

Title 10 FOOD CODE*

***Editor's note:** Ord. No. 99-Or-117, § 1, adopted Oct. 29, 1999, amended the title of Title 10 from "Food and Food Handlers" to read "Food Code." See the Code Comparative Table.

Cross references: Method of sale of various food products, Ch. 152; weights and measures, Ch. 160; groceterias and portable stores, Ch. 295; bed and breakfast facilities, Ch. 297A; ice sale and manufacture, Ch. 299.

State law references: Food law, M.S. Ch. 31.

- Ch. 186. In General, §§ 186.10--186.60
- Ch. 188. Administration and Licensing, §§ 188.10--188.590
 - Art. I. Generally, §§ 188.10--188.150
 - Art. II. Licensing Procedures, §§ 188.160--188.350
 - Art. III. License Holder Requirements, §§ 188.360--188.590
- Ch. 190. Meat and Meat Products, §§ 190.10--190.300
 - Art. I. Generally, §§ 190.10--190.70
 - Art. II. Product Wholesalers, §§ 190.80--190.170
 - Art. III. Horse Meat, §§ 190.180--190.300
- Ch. 192. Bread, §§ 192.10--192.60
- Ch. 194. Eggs, §§ 194.10--194.110
- Ch. 196. Water for Drinking and Domestic Purposes, §§ 196.10--196.70
- Ch. 198. Soft Drink Manufacture and Storage, §§ 198.10--198.110
- Ch. 200. Milk and Dairy Products, §§ 200.10--200.170
 - Art. I. Generally, §§ 200.10--200.30
 - Art. II. Licenses, Certificates and Permits, §§ 200.40--200.170
- Ch. 201. Public Markets, §§ 201.10--201.80
- Ch. 202. Municipal Market, §§ 202.10--202.290
- Ch. 203. Grocery Stores and Specialty Food Stores, §§ 203.10--203.30
- Ch. 204. Environmental Preservation: Environmentally Acceptable Packaging, §§ 204.10--204.110

CHAPTER 186. IN GENERAL *

***Editor's note:** Ord. No. 99-Or-115, § 1, adopted Oct. 29, 1999, repealed Ch. 186, §§ 186.10--186.60, which pertained to general regulations. Ord. No. 99-Or-118, § 1, adopted Oct. 29, 1999, enacted provisions designated as a new Ch. 186, §§ 186.10--186.60, to read as herein set out. See the Code Comparative Table.

186.10. Title. This title shall be known and cited as the food code. (99-Or-118, § 1, 10-29-99)

186.20. State code incorporated. The Minnesota Food Code, Minnesota Rules, Chapter 4626, and amendments thereto, is hereby adopted by reference and is incorporated in this title as fully as if set forth herein, subject to and including such portions as are supplemented by chapter 188 of this Code. (99-

Or-118, § 1, 10-29-99)

186.30. More restrictive standards to apply. Where the conditions imposed by any provision of the food code are either more restrictive or less restrictive than comparable conditions imposed by the Minnesota 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. (99-Or-118, § 1, 10-29-99)

186.40. "Regulatory authority" defined for the code. Wherever the term "regulatory authority" is used in the Minnesota Food Code, it shall be held to mean the environmental health division of the city department of regulatory services. (99-Or-118, § 1, 10-29-99)

186.50. Definitions. All terms used in this title, unless expressly defined in this section, shall be interpreted as defined in the Minnesota Food Code, part 4626.0020, as they may be amended from time to time. The following terms shall have the following meanings:

Critical item means a part of the Food Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.

Food establishment shall be defined including Minnesota Rules 4626.0020 subpart 35(c), in addition to those facilities listed in Minnesota Rules 4626.0020 subpart 35 (a) and (b).

Food market distributor means a vendor in a public or municipal market that is selling or reselling foods for off-site consumption.

Food market manufacturer means a vendor in a public or municipal market that is selling foods for immediate consumption.

Food shelf shall mean a food establishment operated by a nonprofit organization where food is collected, stored, or packaged for free distribution to individuals who qualify for food according to need.

Food stand shall mean a temporary food establishment operated in one contiguous space by a single licensee and which complies with the guidelines for dispensing food under a short-term permit.

Imminent means impending or likely to develop without delay.

Mobile food vehicle means a food establishment preparing and/or serving foods from a self-contained vehicle, either motorized or within a trailer, on public sidewalks or private property and readily movable, without disassembling, for transport to another location.

Mobile food vehicle, limited means a food establishment serving only prepackaged, nonperishable or packaged confections curbside on the public streets

from a self-contained motorized vehicle.

Non-critical item means a part of the Food Code that, if in noncompliance, is less likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a non-critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.

Perishable food is fresh fruit and fresh vegetables, such as, but not limited to, apples, bananas, oranges and grapefruit, lettuce, carrots, radishes, onions and potatoes.

Potentially hazardous food means a food that is natural or synthetic and is in a form capable of supporting:

- (1) The rapid and progressive growth of infectious or toxigenic microorganisms;
- (2) The growth and toxic production of *Clostridium botulinum*; or
- (3) In a raw shell eggs, the growth of *Salmonella enteritidis*.

Potentially hazardous food includes foods of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth.

Process review means evaluating the menu and processes to receive, store, prepare, cook, hold, cool, and serve food.

Risk one (1) food establishment means a facility that serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating or holding for service; or prepares foods several hours or days before service; or conducts specialized processing operations, such as curing, smoking, and reduced oxygen packaging; or serves food items that epidemiological experience has demonstrated to be common vehicle of foodborne illness. Examples include sit down full-service restaurants, and schools that prepare food on site

Risk two (2) food establishment means a facility that serves potentially hazardous foods but with minimum holding time between preparation and service, and/or serves food such as pizza that require extensive handling following heat treatment. Examples include pizza sit-down or take out restaurants, and sub shops.

Risk three (3) food establishment is not a Risk 1 or 2. Examples include grocery items, donut shop, facility with limited food service.

Seasonal short-term food establishment is a person or sponsor who pays an annual fee to operate at multiple, approved short-term food events, such as fairs, carnivals, and community celebrations, and is an approved participant under the auspices and control of each such event. The seasonal short-term food establishment may sponsor multiple events within the area listed in section 188.480(e)(1) of this Code notwithstanding Minneapolis Park Board as a seasonal short-term permit holder.

Sell or sale is any transaction of a mercantile character.

Short-term food establishment is a food establishment operating for a period of fourteen (14) days or less at fairs, community celebrations, carnivals, circuses, promotional food product events, sports events and the like.

Sidewalk cart food vendor shall mean a food establishment that is a nonmotorized vehicle self-propelled by the operator.

Unpackaged processed food means any processed food offered for sale from containers that permit a customer to dispense the food directly into packages, except produce offered for sale or food which is intended to be shelled.

Wholesome shall mean sound, healthful, clean, free from adulteration and in all ways fit for human food. (99-Or-118, § 1, 10-29-99; 2000-Or-059, § 1, 7-14-00; 2003-Or-022, § 1, 2-28-03; 2004-Or-035, § 1, 4-16-04; 2010-Or-012, § 1, 4-2-10)

186.60. Severability. If any part or provision of this title or the application thereof to any person, entity, or circumstances shall be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application which is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or the application thereof to other persons, entities, or circumstances. (99-Or-118, § 1, 10-29-99)

CHAPTER 188. ADMINISTRATION AND LICENSING*

***Editor's note:** Ord. No. 99-Or-116, § 1, adopted Oct. 29, 1999, repealed §§ 188.10--188.700, which pertained to establishments generally. Ord. No. 99-Or-119, § 1, adopted Oct. 29, 1999, enacted provisions designated as a new Ch. 188, §§ 188.10--188.580, to read as herein set out. See the Code Comparative Table.

Cross references: Seeing eye dogs permitted in food establishments, § 74.90; general sanitation requirements for restaurants, bakeries and confectioneries, § 213.20; liquor and beer, Title 14; unlawful solicitations in food establishments, § 385.280.

ARTICLE I. GENERALLY

188.10. Authority. This chapter is adopted pursuant to Minnesota Statutes 1998, Chapter 144, 145, 145A, and 157, and related rules; and a delegation agreement authorized by Minnesota Statute 145A.07 between the Minnesota Department of Health and the City of Minneapolis authorizing the Environmental Health Division to inspect and regulate food, beverage and lodging establishments. (99-Or-119, § 1, 10-29-99)

188.20. Manager of the environmental health division to enforce. This title shall be enforced by the manager of the city's environmental health division of the department of regulatory services or the manager's authorized representatives. (99-Or-119, § 1, 10-29-99)

188.30. Office of Environmental Health Specialist/Sanitarian established;

appointment, supervision. There shall be an office of environmental health specialist/sanitarian of food and sanitation. The environmental health specialist/sanitarian of food and sanitation shall perform the duties of the office under the direction, supervision and control of the environmental health division. (99-Or-119, § 1, 10-29-99)

188.40. Unwholesome food generally. No person licensed under the terms of this chapter shall sell, offer for sale or have or keep in their possession with intent to sell, barter or give away, any meat, fish, oysters, birds, fowl, vegetables, fruits or other provisions or article of food or drink for human use or consumption that consists in whole or in part of any adulterated, filthy, decomposed or putrid animal or vegetable substance or which are decayed or unfit or unsafe for use as food or drink for human consumption. (99-Or-119, § 1, 10-29-99)

188.50. Notice to remove or destroy unwholesome food. The manager of environmental health, upon discovering and determining that any food as herein defined which is offered or held for sale within the city is adulterated, decayed, diseased, unwholesome or for any cause unfit for human food, shall at once give the person in charge thereof notice to at once remove the same out of the city or to such place in the city as the manager of environmental health may designate or destroy the same as directed by the manager of environmental health. (99-Or-119, § 1, 10-29-99)

188.60. Embargo and detention. The manager of environmental health may attach a tag or issue a written notice of embargo or detention and thereby embargo any food, clothing, equipment, utensil or thing which by reason of origin, dirt, filth, extraneous matter, insects, temperature, corrosion, open seams, chipped or cracked surfaces is unfit for use. Such tag shall be printed as follows:

MINNEAPOLIS ENVIRONMENTAL HEALTH DIVISION HELD FOR INVESTIGATION

DATE _____

SANITARIAN _____

It shall be unlawful for any person to remove such tag from any food, utensil and the like or to remove or use such food, equipment, clothing and the like to which a tag has been attached or to remove, sell, give away, or otherwise dispose of any food covered by written notice of embargo or detention except by direction of the manager of environmental health. (99-Or-119, § 1, 10-29-99)

188.70. Authority to inspect. The manager of environmental health, or agent or designee of, after proper identification, shall, at all reasonable times, have the right to enter into and upon premises and inspect any food establishment, vehicle, food manufacturing establishment or other business required to have or

possessing a food license as set forth by this chapter, and it shall be unlawful for any person in any way to obstruct or hinder or refuse to permit the manager of environmental health or the manager's authorized representatives to inspect such premises. (99-Or-119, § 1, 10-29-99)

188.80. Inspection of premises. The environmental health specialist/sanitarian shall inspect and examine every public and private market, stall, shop, store, warehouse, storehouse, cart, wagon, sleigh or other vehicle in, on or about which any such meat, fish, oysters, birds or fowls, vegetables, fruit, market or other provisions are kept, held or offered for sale as human food, as to the sanitary condition, cleanliness and wholesomeness of such places and vehicles for keeping human food for sale or other disposition or storage, and shall see to it that they are constantly maintained in a clean, wholesome and thoroughly sanitary condition. In case the inspector shall find any such place or vehicle to be in an unclean or unwholesome condition, the inspector shall notify the person in charge thereof to put it in a clean, wholesome and sanitary condition within ten (10) hours from the time of such notice. (99-Or-119, § 1, 10-29-99)

188.90. Inspection outside city. (a) The manager of environmental health may inspect food establishments situated outside the city which sell or offer for sale or distribute any food within the city to determine if such food establishments conform to the provisions of this chapter. In addition to the license fee as established by this chapter a fee for such inspection service shall consist of the city salary for such environmental health representative for the number of hours necessarily spent for such inspection and the cost of travel from the office to the inspection-site and return to the office at the current rate of reimbursement for car allowance mileage established by the city. Any food establishment located more than fifty (50) miles from the city will not be inspected unless authorized by the city council.

