed and the procedure for such review.
- B.** Any licensee or applicant aggrieved by a decision to deny, suspend or revoke a license may have the decision reviewed and reconsidered by a written request mailed or delivered to the Marquette County Health Department within thirty (30) working days of receipt of the notice of the original decision. The written request for review and reconsideration shall state the grounds upon which the person aggrieved contends that the decision should be reversed or modified.
- C.** Within fifteen (15) working days of receipt of the request for review and reconsideration, the Fiscal Agent's Health Officer shall review its initial determination and may affirm, reverse or modify the initial determination. A written decision shall include the reasons for such determination and a copy shall be mailed or delivered to the licensee or applicant. The decision shall advise the licensee or applicant of the right to an administrative appeal, the time within which appeal shall be taken and the office or person with whom the appeal shall be filed.
- D.** A licensee or applicant who wishes to appeal a decision made by the Fiscal Agent's Health Officer must file a notice of appeal within thirty (30) days of receiving the reviewed determination. The administrative appeal shall be filed or mailed to the Marquette County Health Officer. The Health Officer shall immediately file said notice of appeal with the Fiscal Agent's Board of Health.
- E.** A licensee or applicant shall be provided a hearing on appeal within fifteen (15) days of receipt of the request for an administrative appeal, unless the parties agree to extend the deadline for the hearing. The Fiscal Agent shall serve the licensee or applicant with notice of hearing by mail or personal service at least ten (10) days before the hearing.
- F.** The hearing shall be conducted before the Fiscal Agent's County Board of Health and shall be conducted in accordance with the procedures outlined in §§ 68.11 (2) and (3), Wis. Stats.
- G.** Within twenty (20) days of the hearing, the Fiscal Agent's Board of Health shall mail or deliver to the appellant its written determination stating the reasons, therefore.
- H.** A decision by the Health Officer upon a request for review and reconsideration, which is not appealed to the County Board of Health, or a decision by the Marquette County Board of Health on an appeal of a decision by the Health Officer of a request for review and reconsideration shall be a final determination under § 68.12(2), Wis. Stats.

- I. Any party to a proceeding resulting in a final determination may seek review thereof by certiorari within thirty (30) days of receipt of the final determination pursuant to § 68.13, Wis. Stats.

39.12 Violation-Penalties.

- A. All ordinance violations not covered in the Master Fee Schedule referenced in this chapter are subject to a forfeiture as defined in Chapter 100 of the Marquette County Code of Ordinances.
- B. Forfeitures within this chapter shall be combined with applicable surcharges, penalty assessments, and the taxable costs of prosecution. A court may also grant injunctive relief. Failure to comply with an order of correction issued under this Chapter shall constitute a violation of this Chapter and each day of continued violation shall constitute a separate offense. Failure to pay any penalties imposed by the court in accordance with this Chapter may result in imprisonment in the County Jail.
- C. In the alternative, the Health Department may pursue enforcement of such Section of these regulations as are prosecutable through long form summons and complaint with Marquette County Corporation Counsel or any attorney serving The Alliance.

Amended by Resolution No. 19-2025 dated March 18, 2025, passed March 18, 2025, published April 24, 2025, effective July 1, 2025.