- (b) The manager of environmental health may permit the sale of food from food establishments outside the city without requiring an inspection by a representative of the environmental health division if local ordinances and reports from local or other responsible health authorities who have jurisdiction where such food establishments are located indicate comparable ordinance and inspection services to those in the city.
- (c) Food shipped interstate and subject to federal inspection by the Federal Food and Drug Administration, United States Public Health Service, or other federal agencies may likewise be sold within the city without an inspection of the place of origin by the manager of environmental health. Food from such sources shall be protected from contamination and spoilage during subsequent handling, packaging and storage, and while in transit. (99-Or-119, § 1, 10-29-99)

188.100. Inspection, condemnation of food and food products. Said environmental health specialist/sanitarian shall visit at frequent intervals every public and private market, stall, shop, store, warehouse and storehouse and all carts, wagons, sleighs or other vehicles of vendors or street hawkers in, at or

about which any meat, fish, oysters, birds or fowls, vegetables, fruit, milk or other food products are kept, held or carried for sale or other disposition as human food, and shall examine and carefully inspect all such food products. If any unhealthy, unwholesome or deleterious food products so intended for sale or other disposition as human food are found in or about any such place or vehicle, the environmental health specialist/sanitarian shall at once give the person in charge thereof notice to at once remove the same out of the city or to such place as the inspector shall direct, or to destroy the same; whereupon said person in charge shall remove the same out of the city or to such place as the environmental health specialist/sanitarian shall direct, or destroy the same as may be directed by the environmental health specialist/sanitarian. (99-Or-119, § 1, 10-29-99)

188.110. Selling, sorting on streets. (a) *Selling.* No person shall place, exhibit, display, offer for sale or sell, or cause to be placed, exhibited, displayed, offered for sale or sold, any fruits, vegetables or other food products of any kind upon or above any sidewalk, street or alley.

- (b) *Sorting.* No person shall sort or pick over any fruit or berries of any kind upon any sidewalk, street, alley or other public place.
- (c) *Exception.* Nothing in this section shall prevent duly licensed peddlers from selling from vehicles in the streets, nor shall prevent the operation of any groceries or portable store licensed under Chapter 295 of this Code; except that no butcher's type game, fish, poultry or meat shall be offered for sale or sold to consumers in streets or alleys or on sidewalks. (99-Or-119, § 1, 10-29-99)

188.120. Early morning deliveries. (a) *"Established route" defined.* As used in this section, the phrase "established route" means a route usually and regularly traveled for the purpose of delivering any of the products herein named to consumers usually purchasing any thereof.

- (b) *Hours prohibited.* Between 12:00 midnight and 4:00 a.m., no person shall deliver or cause or permit to be delivered, to consumers or customers on regularly established routes in the city any milk, cream or other dairy products, or bread or other bakery products, or groceries or other food or drink for human consumption, and between said hours no person shall drive, use or permit any vehicle owned, operated or controlled by such person to be driven or used upon any street, avenue or alley of the city for the purpose of delivering to consumers on established routes any such products. (99-Or-119, § 1, 10-29-99)

188.130. Vehicles for peddling food. (a) *Sanitation.* All vehicles used for transporting or peddling fruits, vegetables, milk, meat, poultry or other like produce or provisions shall at all times be kept free from dirt, dust, grease and other hurtful and contaminating substances and in a clean and sanitary condition.

- (b) *Other use of vehicles.* No peddler doing business in the city and using a vehicle for the transporting or peddling of fruits, vegetables, produce or other provisions shall use or permit or cause to be used such vehicle for the hauling or

conveyance of junk, junk materials, scrap, garbage, refuse or any decayed animal or vegetable matter or other unclean and unwholesome substance or thing whatever.

- (c) *Inspection by environmental health division.* The manager of environmental health division, or agent thereof; shall inspect all vehicles used for transporting or peddling fruit, vegetables, milk, meat, poultry or other like produce or provisions, and shall condemn and destroy any food found thereon to be unsound, unwholesome or unfit for human consumption. (99-Or-119, § 1, 10-29-99)

188.140. Presence of food indicates intent to sell. The presence of any food on the licensed premises is prima facie evidence of its intended sale. (99-Or-119, § 1, 10-29-99)

188.150. Presence of utensils and equipment. The presence of utensils or equipment on the premises shall be prima facie evidence of their intended use. (99-Or-119, § 1, 10-29-99)

ARTICLE II. LICENSING PROCEDURES

188.160. License required. It shall be unlawful for any person to conduct or operate a food establishment without obtaining a license therefor. The license issued under this chapter shall be known as a food license. No person shall engage in the business of selling food by vending machines without a license. Licenses are not transferable to other locations and individuals unless permitted in other sections of the ordinance. (99-Or-119, § 1, 10-29-99)

188.170. Short-term permits. Permits for the sale of food and drink for a period of less than fourteen (14) days at community celebrations, circuses, and other like and similar occasions, may be issued upon proper application and the payment of a fee as established in Appendix J, License Fee Schedule. A seasonal short-term food establishment license may be issued upon proper application and payment of a fee as established in Appendix J, License Fee Schedule. In the case of a short-term permit or a seasonal short-term food establishment, no more than two (2) food stands shall be allowed to operate per permit. The operation of short-term food establishments and seasonal short-term food establishments must be in conformity with the provisions of this chapter. The application for a short-term food permit will be considered late if not received by the department of licenses and consumer services fourteen (14) or more days prior to the date of the event. A late fee equal to fifty (50) percent of the application fee will be charged to the applicant and must be received by the department of licenses and consumer services before the short-term permit is granted. A short term food permit with more than ten (10) food vendors at an event may request a permit based on cost of inspection as determined by the manager of environmental health. Notwithstanding any other ordinance provision, the short-term food permit application and the seasonal short-term food

establishment application shall be reviewed by the department of licenses and consumer services and approved or denied by the director of licenses and consumer services, or the director of licenses and consumer services' designee, with notice of the decision given to the council member representing the affected ward. (99-Or-119, § 1, 10-29-99; 2002-Or-097, § 1, 9-27-02)

188.180. License application. Any person desiring a food license shall file with the department of licenses and consumer services a written application for such license, giving in such application the full name, place, date of birth and address of the owner or proprietor of the building, shop, stall, vehicle, stand or place where such food establishment is to be conducted and for which a license is desired, the location of the building or buildings, and the part or portion thereof intended to be used in the conduct of such business and under such license. If the applicant is a partnership or firm, the name, place and date of birth, residence address of all partners or persons interested therein; if a corporation, the state of incorporation, the name, place and date of birth, of all persons named in the corporation, and shall state whether or not any person named in the application has ever been convicted of any crime. Such application shall also indicate the source of funds used to begin operation of the food establishment and all documentary proof and evidence thereof including leases, contracts, purchase agreements, and financial statements. Such application shall also contain the kind, name, and location of every business or occupation applicant has been engaged in during the preceding ten (10) years, and the street address at which the applicant has lived during the preceding ten (10) years. The applicant shall state in such application the nature of the business to be conducted. If the applicant proposes to operate more than one (1) of such businesses, the applicant shall so state in the application and shall describe the part or portion of the building or place wherein the applicant proposes to conduct each of such businesses. If a license is granted, the part or portion of said building used as a food establishment shall conform to and the equipment and operation be in accordance with the provisions of this chapter. (99-Or-119, § 1, 10-29-99; 2005-Or-111, § 1, 11-18-05)

188.185. Qualifications of applicant. No food or grocery license shall be issued to any applicant who does not meet the following qualifications:

- (a) Applicant must be the actual owner of the premises or the business at the licensed premises. In case of a corporation, he or she must be the manager of such premises or business.
- (b) Within five (5) years of the date of the application, the applicant cannot have been convicted of any crime related to the occupation for which the license is sought, which conviction has not been, pursuant to law, annulled or expunged, including but not limited to the willful violation of any law dealing with food subsidy programs or the sale, possession, manufacture or transportation of controlled substances. The provisions of Minnesota Statutes, Chapter 364 shall govern the enforcement and application of this subsection including the right of an applicant to show

competent evidence of sufficient rehabilitation and present fitness.

- (c) The applicant or on site manager must reside within seventy-five (75) miles of Minneapolis City Hall. Such residency requirements shall mean being a resident continuously while the license is in effect.
- (d) If the applicant is a partnership, all partners must qualify in the same manner as individual applicants, except that residency requirements shall be governed by subsection 188.185(c).
- (e) If the applicant is a corporation, it must be authorized to do business in Minnesota.
- (f) No license shall be issued or transferred to any person who has had a license revoked within five (5) years prior to the date of application under the terms of this chapter or the statutes of the State of Minnesota nor shall any license be issued or transferred to the spouse of such person. (2007-Or-064, § 1, 8-31-07)

188.190. Health inspection, recommendation required; license issuance or denial. Upon the filing of the application for a license hereunder it shall be referred to the manager of environmental health for investigation, report and recommendation. After the report and recommendation of the manager of environmental health have been received by the director of licenses and consumer services, the license may be granted or denied pursuant to section 259.30. (99-Or-119, § 1, 10-29-99; 2005-Or-111, § 2, 11-18-05)

188.200. Application for vending machine license. The applicant for a license to sell food by vending machines shall, in addition to the above requirements, furnish a list of the addresses wherein the applicant proposes to install and operate any vending machine, the kind and number thereof and the kind and general description of food to be vended. (99-Or-119, § 1, 10-29-99)

188.210. Application for additional vending machines. After a vending machine license has been issued, upon a written application to the department of licenses and consumer services and payment of the fee provided in section 188.250 of this Code for each additional machine, the licensee may receive licenses for additional machines over and above the number stated in the original application. The application for such license shall state the desired additional number, the date and number of the original license, the street address of the property or place wherein the additional machines are intended to be installed and shall be signed in the manner required for an original application. (99-Or-119, § 1, 10-29-99; 2000-Or-079, § 1, 8-11-00; 2005-Or-111, § 3, 11-18-05)

188.220. Change of vending machine location. In case a licensee changes or removes a vending machine from the location in which it is authorized by the license or permit to be located, and installs the same in a new location, such new location shall be reported in writing to the department of licenses and consumer

services within thirty (30) days after such change or removal. (99-Or-119, § 1, 10-29-99)

188.230. Labeling of vending machines. Every vending machine licensed hereunder shall bear an emblem or tag securely fastened to the front surface of the machine in a conspicuous place, bearing the expiration date of the license and the registration number assigned to such licensee. No person shall install, use or operate a greater number of vending machines than that for which the person has been granted a license and paid the fees. The department of licenses and consumer services and the environmental health division shall have the right to inspect the licensee's books and records to determine compliance with this section. Each owner shall clearly identify each vending machine or bank of interconnected vending machines operated by the owner with the owner's current telephone number in such a manner that the information can be easily read without moving the machine or machines. The absence of such an owner's label will constitute a violation of this chapter. (99-Or-119, § 1, 10-29-99)

188.240. Impounding nonconforming machines. Any vending machine found without the proper license tag or emblem or owner's label thereon shall be impounded by the department of licenses and consumer services and any such impounded machine may be reclaimed by the owner thereof within thirty (30) days from the date of impounding and upon the payment to the city of costs sufficient to defray the expense of impounding and storage, and any reclaimed machine shall not be used except upon compliance with the terms of this chapter. If such machine is not reclaimed within the thirty (30) days above specified, it may be destroyed or disposed of by the police department according to law. (99-Or-119, § 1, 10-29-99)

188.250. License fees generally. The annual food license fees to be paid hereunder shall be as established in Appendix J, License Fee Schedule. *Multiple food category licenses:* Establishments having a restaurant, grocery or food manufacturing license which also have other food category licenses shall have the fees for those other categories, except sidewalk cafe, mobile food vehicle, and short term food, reduced by thirty (30) percent. In the instance of any question of which fee shall be reduced, the most expensive shall be paid in full and any others reduced. (99-Or-119, § 1, 10-29-99; 2001-Or-017, § 1, 2-16-01; 2002-Or-013, § 1, 3-1-02; 2002-Or-023, § 1, 4-5-02; 2002-Or-097, § 2, 9-27-02; 2010-Or-013, § 1, 4-2-10)

188.260. Entitlement to vending machines without additional fee. The holder of a food license granted under the provisions of this chapter may dispense food from not more than two (2) approved vending machines located on the premises for which such licensee holds a food license without the payment of any additional fees, provided such licensee is the owner of such machine or machines and is fully responsible for the cleaning, operation and food products

being vended, and provided further that the food establishment under license is a type required to have equipment and facilities to properly wash and sanitize such machines and their component parts; any machines in excess of two (2) shall be paid for at the rate provided in section 188.250. (99-Or-119, § 1, 10-29-99; 2000-Or-079, § 2, 8-11-00)

188.270. Vending machine location. (a) Each vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage, or from condensation from water, waste, or sewer piping. The immediate area in which the machine is located shall be well lighted. Each vending machine shall be so located that the space around the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

(b) The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. The space and the immediate surroundings of each vending machine shall be maintained in a clean condition. (99-Or-119, § 1, 10-29-99)

188.280. Determination of area for fee purposes. In determining the area for the purpose of fixing the license fee to be paid, all areas used for sales, processing, packaging, serving, cold storage, and all area actually used for storage of products and merchandise used or dispensed in connection with the business carried on at the premises shall be computed. (99-Or-119, § 1, 10-29-99)

188.290. Fee for out-of-town manufacturer or distributor. Every food manufacturer or distributor having a place of business outside of the city and desiring to sell or distribute food in the city, who does not have a state license under Minnesota Statute 28A, shall pay an annual fee as established in Appendix J, License Fee Schedule. (99-Or-119, § 1, 10-29-99; 2002-Or-097, § 3, 9-27-02)

188.300. Single fee for manufacturer and distributor. If the applicant is both a food manufacturer and distributor having one place of business and manufacturing and distributing the same product or products, such applicant may have one license for both types of business and pay one fee therefor. (99-Or-119, § 1, 10-29-99)

188.310. Fee for trucks for perishable foods. The licensee of a food establishment shall pay an annual license fee as established in Appendix J, License Fee Schedule, to cover the cost of inspection for every vehicle used in transporting perishable and readily perishable foods as defined in section 186.50 of this Code. (99-Or-119, § 1, 10-29-99; 2002-Or-013, § 2, 3-1-02; 2002-Or-023, § 1, 4-5-02; 2002-Or-097, § 4, 9-27-02)

188.320. Manufacturer or distributor includes wholesale and retail. A duly-issued license for a food manufacturer or distributor shall authorize the licensee to conduct either a wholesale or retail business at the same establishment and for the sale of the same product or products. (99-Or-119, § 1, 10-29-99)

188.330. Refund of fee. If the application for a license is not granted, the applicant shall be refunded the fees paid by him, less fee as specified in Appendix J, License Fee Schedule, for processing and application. (99-Or-119, § 1, 10-29-99; 2003-Or-072, § 1, 6-20-03)

188.340. When licenses expire. All licenses issued under this chapter shall expire on April first of each year. (99-Or-119, § 1, 10-29-99; 2009-Or-121, § 1, 11-13-09)

188.350. Revocation of license. Any license granted under this chapter may be revoked by the mayor or the city council as in the City Charter provided. (99-Or-119, § 1, 10-29-99)

ARTICLE III. LICENSE HOLDER REQUIREMENTS

188.360. Additional requirements. In addition to any requirements found in the Minnesota Food Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, a license holder must comply with all requirements contained in this article. (99-Or-119, § 1, 10-29-99)

188.370. Submission, approval of plans. When a food establishment is altered or newly constructed, plans or suitable drawings and specifications shall be submitted to the manager of environmental health and such plans and specifications must be approved before such work is begun. Plans and specifications shall be in sufficient detail so that an accurate and complete appraisal can be made as to compliance with the provisions of this chapter. Failure to submit plans for approval may result in the closing down of operations until plans have been approved. New risk 1 licensees or risk 2 licensees shall be required to complete a process review. The applicable plan review fees are contained in Appendix J.

Failure to pay the fee at the time of submitting the plans will result in a delay of the plan review approval process. (99-Or-119, § 1, 10-29-99; 2003-Or-023, § 1, 2-28-03)

188.380. Handwashing lavatory required. A hand washing lavatory shall be equipped to provide water to the user at a temperature of at least one hundred ten (110) degrees Fahrenheit (forty-three (43) degrees Celsius), but not more than one hundred thirty (130) degrees Fahrenheit (fifty-four (54) degrees Celsius), in a food establishment and not more than one hundred twenty (120) degrees Fahrenheit (forty-eight (48) degrees Celsius), in a sink that is used by

children such as a school, day care or preschool, through a mixing valve or combination faucet. (99-Or-119, § 1, 10-29-99)

188.390. Posting of license. Each licensee shall keep his license prominently posted or readily available for inspection upon the premises. (99-Or-119, § 1, 10-29-99)

188.400. Music restricted at certain hours. (a) No cafe, restaurant or other public eating place or any place furnishing food to the public, shall have in the licensed premises any music between 2:00 a.m. and 8:00 a.m. This shall not prevent radio, television, jukebox or any other prerecorded music, provided it does not constitute a nuisance.

(b) Any violation of this section shall be grounds for revocation of all licenses held by the licensee of the premises where the violation occurs. (99-Or-119, § 1, 10-29-99; 2003-Or-080, § 1, 6-20-03)

188.410. Telephone required. All retail food stores which are open longer than sixteen (16) hours on any day of the week must have a telephone for the use of its employees which can be operated without a coin and which is located within ten (10) feet of any cash register then in use. (99-Or-119, § 1, 10-29-99)

188.420. Requirements for floors. In addition to floor requirements found in the Minnesota Food Code, floors in all rooms in which food or drink is stored or prepared, in which multiuse utensils are washed, and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall be a smooth, durable, easily cleanable, non absorbent, light-colored material. Permissible materials include, but are not limited to, terrazzo, ceramic tile, quarry tile, or plastic or plastic coating over tight wood or concrete floors or equivalent. The floor covering must be grease resistant in all areas where grease or fatty substances are normally used and may drip or spill on the floor. In every new or remodeled food establishment a coved juncture of at least one-quarter-inch radius between the floor and the wall, except in serving areas, shall be constructed or installed. All exterior areas where food is served shall be kept properly drained. (99-Or-119, § 1, 10-29-99)

188.430. Requirements for walls and ceilings. In addition to wall and ceiling requirements found in the Minnesota Food Code, walls of all rooms or areas in which food is normally prepared or multi-use utensils are washed or hands are washed shall be light colored and shall have washable surfaces up to the highest level reached by splash or spray. Washable acoustical materials which are easily cleanable may be used on the ceiling, provided ventilation is adequate to minimize grease and moisture absorption. Wall covering material shall be securely sealed to the wall to prevent accumulations of grease or insect harborage. Studs, joists, rafters, latticework and other decorative materials in dining or access areas shall be suitably finished and shall be kept clean. (99-Or-

119, § 1, 10-29-99)

188.440. Ventilation required. In addition to ventilation requirements found in the Minnesota Food Code, ventilation hoods or canopies shall be installed over equipment where grease vapors, smoke, steam, odor, and heat are produced in the preparation of food. The ventilation systems shall be installed in strict conformity to existing city ordinances. (99-Or-119, § 1, 10-29-99)

188.450. Toilet facilities required. Each food establishment shall provide water flush toilet facilities that are completely enclosed and which are connected to a sewerage system for use of its employees. Separate toilets must be furnished for each sex when five (5) or more employees of opposite sex are on duty at any one time. In every new or remodeled toilet room mechanical ventilation must be installed and used in a manner as to provide at least ten (10) changes of air per hour. Toilet seats and fixtures shall be of sanitary design, shall be kept clean and in good repair. The doors of all toilet rooms shall be self-closing. If vestibules are provided, they must be well lighted and kept clean. When toilet facilities are provided for patrons, such facilities shall meet the requirements of this section. Hand-washing signs shall be posted in the employees' toilet room, directing them to wash their hands before returning to work. Conveniently located toilet facilities must be provided for patrons of all food establishments which sell hot drinks and other prepared hot foods for consumption on the premises. (99-Or-119, § 1, 10-29-99)

188.460. Garbage and refuse storage and disposal. In addition to garbage and refuse storage and disposal requirements found in the Minnesota Food Code, each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and refuse. Food-waste grinders, if used, shall be installed in compliance with city ordinances. Garbage and refuse shall be disposed of with sufficient frequency and in a manner so as to prevent a nuisance. Indoor garbage rooms shall be equipped with a floor drain, hot and cold running water and ventilation to the exterior. (99-Or-119, § 1, 10-29-99)

188.470. Itinerant food establishments. An itinerant food establishment conducting an unrestricted operation shall comply fully with the provisions of this chapter. When restricted operations are conducted the manager of environmental health may accept modified physical facilities, may prohibit the sale of certain potentially hazardous foods and may augment requirements when in the opinion of the manager such action is necessary in the interest of public health. (99-Or-119, § 1, 10-29-99)

188.480. Limited mobile food vehicle vending. It shall be unlawful to open, to operate any limited mobile food vending or mobile food manufacturing vehicle in the city, unless it is licensed, operated and conducted in accordance with the following conditions:

- (1) The licensee must sell only prepackaged, nonperishable or self-limiting packaged confections as approved by the manager of environmental health, except there may be issued up to fifteen (15) food licenses for operation of mobile food manufacturing vehicles for the sale of popcorn and soft drinks.
- (2) Licensee shall not park his vehicle within thirty (30) feet of an intersection.
- (3) Licensee shall not park in such a manner so as to create a traffic hazard.
- (4) Sales by licensee shall be made on the curbside only and the vehicle shall be parked within one (1) foot of the curb.
- (5) No waste liquids, garbage, litter or refuse shall be dumped on city sidewalks, streets, or lawn areas, or in city gutters or drains. When leaving a sales area, licensee or employees shall pick up all litter resulting from the business sales and shall deposit such litter in a city environmental health division approved covered garbage receptacle located on the vehicle. The receptacle shall be easily accessible for customer use. Licensee shall be responsible for all litter and garbage left by customers.
- (6) Hours of operation for such vehicles shall be limited to the hours between 9:00 a.m. and 10:00 p.m..
- (7) Licensee shall be in conformance with applicable city ordinances regarding noise control and vehicle identification.
- (8) Licensee shall not be allowed to operate on and within the area bounded by the following streets: Commencing at the intersection of Second Avenue North and Washington Avenue; thence southwesterly along Second Avenue North to Ninth Street North; thence southerly and southeasterly along Ninth Street North to LaSalle Avenue; thence southwesterly and southerly along LaSalle Avenue to Grant Street; thence easterly along Grant Street to Portland Avenue; thence northeasterly along Portland Avenue to Ninth Street South; thence southeasterly along Ninth Street South to Chicago Avenue; thence northeasterly along Chicago Avenue to Washington Avenue; thence northwesterly along Washington Avenue to the point of beginning.
- (9) Licensee shall provide proof of liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for individuals or three hundred thousand dollars (\$300,000.00) for any single incident. Certificate of insurance shall be delivered to appropriate city officials prior to issuance of a license.
- (10) Licensee shall not operate any such business within two thousand (2,000) feet of any city, county, or state fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city council except when licensee has obtained a temporary food permit from the director of licensing and consumer services as being a participant under the auspices and control of such event.
- (11) Notwithstanding the limitations in subsection (1), licenses may be issued under this section for the sale of prepackaged perishable foods from

nonmotorized carts operating exclusively on park board property with the approval of the park board. Each applicant for a license under this subsection shall include in the application a proposed operating location or route. The construction and dimensions of each cart, and all food and beverage items sold from such carts, shall be subject to the approval of the manager of environmental health. Each mobile food cart shall meet National Sanitation Foundation (NSF) standards for food storage preparation and dispensing. Each cart shall be stored, cleaned and serviced on a daily basis at a permanent location in the City of Minneapolis licensed as a food distributor or manufacturer. All other provisions of this section, except subsection (1), shall apply to a license issued under this subsection.

This shall not be interpreted to prohibit food catering. (99-Or-119, § 1, 10-29-99; 2005-Or-111, § 4, 11-18-05; 2010-Or-013, § 2, 4-2-10)

188.485. Mobile food vehicle vendors. (a) No person shall operate a mobile food vehicle on the public sidewalks, plazas, or private property, including parking lots, without a valid license required under this section. To the extent authorized in any such license granted under the provisions of this section, the licensee may conduct such licensed business on the public sidewalk notwithstanding the provisions of sections 188.10, 427.110, 427.130, 478.90, 430.30, 439.30, and 549.160 of this Code.

(b) *Plan submission.* Application for a mobile food vehicle permit shall be made at the department of licenses and consumer services before beginning the construction of a mobile food vehicle vending operation. The director of licenses and consumer services may require such information on the application as the director deems reasonable and necessary, including but not limited to, the following information:

- (1) Name and address of the applicant.
- (2) Name and address of the approved commercial supply source and affiliated licensed food establishment in the city. If the licensed food establishment is not owned or operated by the applicant, the applicant shall provide written proof of consent from the establishment's owner to use the facility for food preparation, storage, and cleaning.
- (3) A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.
- (4) The anticipated volume of food to be stored, prepared, and sold.
- (5) Plans and specifications for the mobile food vehicle, including the proposed layout, photographs, mechanical schematics, construction materials, finish schedules, equipment types, manufacturers, model numbers, locations, dimensions, weight of vehicle per wheel, performance capacities, power source, installation specifications, and information on any custom fabricated equipment.
- (6) A valid copy of all necessary licenses or permits required by state or local health and transportation authorities.

- (7) A signed statement that the permittee shall hold harmless the city, the Downtown Business Improvement Special Service District (the "district"), and their officers and employees, and shall indemnify the city, the district, and their officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, city, and the district from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice filed with the director of licenses and consumer services. No permit issued pursuant to the provisions of this section shall be valid at any time the insurance required herein is not maintained and evidence of its continuance filed with the director of licenses and consumer services.
 - (8) The proposed location for conducting business shall be according to subsection (c) below, along with a signed statement that the licensee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the license. No application will be accepted for a license operating location where a current license has been issued or a complete application is pending. If the proposed location is private property, the applicant shall provide written consent from the property owner.
 - (9) Each year at the time of filing the application for such a permit, the applicant shall pay to the city finance officer a sum as established in Appendix J, License Fee Schedule.
- (c) *Location review and restrictions.* Proposed operating locations shall be reviewed as follows:
- (1) Mobile food vendors may only operate within the boundaries of the district in section 465.10. The director of public works shall refer the subject of mobile food vendors in general to the district, which shall report its advisory recommendations concerning the potential locations of mobile food vendor sites on the public sidewalks within the district. The list of potential operating locations shall be available for review in the department of licenses and consumer services.
 - (2) Upon receipt of a complete application for a permit, the permit shall be referred to the director of public works for approval or disapproval. The use of the permit operating location for mobile food vending must be compatible with the public interest in use of the sidewalk areas as public right-of-way. In making such determination, the director of public works shall consider the width of the sidewalk, the weight that can be supported by the paving at the proposed location, the proximity and location of existing street furniture, including but not limited to, utility poles, parking meters, bus shelters, benches, street trees, newsracks, as well as, the presence of bus stops, truck loading zones, taxi stands, valet parking

zones, or other approved sidewalk cafes or mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

- (3) The director of public works shall not approve a location where a mobile food vehicle would substantially impair the structural capacity of a sidewalk, movement of pedestrians or vehicles, or pose a hazard to public safety. The director shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within thirty (30) feet of an intersection, within three (3) feet of a curb, or directly in front of a property entryway. Pedestrian walkways of no less than six (6) feet must be maintained around the mobile food vehicle.
 - (4) No mobile food vehicle vendor application will be accepted for a license operating location operating on a public sidewalk where a restaurant, with direct access to the sidewalk, is adjacent or within one hundred (100) feet on the same block. This requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant. No person or corporation shall either pay or accept payment for the written consent provided herein.
 - (5) The approved operating location shall be indicated on the permit and shall include the area of the mobile food vehicle. The permit must be prominently displayed on the vehicle.
 - (6) If the requested operating location is denied, the applicant may select an alternate location, which shall also be referred to the director of public works for review.
 - (7) The city shall not approve more than one (1) mobile food vehicle per private parking lot, which must remain in compliance with the zoning code, including the off-street parking requirements for the host parking lot. The vehicle shall not block required drive aisles.
 - (8) Licensee shall not operate any such business within five hundred (500) feet of any city, county, or state fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city council except when licensee has obtained a temporary food permit from the director of licensing and consumer services as being a participant under the auspices and control of such event.
 - (9) Licensee shall not operate any such business within five hundred (500) feet of a controlled entrance to a regional sports arena or facility, except when the licensee has obtained written permission from the owner and furnished such written permission to the director of licensing and consumer services at least fifteen (15) days in advance of such use.
- (d) *Approved food and beverage list.* The manager of environmental health shall maintain a record of approved food and beverage items which may be prepared and sold by mobile food vehicle vendors. Requests to have a food or beverage item considered for approval shall be submitted in writing to the manager of environmental health, who shall determine whether the food or beverage item is capable of preparation and service from the mobile food vehicle based on the equipment being used and the design and construction of the vehicle.

- (e) *Form and condition of permit.* In addition to naming the permittee, the approved operating location site diagram, and other information deemed appropriate by the director of licenses and consumer services, the mobile food vehicle vending permit shall contain the following conditions:
- (1) Each mobile food vehicle vending permit shall expire on April first of each year.
 - (2) The permit shall not be transferrable from person to person or from place to place without approval of the director of licenses and consumer services.
 - (3) The approved operational location may be changed, either temporarily or permanently, by written notice of the director of licenses and consumer services or his or her designee.
 - (4) The permit is valid for one (1) vehicle only.
 - (5) There shall be issued to each permittee a suitable decal that shall be permanently and prominently affixed to the vehicle.
- (f) *Restrictions.* The mobile food vehicle shall comply in all respects with all requirements of state law, including but not limited to Minnesota Rules Chapter 1315, Chapter 1346, and Chapter 4626, and any requirements found in any other law, statute, rule, resolution, ordinance, or regulation of any kind and the following:
- (1) All equipment must meet applicable National Sanitation Foundation (NSF) food service equipment standards.
 - (2) All foods, beverages, and ice must be obtained from an approved commercial source. Food cannot be stored in a home.
 - (3) Any food preparation or food storage done off-site must be accomplished at the primary licensed food establishment location. Food cannot be prepared in a home.
 - (4) Hours of operation shall be limited to the hours between 7:00 a.m. and midnight. The hours of operation for mobile food vehicles located within three hundred (300) feet of a residential building or a mixed use building with a residential component shall be limited to the hours between 7:00 a.m. and 10:00 p.m.. No approved mobile food vehicle shall be left unattended on a sidewalk nor remain on the sidewalk outside of these allowed hours of operation.
 - (5) Every approved mobile food vehicle vendor shall operate for a minimum of one hundred eighty (180) days during the license term.
 - (6) No mobile food vehicle vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns, or whistles.
 - (7) All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the licensed food establishment. No waste liquids, garbage, litter or refuse shall be dumped or drained into

sidewalks, streets, gutters, drains, trash receptacles, or any other place except the licensed food establishment. The garbage receptacle shall be easily accessible for customer use. The permittee shall be responsible for all litter and garbage left by customers.

- (8) The mobile food vehicle shall not have a drive-through.
 - (9) The manager of environmental health may summarily close any licensed food establishment, including a mobile food vehicle, pursuant to section 188.580.
 - (10) A mobile food vehicle vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or remove the vehicle entirely from the sidewalk if necessary to avoid such congestion or obstruction.
 - (11) The mobile food vehicle shall comply with the provisions of section 466.280 and 536.20 relative to signage and advertising on the vehicle.
 - (12) No mobile food vehicle shall use external signage, bollards, seating, or any other equipment not contained within the vehicle.
 - (13) Any power required for the mobile food vehicle located on public sidewalks shall be self-contained and shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from an adjacent property only when the owner provides written consent. All other power sources must be self-contained. No power cable or equipment shall be extended at grade across any city street or alley, or the Walk Zone of any city sidewalk.
 - (14) The height of the mobile food vehicle, including all accessory equipment, shall not exceed ten (10) feet for operation on a public sidewalk or thirteen (13) feet, six (6) inches for operation on a parking lot. The director of public works may reduce the allowed maximum height on a public sidewalk in a particular location in consideration of existing right-of-way obstructions, including trees.
- (g) *Permit adverse action.* An application or approved permit may be denied, revoked, suspended, or not renewed, after notice and an opportunity for a hearing thereon, for any of the following reasons:
- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
 - (2) The vehicle is operated in such a manner as constituting a public nuisance per this Code or state statutes.
 - (3) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to food, fire prevention, and health or safety.

The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.

- (h) *Effective date.* This section shall become effective on May 1, 2010. (2010-Or-013, § 3, 4-2-10)

188.490. Vehicles to be identified. Each vehicle, used for transporting perishable and readily perishable food, shall have printed on each side of said vehicle in plain letters not less than one (1) inch in height, the name and post office address of the licensee. (99-Or-119, § 1, 10-29-99)

188.500. Unpackaged processed food. (a) Unpackaged processed food, except readily perishable food as defined in section 186.50 of this Code, may be displayed and sold in bulk in self-service containers if all of the following conditions are satisfied:

- (1) Each self-service container has a tight-fitting lid which is kept in a closed position at all times except during customer service.
 - (2) Each self-service container has a utensil with a handle for dispensing the product.
 - (3) Self-service containers, lids and utensils are constructed of nontoxic materials and provide for easy cleaning and proper repair.
 - (4) Self-service containers, lids and utensils are maintained in a sanitary condition and in a manner that prevents spoilage and infestation.
- (b) Unpackaged processed food may be displayed and sold in bulk in other than self-service containers if all the following conditions are satisfied:
- (1) The food is served by an employee of the food establishment directly to a consumer.
 - (2) The food is displayed in clean, sanitary and covered or otherwise protected containers.
- (c) All policy statements or guidelines relating to the distribution of bulk foods shall be filed by the manager of environmental health with the city clerk prior to its effective date. A public hearing before the appropriate committee of the city council shall be held if requested by an interested party. (99-Or-119, § 1, 10-29-99)

188.510. Sidewalk cart food vendors. Notwithstanding the provisions of sections 188.110, 188.480(8), 427.110 and 427.130 of this Code, licenses may be issued pursuant to section 259.30 for sidewalk cart food vendors for the sale of specified food and beverage items from mobile pushcarts on the public sidewalks, which shall be operated and conducted in accordance with the following conditions:

- (1) Each sidewalk cart shall be separately licensed and may operate only at the location specified in the license, except as permitted in subsection (20). However, in the event a licensee holds licenses for more than one (1) location, the licensee may place any of the licensee's licensed carts at any location for which the licensee holds a license. No licensee may trade

carts or locations with another licensee; however, should a licensee apply for and be granted a different location for a cart during the licensing year and chooses to surrender the original location for that cart, the fee for such midseason cart location transfer shall be the fee indicated in section 188.250 of this Code for transfer alone.

(2) Application procedure:

- a. Each applicant shall file an application with the department of licenses and consumer services on forms provided by the department. In addition to the requirements of section 188.180 of this Code, the director of licenses and consumer services may require such information on the application as the director considers reasonable and necessary.
- b. No application for a single license or for the first of several licenses shall be accepted for filing unless the applicant files therewith plans and specifications for the cart which have been approved by the manager of environmental health. Provided, however, that if the cart is not ready and available for inspection sixty (60) days after the application is filed, the applicant's proposed operating location shall be available to other applicants, and the applicant shall be required to select a new location.

No application from a single applicant for licenses beyond a first license shall be accepted for filing unless the applicant possesses sidewalk carts ready and available for inspection for each location beyond the first location. A single applicant, for the purposes of this section, shall mean an individual person, or any member of that person's immediate family and shall also include a corporation and any corporation with substantially the same ownership or ownership by persons of the immediate family of the stockholders of that corporation or partnership.

- c. Each applicant shall include in the application a proposed operating location. The proposed location shall be referred to the director of public works for the approval or disapproval. The director of public works shall not approve a location where a sidewalk cart would substantially impair the movement of pedestrians or vehicles, or pose a hazard to public safety. Further, the director of public works shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within fifty (50) feet of an intersection, within three (3) feet of a curb, or directly in front of a commercial entryway. If the applicant's proposed location is disapproved, the applicant shall be so notified, and the applicant may select an alternate location, which shall also be referred to the director of public works for approval or disapproval. A holder of a valid license for the previous license year may renew that license and thereby reserve that location for another license year. Any license not renewed by April fifteenth shall cause that location to become available to other applicants. Licenses may be renewed between April first and April fifteenth by the payment of a late fee in addition to the

license fee. All licensees shall be notified of the availability of locations which have been vacated or for which licenses have not been renewed. The notification shall include a due date for applicants for these locations and a date upon which a lottery will be held to choose among multiple applicants.

- d. The director of public works shall refer the subject of sidewalk cart food vendors on the Nicollet Mall to the advisory board provided for in Minnesota Statutes, Section 430.101, subdivision 3. The advisory board shall report its recommendations concerning the number and location of sidewalk cart sites on the Nicollet Mall to the director of public works. The director of public works shall review the board's report and prepare a list of approved locations on the Nicollet Mall. The list shall be available in the department of licenses and consumer services to any applicant or interested person.
 - e. No location which has been chosen in a previous application shall be available for selection.
- (3) All sidewalk cart food vendor licenses shall expire on April first of each year subject to renewal year to year thereafter.
- (4) No sidewalk cart shall have dimensions exceeding four (4) feet in width, eight (8) feet in length and eight (8) feet in height. However, a cart may be equipped with an awning which overhangs by not more than twelve (12) inches in any direction. Each sidewalk cart shall be self-propelled and capable of being moved and kept under control by one (1) person traveling on foot. A special license may be granted to a handicapped person to operate a sidewalk cart propelled by electric motor, provided that the applicant shall meet all other conditions for a license.
- (5) Location restrictions:
- a. Sidewalk cart food vendors may operate only within the area bounded by the following: Commencing at the intersection of Third Avenue North and the Mississippi River, thence southeasterly along the Mississippi River to Interstate 35 West, thence southerly along Interstate 35 West to Interstate 94, thence westerly and northerly along Interstate 94 to Glenwood Avenue, thence easterly to Tenth Street, thence northerly to Third Avenue North, thence northeasterly to the point of beginning or the sidewalk abutting the south side of Vineland Place between Lyndale Avenue South and Bryant Avenue South.
 - b. A sidewalk cart food vendor licensed under this section may operate on privately or publicly owned property, within the boundaries described in subparagraph (1) above, with the express written consent of the property owner, and the approval of the director of public works.
- (6) A sidewalk cart food vendor license shall not be transferable from person to person or from place to place without approval of the director of licenses and consumer services.

- (7) Every licensee shall maintain a permanent location within the City of Minneapolis for the storage and preparation of food and beverages carried by the licensee's sidewalk carts, and for the cleaning and servicing of those carts. Such permanent location shall comply in all respects with the requirements of the Minneapolis Food and Beverage Ordinances, and shall be separately licensed as a food distributor. Each sidewalk cart shall return to the permanent location at least once daily for cleaning and servicing.
- (8) Each sidewalk cart shall meet National Sanitation Foundation (NSF) standards for food storage, preparation and dispensing. Toilet facilities shall be required at the permanent location but not on each cart.
- (9) Each cart shall carry adequate hand-washing facilities for the employees of the licensee. A waste retention tank with fifteen (15) percent larger capacity than water supply tank shall be provided.
- (10) All waste liquids, garbage, litter and refuse shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the permanent location. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles or any other place except at the permanent location. When leaving the sales area the licensee or his employees shall pick up all litter resulting from his business and shall deposit such litter in an approved container located on his cart.
- (11) The manager of environmental health shall publish, and may from time to time amend, a list of approved food and beverage items which may be sold by sidewalk cart food vendors. No items of any kind, other than approved food and beverage items, shall be sold or dispensed from sidewalk carts.
- (12) There shall be issued to each licensee a suitable decal for each licensed pushcart. Every pushcart licensed under this chapter shall at all times have the decal permanently and prominently fastened on the pushcart.
- (13) Affixed permanently and prominently to each pushcart shall be a sign no smaller than twelve (12) inches by twelve (12) inches displaying the name, address and telephone number of the pushcart owner.
- (14) Each licensee shall provide proof of liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for individuals, three hundred thousand dollars (\$300,000.00) for any single incident and ten thousand dollars (\$10,000.00) for property damage. A certificate of insurance shall be delivered to the director of licenses and consumer services prior to issuance of a license. The city shall be named an additional insured.
- (15) No sidewalk cart operator shall use lights or noisemakers, such as bells, horns or whistles, to attract customers. A sidewalk cart operator may use battery-operated lights with protective shielding for the purpose of illuminating food and utensils.
- (16) No sidewalk cart shall operate before 7:00 a.m. or after 11:00 p.m. on any day.

- (17) No sidewalk cart shall operate, park, stand or stop in any street or alley except to cross at designated street crossings.
- (18) The city council shall establish a reasonable fee, not to exceed two hundred fifty dollars (\$250.00) per year, to be charged to each sidewalk cart food vendor not located on a specially assessed mall, to defray the cost of cleanup and maintenance and other policing in connection with the operation of the food cart.
- (19) Any sidewalk cart operator who shall fail to operate at any licensed location for thirty (30) consecutive days between May first and October first shall forfeit that location. The department of licenses and consumer services shall notify all licensees of the vacation of said location and shall set a date for a lottery, if necessary, to choose among multiple applicants.
- (20) Notwithstanding other provisions of this section, a licensed sidewalk cart may operate at an indoor location other than its normal sidewalk location, with the approval of the environmental health division and the consent of the property owner, during the following times:
 - a. Between October first and April thirtieth.
 - b. Between May first and October first only during periods of inclement weather.

All other conditions and restrictions of this section shall continue to apply to a sidewalk cart operated at an indoor location under this subsection. (99-Or-119, § 1, 10-29-99; 2000-Or-079, § 3, 8-11-00; 2005-Or-111, § 5, 11-18-05)

188.520. Indoor food cart vendors. (a) A food license may be issued pursuant to section 259.30 for the operation of a food cart on indoor private property in accordance with the provisions of this section.

- (b) Application for an indoor food cart license shall be made upon forms provided by the division of licenses and consumer services and shall require information necessary to verify that the terms and conditions of this section have been met.
- (c) Each food cart shall be separately licensed and may operate only at the location specified in the license. A license may allow for reasonable movement within a designated area of a building, provided that the food cart is at all times readily observable by city inspectors in the course of their inspection duties. Every location for an indoor food cart shall comply with all applicable provisions of building and fire codes, including those relating to ingress, egress, and passageway clearance.
- (d) Each food cart license holder shall have the written consent of the property owner to its operation at the licensed location.
- (e) All indoor food cart licenses shall expire on April first of each year.
- (f) The provisions of subsections 188.510(4), (6), (7), (8), (9), (10), (11), (12), (13), (15), and (17) relating to sidewalk food carts shall also apply to indoor food carts, and such provisions are incorporated herein as though fully set forth in writing. However, the manager of environmental health may adopt regulations

authorizing dimension limitations for indoor food carts that exceed the limitations in subsection 188.510(4) for sidewalk food carts.

- (g) No license shall be issued for an indoor food cart in a skyway.
- (h) A sidewalk food cart operating indoors pursuant to subsection 188.510(20) shall pay only the license fee for sidewalk food carts and shall be exempt from the license fee for indoor food carts.
- (i) No application for a license shall be accepted for filing unless applicant files therewith plans and specifications for the cart that have been approved by the manager of environmental health.
- (j) The license fee for indoor food carts shall be as established in Appendix J, License Fee Schedule. (99-Or-119, § 1, 10-29-99; 2000-Or-079, § 4, 8-11-00; 2002-Or-023, § 1, 4-5-02; 2002-Or-097, § 5, 9-27-02; 2005-Or-111, § 6, 11-18-05; 2009-Or-121, § 2, 11-13-09)

188.530. Kiosk food cart vendors. (a) Notwithstanding the provision of sections 188.450 and 188.510(7), a food license may be issued pursuant to section 259.30 for the operation of a food cart in a kiosk on private property in accordance with the provisions of this section.

- (b) Application for a kiosk food cart license shall be made upon forms provided by the department of licenses and consumer services and shall require information necessary to verify that the terms and conditions of this section have been met.
- (c) Each food cart shall be separately licensed and may operate only at the location specified in the license. The food cart must at all times be readily observable by city inspectors in the course of their inspection duties. Every location for an indoor food cart shall comply with all applicable provisions of building and fire codes, including those relating to ingress, egress and passageway clearance.
- (d) Each food cart license holder shall have the written consent of the property owner to its operation at the licensed location.
- (e) All kiosk food cart licenses shall expire on April first of each year.
- (f) The provisions of subsections 188.510(4), (6), (8), (9), (10), (11), and (12) of this Code, relating to sidewalk food carts shall also apply to kiosk food carts, and such provisions are incorporated herein as though fully set forth in writing. However, the manager of environmental health may adopt regulations authorizing dimension limitations for kiosk food carts that exceed the limitations in subsection 188.510 (4) for sidewalk food carts.
- (g) The menu for kiosk food cart vendor shall be limited to espresso-type drinks and other non-potentially-hazardous foods as determined by the manager of environmental health.
- (h) Fully operational and stocked toilet facilities and lavatory must be convenient to employees and be available at all hours of operation of the kiosk.
- (i) The manager of environmental health shall publish and may amend from time to time a set of guidelines relative to the servicing and maintenance of a kiosk food cart vendor.

- (j) No application for a license shall be accepted for filing unless applicant files therewith plans and specifications for the cart which have been approved by the manager of environmental health.
- (k) The annual license fee for each kiosk cart food vendors license shall be those fees described in section 188.250 of this Code.
- (l) Each application for a kiosk cart food vendors license shall comply with the site plan review standards as described in section 530.10 of this Code.
- (m) All kiosks licensed under this chapter shall be designed to be directly accessible from a motor vehicle so that items sold are passed directly from a service window to the driver of the waiting motor vehicle. (99-Or-119, § 1, 10-29-99; 2000-Or-079, § 5, 8-11-00; 2005-Or-111, § 7, 11-18-05; 2009-Or-121, § 3, 11-13-09)

188.540. Regulations of outdoor areas in retail food establishments. The following regulations shall apply to all outdoor areas in retail food establishments which do not hold on-sale liquor, wine, or beer licenses, including establishments holding sidewalk cafe permits:

- (1) Every outdoor area must be approved as part of the original licensed premises or by the granting of an application for expansion of the licensed premises.
- (2) Entertainment:
 - a. No food establishment shall conduct entertainment, including nonlive entertainment such as radio, taped music, and television, in an outdoor area without approval of the city council.
 - b. In the downtown and eastbank commercial district described in section 362.430 of this Code, the city council may approve any forms of entertainment unless otherwise prohibited by law.
 - c. Outside the downtown and eastbank commercial district described in section 362.430 of this Code, the city council may approve only those forms of entertainment which would be authorized under a class E on-sale liquor, wine, or beer license.
 - d. Regardless of the forms of entertainment authorized for an outdoor area, the city council may further restrict the days, hours, nature, volume, and other aspects of entertainment in any outdoor area, including a prohibition against all forms of nonlive music, radio, television, and other entertainment, to protect the safety, repose, and welfare of residents, businesses and other uses near the establishment.
 - e. The city council may authorize an establishment to conduct entertainment not otherwise allowed under its license in an outdoor area by permit temporarily for special events. Application for such permit shall be filed with the department of licenses and consumer services on a form prescribed by the director. The fee for a temporary entertainment permit shall be as established in Appendix J, License Fee Schedule.

- (3) All new and remodeled outdoor areas shall be handicap accessible. All existing outdoor areas shall comply with building codes relating to handicap accessibility. No outdoor area shall reduce existing handicap accessibility.
- (4) The city council may restrict the hours of operation of an outdoor area based upon proximity of the area to residential dwelling units, and upon considerations relating to the safety, repose, and welfare of residents, businesses, and other uses near the establishment.
- (5) The city council may require that access to and egress from an outdoor area only be through the door connecting it to the remainder of the premises, or to property controlled by the licensee.
- (6) The licensee shall be responsible for picking up trash and litter generated by the operation of the outdoor area within a reasonable distance from the area.
- (7) The city council may review the operation of any outdoor area in connection with the renewal of the license for the establishment, or at any other time for good cause. Violation of the terms and conditions of this section shall be grounds for revocation, suspension, or refusal to renew the license for that portion of the licensed premises pertaining to the outside area.
- (8) All special restrictions relating to the hours of operation and types of entertainment in an outdoor area shall be endorsed on an addendum to the license certificate and posted in the establishment with the license certificate.
- (9) For those establishments located in the Central Commercial District, as defined in section 360.10, the licensee shall not serve or permit any beverage in an original container manufactured from glass in an outdoor area after 9:00 p.m. (99-Or-119, § 1, 10-29-99; 2000-Or-055, § 1, 6-23-00; 2005-Or-111, § 8, 11-18-05)

188.550. Minneapolis food manager certification program. The manager certification program is established to ensure each food establishment has an individual in a supervisory capacity who has demonstrated, by passing an examination and obtaining a Minneapolis Food Manager Certificate, that he or she has knowledge and proficiency in the prevention of food borne illnesses, in the preparation and handling of food products in a clean and sanitary manner, and in approved sanitation practices and techniques for food establishments.

Approved food manager's certification course shall mean a course covering the material contained in the U.S. Environmental Health Division and Human Services, Food and Drug Administration's (F.D.A.) 1976 recommended food service ordinance. The following courses are pre-approved: Applied Food Service Sanitation by the Educational Foundation of the National Restaurant Association; Food Safety Through Quality Assurance Management by the Hospitality Institute of Technology and Management Incorporated, and food manager's certification courses conducted by Hennepin County Community Health Service. Organizations seeking approval for their food manager's certification course must apply to the Environmental Health Division and Family

Support's Division of Environmental Health.

Food manager certification examination shall mean an examination administered by an approved agency authorized to conduct a food manager certification course in the preparation and handling of food products in a clean and sanitary manner, and approved sanitation practices and techniques for food establishments. Examples of an approved examination would be one given by the Education Foundation of the National Restaurant Association, Hospitality Institute of Technology and Management Incorporated, or Hennepin County Community Health Service.

Minneapolis Food Managers Certificate shall be the document issued by the Division of Environmental Health that certifies a person has satisfactory current knowledge of food service sanitation. (99-Or-119, § 1, 10-29-99)

188.560. Minneapolis food manager certification requirements. All persons licensed to operate a food establishment under this chapter (except short term food establishments) shall at all times employ at least one full time person with supervisory responsibilities (which may be the licensee) who (1) spends a substantial amount of his/her work week at that food establishment, and (2) who has a current food manager certificate. A large establishment with more than one food preparation and service location under one license, shall have a certified manager for each location.

A new licensee shall provide proof of certification before the facility is approved to open.

The licensee shall notify the city when the certified person leaves or terminates employment with the food establishment. A food establishment that no longer employs a certified manager shall employ a certified manager within thirty (30) days.

All establishments (except short term food establishments and those exempted pursuant to rules adopted under the authority of the ordinance) shall maintain up-to-date written policies and guidelines on the premises. These policies and guidelines shall have been approved by the manager of environmental health and shall govern food handling and preparation, sanitation practices and techniques, personal hygiene including handwashing techniques, the prevention of food borne illness through proper receiving, storage, preparation, cooling and reheating of foods, and other related matters.

The manager of environmental health shall adopt rules to implement this ordinance. A copy of rules so adopted shall be forwarded to an appropriate committee for receipt and filing by the city council. The rules shall become effective thirty (30) days following receipt and filing unless disapproved by the city council or withdrawn by the manager. (99-Or-119, § 1, 10-29-99; 2003-Or-023, § 2, 2-28-03)

188.570. Notification requirements for implementation of Minnesota Rules 4626.0410, Time As Public Health Control. A food establishment intending to use the procedures provided under Minnesota Rules 4626.0410 must submit written notification of its intention to use said procedures, and receive approval from the manager of environmental health prior to implementing the provisions of Minnesota Rules 4626.0410. (99-Or-119, § 1, 10-29-99)

188.580. Emergency closure of licensed food establishment. (a) *Summary closure conditions.* The manager of environmental health may summarily close any licensed food establishment for the following reasons:

- (1) Any one of the following conditions exist on, or result from, the operation of the licensed premises:
 - a. Evidence of a sewage backup in a food establishment to such an extent that the floor in food preparation, storage or warewashing areas has been flooded.
 - b. No potable hot or cold water under pressure to a food establishment to such an extent that handwashing, warewashing, food preparation, or toilet facilities are not operational.
 - c. A lack of electricity or gas service to a food establishment to such an extent that handwashing, warewashing, food preparation, or toilet facilities are not operational.
 - d. Evidence of an ongoing food-borne illness caused by the operation of the establishment.
 - e. More than one violation within thirty (30) days of holding potentially hazardous foods between fifty (50) degrees Fahrenheit and one hundred thirty (130) degrees Fahrenheit.
 - f. Lack of an accessible, previously approved handwashing facility in the food preparation area, or three (3) violations within thirty (30) days for improper maintenance of approved handwashing facilities, such as lack of soap or single-service hand towels.
 - g. Lack of an approved and presently operable dishwashing system on-premises, where food preparation utensils and/or reusable eating utensils are used as part of the business.
 - h. The presence of gnawed or rodent contaminated (urine stained) food product.
 - i. An infestation of rodents to such an extent that one (1) live mouse or rat is observed within the premises of the food establishment or there is the accumulation of fresh mouse droppings in more than one (1) location in either the food preparation or storage areas, or the presence of fresh rat droppings in one (1) location in the food storage or preparation areas.
 - j. An infestation of cockroaches in the premises to such an extent that six (6) or more live cockroaches are observed in the food preparation area or storage area, or there is the presence of one (1) cockroach in food caused by the operation of the food establishment.
 - k. The presence of flies breeding in the licensed food establishment as shown by the presence of eggs or maggots.
 - l. The presence of any condition that poses an imminent risk of substantial harm to the public health, safety or welfare.

- (2) Lack of a license required by Title 10, Chapter 188 of the Minneapolis Code of Ordinances.
- (b) *Procedure for emergency closure.*
- (1) *Order to be issued.* If the manager of environmental health or the manager's agent, following an on-site inspection determines that any of the grounds for emergency closure exist in a licensed food establishment, an order for emergency closure may be summarily issued on such form as the manager of environmental health shall promulgate. Such order shall: Identify the licensed food establishment; describe the specific grounds upon which the closure is based; state by what time the patrons must vacate; state that a hearing on the emergency closure can be requested by owner or manager by informing the manager of environmental health or the manager's agent; and be signed by the manager of environmental health. Such order shall be served on the owner, manager or apparent person in charge of the premises who shall thereupon close the premises, which shall remain closed pending either approval of the manager of environmental health of the abatement of the condition(s) giving rise to the emergency closure, or final order of the manager of environmental health after hearing as provided in subsection (2) below.
 - (2) *Hearing.* Upon written request, a hearing to consider whether the establishment may reopen, and the conditions, if any, to be imposed for such reopening, shall be commenced no later than three (3) business days after receipt of the written request. The manager of environmental health, or the manager's agent, shall render a written decision within two (2) business days after conclusion of the hearing.
- (c) *Violation.* Any of the following is punishable as a misdemeanor:
- (1) Failure of the owner, manager or apparent person in charge to close a licensed food establishment and/or vacate the patrons from the establishment after service of an order for emergency closure.
 - (2) Failure of any person to leave a licensed food establishment subject to an order for emergency closure upon being ordered to leave by the manager of environmental health or the manager's agent. (99-Or-119, § 1, 10-29-99; 2000-Or-060, § 1, 7-14-00)

188.590. Pest control services required. The services of a licensed pest control operator shall be required when a facility has evidence of rodent or insect activity to the extent that rodent droppings are visible, or live insects are seen during an inspection. The facility shall maintain records of the pest control operator's services on file for inspection. (2003-Or-023, § 3, 2-28-03)

CHAPTER 190. MEAT AND MEAT PRODUCTS*

***Charter references:** Authority to license and regulate the sale of meat, Ch. 4, § 5(17); restrictions on location of slaughterhouses in city, Ch. 4, § 5(5).

Cross references: Meat and meat products to be sold by weight, § 152.20; requirements for advertising sale of meat, § 152.100.

State law references: Regulation of meats generally, M.S. § 31.60 et seq.

ARTICLE I. GENERALLY

190.10. Inspection required. No person shall bring or cause to be brought into the city or hold or have possession of or expose or offer for sale or sell for human food in the city, any carcass, part of carcass, meat or meat products of any pig, lamb, calf, cattle, swine, sheep or goats, unless the same shall have been duly and properly inspected before and at the time of and after the slaughter thereof and passed and found to be sound, healthful, wholesome and fit for human food and properly marked, stamped, tagged or certified to, all in conformity with and in the manner prescribed by the "Regulations Governing Meat Inspection of the United States Department of Agriculture," issued by the United States Department of Agriculture July 15, 1914, and designated for purposes of identification as B. A. I. Order 211, and the amendments to said regulations from time to time made and issued by the United States Department of Agriculture, which said regulations and amendments are hereby referred to and made a part of this chapter as fully and to the same extent as if herein set forth at large; or unless such carcass, part of carcass, meat or meat products shall have been duly inspected by the commissioner of health of the city or by one or more of the duly appointed, qualified and acting meat inspectors of the department of health, and found healthful, wholesome and fit for human food, and properly marked, stamped or tagged by the commissioner of health or by his meat inspectors, as herein provided. (Code 1960, As Amend., § 705.010)

190.20. Authority to inspect and condemn. The commissioner of health shall inspect or cause to be inspected by one or more of the duly qualified inspectors of the department of health all carcasses, parts of carcasses, meats and meat product of every pig, lamb, calf, cattle, swine, sheep and goat brought into the city for sale, or held, exposed or offered for sale or sold for human food in the city, and shall determine whether or not the same is sound, healthful, wholesome and fit for human food, and the commissioner of health and the inspectors of the department of health shall order and require any and all such carcasses, parts of carcasses, meats or meat products which shall be found to be unsound, unhealthful, unwholesome or not fit for human food, to be at once condemned and destroyed for food purposes by being tanked in a sealed tank or saturated with coal oil or an oil distillate, as directed by the commissioner of health or one of the inspectors making such inspection. Upon the failure of the owner or person in charge or in possession of any such unsound, unhealthful, unwholesome or unfit carcass, part of carcass, meat or meat products, to remove or destroy the same as directed by the commissioner of health or any of the inspectors, the

commissioner of health shall forthwith cause the same to be removed from the city or to be destroyed by being tanked in a sealed tank or saturated with coal oil or oil distillate. (Code 1960, As Amend., § 705.020; Pet. No. 251270, § 15, 1-12-90)

190.30. Stamping of wholesome meat. All such carcasses, parts of carcasses, meats and meat products of any pig, lamb, calf, cattle, swine, sheep or goat brought into the city for sale, or intended or held or exposed or offered for sale or sold for human food in the city, which have not been duly inspected and passed and marked, stamped or certified to as sound, healthful, wholesome and fit for human food in conformity with and in the manner provided by said "Regulations Governing Meat Inspection of the United States Department of Agriculture" shall, upon being inspected by the commissioner of health or by one of the inspectors and found to be sound, healthful, wholesome and fit for human food, be marked and stamped with a rectangular stamp having thereon the words "Approved Division Public Health, Minneapolis Inspector No. _____" together with the figure denoting the proper number of the inspector using any such stamp. Such marking and stamping shall be done in a manner similar to that required by said regulations B. A. I. Order No. 211 and amendments thereto. (Code 1960, As Amend., § 705.030; Pet. No. 251270, § 16, 1-12-90)

190.40. Inspection at slaughterhouse. All cattle, swine, sheep and goats whose carcasses, meats or meat products are intended for sale for human food in the city which are slaughtered at slaughterhouses or places other than those operated under the supervision of the United States Department of Agriculture shall, at the time and immediately before and after slaughter thereof, whenever and wherever it is practicable and possible so to do within or without the city, be inspected by the commissioner of health or by the inspectors of the department of health acting under the supervision and direction of the commissioner of health, and if found by such inspection to be sound, healthful, wholesome and fit for human food, shall be marked and stamped as provided in section 190.30. All slaughterhouses and places where any such animals intended for sale for human food in the city are slaughtered, shall at all times be kept and maintained in a clean and sanitary condition to be approved by the commissioner of health. (Code 1960, As Amend., § 705.040; Pet. No. 251270, § 17, 1-12-90)

190.50. Inspection of meat slaughtered on farms. The carcasses of pigs, lambs, calves, cattle, swine, sheep and goats owned by any farmer and slaughtered on his farm, which can be and are identified as such, and which are shipped or brought into the city for sale as human food, before the same or any part thereof shall be exposed or offered for sale or sold in the city, shall be inspected and approved or disapproved and marked, stamped or tagged as sound, healthful, wholesome and fit for human food by the commissioner of health or one of the inspectors, at the express office or freight office when shipped into the city by railway, and when brought into the city otherwise than by railway, at some building, market or place in the city provided or designated

therefor by the city council or by the commissioner of health as a place for such meat inspection purposes. All such carcasses of cattle and swine except veal carcasses shall have the head, tongue and lymphatic glands thereof in place and undetached therefrom. No such carcass or carcasses of pigs, lambs, cattle, swine, sheep or goats, or any part or parts thereof, shall be sold, exposed or offered for sale in the city unless and until the same shall have been properly inspected, approved and marked, stamped or tagged as fit for human food by the commissioner of health or by a meat inspector of the department of health duly appointed and qualified to make such inspection. (Code 1960, As Amend., § 705.050; Pet. No. 251270, § 18, 1-12-90)

190.60--190.70. Reserved.

ARTICLE II. PRODUCT WHOLESALERS

190.80. Definitions. When used in this article, the following terms shall mean:

Meat food products: Any articles of food or articles that enter into the composition of food which are not prepared meats, but which are derived or prepared, in whole or in part, by a process of manufacture from any portion of the carcasses of cattle, swine, sheep or goats if such manufactured portion is all, or a considerable and definite portion, of the article, except such preparations as are for medicinal purposes.

Product wholesaler: Any person who processes meat and meat food products and sells such products or any part thereof at wholesale to be retailed for human consumption; provided that this article shall not apply to any such meat or meat products which are sold at retail on the premises where such food products are processed by the processor. (Code 1960, As Amend., § 706.010)

190.90. License required. No person shall manufacture, process, prepare or distribute any meat food products, or any sausage, for sale at wholesale without being licensed under this article. This license shall be known as a wholesale sausage license. (Code 1960, As Amend., § 706.020)

190.100. Application for license. Applications for licenses required by this article shall be made to the department of licenses and consumer services on forms provided by the director of licenses and consumer services. (Code 1960, As Amend., § 706.030)

190.110. When licenses expire. Licenses issued under this article shall expire on April first of each year. (Code 1960, As Amend., § 706.040; 77-Or-266, § 1, 12-30-77; 2009-Or-122, § 1, 11-13-09)

190.120. License fees. The annual fees for licenses under this article, based upon the area used in the business, computed in accordance with section 259.190 of this Code, shall be as established in Appendix J, License Fee

Schedule. (Code 1960, As Amend., § 706.050; Ord. of 10-11-74, § 1; 77-Or-147, § 1, 7-15-77; 78-Or-253, § 1, 12-8-78; 83-Or-094, § 1, 4-29-83; 86-Or-041, § 1, 3-14-86; 90-Or-014, § 1, 1-26-90; 91-Or-049, § 1, 3-29-91; 98-Or-046, § 1, 5-22-98; 2002-Or-023, § 1, 4-5-02; 2002-Or-098, § 1, 9-27-02)

190.130. Licensing, marking of vehicles. In addition to the fee required by section 190.120, the licensee shall pay an annual fee as established in Appendix J, License Fee Schedule, for each vehicle used in the licensed business. Each such vehicle shall have attached to it on each side a license plate stating "Wholesale Sausage Manufacturer or Distributor" and giving the serial number of the license. Such license tag shall be attached to the vehicle so as to be conspicuous and legible at all times. It shall be furnished by the department of licenses and consumer services. (Code 1960, As Amend., § 706.060; Ord. of 10-11-74, § 1; 77-Or-147, § 1, 7-15-77; 78-Or-253, § 1, 12-8-78; 86-Or-041, § 1, 3-14-86; 90-Or-014, § 1, 1-26-90; 91-Or-049, § 1, 3-29-91; 98-Or-046, § 1, 5-22-98; 2002-Or-023, § 1, 4-5-02; 2002-Or-098, § 2, 9-27-02)

190.140. Compliance with other regulations. Any person licensed under this article shall comply with any applicable regulations contained in Chapter 188. (Code 1960, As Amend., § 706.070)

190.150. Revocation of licenses. Any violation of this article shall be grounds for revocation of all licenses held by the violator. (Code 1960, As Amend., § 706.080)

190.160--190.170. Reserved.

ARTICLE III. HORSE MEAT*

***State law references:** Sale of horse meat, M.S. § 31.621 et seq.

190.180. Definitions. When used in this article, the following terms shall mean:

Horse meat: The flesh or other part of the body of any horse, or horses, prepared and packaged for, or prepared and processed for, sale and use as food for dogs, cats or other domestic animals only.

Packaged horse meat: Horse meat which is enclosed in an original package or carton sealed and bearing the stamp of inspection of the Bureau of Animal Industry, U.S. Department of Agriculture, or other federal, state or municipal agency having authority to inspect and approve such material.

Unpackaged horse meat: Horse meat prepared, processed, kept for sale and sold in bulk by the pound, or otherwise. (Code 1960, As Amend., § 707.010)

190.190. License required for unpackaged horse meat. No person shall process, prepare, store, offer for sale or sell unpackaged horse meat without holding a horse meat license under this article. (Code 1960, As Amend., § 707.020)

190.200. Application for license; issuance or denial. Any person desiring a license to engage in the business of selling unpackaged horse meat shall apply to the city council upon a form to be prepared by the department of licenses and consumer services. The application shall contain the name and address of the applicant; location of proposed place of business; nature of the product to be sold under the license; whether the premises in which the business is to be conducted are separate and distinct from any food or other mercantile establishment; refrigeration provided; character of the material to be sold; nature of handling; character of sales, whether in original packages or otherwise; and such other information as the department of licenses and consumer services and the commissioner of health may require. The application shall be verified, and receipt for payment of the license fee shall accompany the filing of the application. After filing of the application, it shall be presented to the city council, which may grant or deny the application. No license shall be granted unless approved by the council member of the ward in which the premises described in the application are located. (Code 1960, As Amend., § 707.030; 89-Or-175, § 1, 9-15-89)

190.210. When licenses expire. Licenses issued under this article shall expire on October first of each year. (Code 1960, As Amend., § 707.040; 2009-Or-122, § 2, 11-13-09)

190.220. License fee. The annual fee for licenses required by this article shall be thirty-five dollars (\$35.00). (Code 1960, As Amend., § 707.050; Ord. of 10-11-74, § 1; 77-Or-147, § 1, 7-15-77; 78-Or-253, § 1, 12-8-78; 86-Or-041, § 1, 3-14-86; 90-Or-014, § 1, 1-26-90; 91-Or-049, § 1, 3-29-91)

190.230. Revocation of license. Any license issued under this article may be revoked for violation of this article or for other good and sufficient cause, by the mayor or the council after at least five (5) days' written notice of hearing and opportunity to be heard. (Code 1960, As Amend., § 707.060)

190.240. Separate establishment required; use limited to pet food. No unpackaged horse meat shall be sold except in an establishment which is separate from any business devoted to the sale of human food. Such unpackaged horse meat shall be sold only as food for dogs, cats or other animals, and not for human consumption. (Code 1960, As Amend., § 707.070)

190.250. Condition of premises. The premises devoted to the sale of unpackaged horse meat, and operated under a horse meat license, shall be kept clean and sanitary. The premises shall be subject to inspection by the

commissioner of health and employees of the department of health, and shall be equipped, cared for and conducted, as regards preservation of health and prevention and suppression of disease, in substantially the manner required by Chapter 188, so far as the terms of said chapter apply. The commissioner of health, in writing at any time, may require the owner and holder of any horse meat license to comply with any of the provisions of Chapter 188, and failure to so comply shall be a violation of this article. (Code 1960, As Amend., § 707.080; Pet. No. 251270, § 19, 1-12-90)

190.260. Sale of packaged horse meat. Any person holding a horse meat license under this article, a food license under Chapter 188, or a live animal license under Chapter 68, may store, offer for sale, or sell packaged horse meat provided that the premises on which the business is conducted are located, equipped and operated in accordance with the provisions under which they are licensed. (Code 1960, As Amend., § 707.090)

190.270. Inspections. All horse meat stored, offered for sale or sold under any license shall be subject to inspection by the commissioner of health and employees of the department of health. All health and sanitary regulations prescribed in Chapter 188 shall be observed so far as applicable. In the case of a live animal license, the commissioner of health shall make such inspections of the premises as may be necessary and shall require compliance with the provisions of Chapter 68 of this Code. (Code 1960, As Amend., § 707.100; Pet. No. 251270, § 20, 1-12-90)

190.280. Original packages for retail. Packaged horse meat purchased by any licensee in an original retail package shall be sold only in such original package. None of the contents shall be removed from the original package on the licensed premises, nor mixed with any other substance and sold as human or animal food. Such packaged horse meat held for retail shall be kept in a separate compartment of a refrigerator, showcase or other container, separate from all other foods or materials and in a manner approved by the commissioner of health. (Code 1960, As Amend., § 707.110)

190.290. Bulk original packages. Packaged horse meat purchased by any licensee in bulk original packages may be sold in such packages, but if removed from the original bulk packages in a food store or live animal store, shall be handled in such a way that the material shall not come in contact with any food for human beings. It may be removed from such original bulk packages in food stores and live animal stores only for the purpose of repacking for retail sale. In such case it shall be kept in a separate refrigerator used only for such purpose, which refrigerator shall have no connection with other refrigerators used in the sale of food for human consumption. None of such material shall be mixed with any other material for human consumption. In the removal from original bulk packages and in the process of unpacking in retail original packages, separate

knives, blocks, axes and other facilities necessary in handling the same shall be used, and none of such facilities shall be used in the preparation or handling of any other food for human consumption. (Code 1960, As Amend., § 707.120)

190.300. Slaughtering horses prohibited. No person shall kill or slaughter any horse within the city limits. (Code 1960, As Amend., § 707.130)

CHAPTER 192. BREAD*

***State law references:** Limitation on municipal authority to regulate bakeries, M.S. § 31.77.

192.10. Wholesome conditions and ingredients. All bread made or procured for the purpose of sale, sold, offered or exposed for sale in the city shall be made in a clean and sanitary place, of good and wholesome flour or meal, and shall contain no deleterious substance or material. (Code 1960, As Amend., § 708.010)

192.20. Size of loaves. Every loaf of bread made or procured for the purpose of sale, sold, offered or exposed for sale in the city shall weigh one pound avoirdupois, and such loaf shall be considered to be the standard loaf in the city. Bread may also be made or procured for the purpose of sale, sold, offered or exposed for sale in half, double, triple, quadruple, quintuple or sextuple loaves, and in no other way. (Code 1960, As Amend., § 708.020)

Charter references: Authority to regulate size and weight of bread, Ch. 4, § 5(12).

192.30. Marking of loaves. Every loaf of bread made or procured for the purpose of sale, sold, offered or exposed for sale in the city shall have affixed thereon in a conspicuous place a white paper label at least one inch square and not to exceed one and one-half (1 1/2) inches square, or, if round, at least one inch in diameter and not to exceed one and one-half (1 1/2) inches in diameter, upon which label there shall be printed, in plain black type the letters and figures of which shall not be smaller than twelve-point Lining Gothic No. 520, capital letters and figures, the weight of the loaf in pound, pounds or fraction of a pound avoirdupois, whether the loaf is a standard loaf or not, and the business name and address of the maker, baker or manufacturer of the loaf. (Code 1960, As Amend., § 708.030)

192.40. Right to demand weighing; exemptions to chapter. Every maker, baker or manufacturer of bread, every proprietor of a bakery or bakeshop and every seller of bread shall keep scales and weights suitable for the weighing of bread, in a conspicuous and convenient place in his bakery, bakeshop or store,

and shall, whenever requested by the buyer and in the buyer's presence, weigh the loaf or loaves of bread sold or offered for sale. The provisions of this chapter shall not apply to crackers, pretzels, biscuits, buns, scones, rolls or loaves of fancy bread weighing less than one-fourth of a pound avoirdupois, or to what is commonly known as "stale bread," provided the seller shall at the time of sale expressly state to the buyer that the bread so sold is stale bread. (Code 1960, As Amend., § 708.040)

192.50. Responsibility for enforcement. It shall be the responsibility of the department of health of the city to enforce the provisions of this chapter.

192.60. Confiscation of loaves. Any loaf or loaves of bread made, baked or offered or exposed for sale contrary to the provisions of this chapter shall be subject to confiscation, and the inspector or other officer of the city who discovers any violation of any of the provisions of this chapter shall order and cause all such bread to be confiscated and turned over to the proper authorities to be used for the benefit of the poor of the city. (Code 1960, As Amend., § 708.060)

CHAPTER 194. EGGS*

***State law references:** Regulation of eggs generally, M.S. Ch. 29.

194.10. Sale of unfit eggs prohibited. No person shall sell, offer or expose for sale, or have in his possession for sale, eggs for human consumption that are inedible or adulterated. Eggs that are filthy, putrid, decomposed or otherwise unfit for food in whole or in part shall be deemed to be adulterated. Eggs which contain black rots, white rots, mixed rots (addled eggs, sour eggs with green white, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks at or beyond the blood ring stage), or any other eggs that are filthy, decomposed or putrid shall be deemed to be inedible. (Code 1960, As Amend., § 709.010)

State law references: Sale of adulterated or inedible eggs, M.S. § 29.24.

194.20. Candling required. Every person who purchases eggs from the producer for sale at retail or wholesale shall candle all eggs offered to him, and shall refuse to buy eggs that are inedible or adulterated as defined above. Before sales are made to either retailers or consumers, the vendor or handler of eggs negotiating or transacting such sales to said parties shall candle his eggs, and in the process of so doing eliminate all inedible and adulterated eggs. No tolerance of inedible or adulterated eggs shall be permitted in the sale of eggs to retailers or to consumers. (Code 1960, As Amend., § 709.020)

194.30. Invoices required. Every person selling eggs to retailers shall furnish to such retailers an invoice showing his name and address, date of sale and grade of eggs, if officially graded, or words "Ungraded Eggs" if not officially graded. A copy of such invoice shall be kept on file by the person selling, and the retailer, in their respective places of business for a period of sixty (60) days, and shall be available and open for inspection at all reasonable times to the inspectors of the department of licenses and consumer services. (Code 1960, As Amend., § 709.030; 89-Or-176, § 1, 9-15-89)

194.40. Sale of graded eggs; marking. Any person exposing or offering for sale to a consumer graded eggs, other than his own production, shall give notice of the grade of eggs in the following manner:

- (a) If graded eggs are exposed or offered for sale in cartons, bags or other containers, such cartons, bags or other containers shall be plainly and conspicuously marked in type not smaller than one-half inch in height, with the exact grade.
- (b) If graded eggs are offered or exposed for sale in bulk, there shall be placed among or adjacent to such eggs a placard bearing the grade of such eggs in type not smaller than one-half inch in height. (Code 1960, As Amend., § 709.040)

State law references: Grading of eggs, M.S. § 29.23.

194.50. Sale of ungraded eggs; marking. Any person exposing or offering for sale to a consumer eggs, other than his own production, which are not sold under grade, shall label the same "Ungraded Eggs."

- (a) If ungraded eggs are offered for sale in cartons, bags or other containers, there shall be plainly and conspicuously marked on each carton, bag or other container the words "Ungraded Eggs" which shall be in type not smaller than one-half inch in height.
- (b) If ungraded eggs are offered or exposed for sale in bulk, there shall be plainly and conspicuously among or closely adjacent to such eggs a placard which shall bear the words "Ungraded Eggs" in type not smaller than one-half inch in height. (Code 1960, As Amend., § 709.050)

194.60. Advertisement of grade. Any advertisement of eggs by grade, or as "Ungraded Eggs," at a given price shall plainly and conspicuously indicate the grade or the words "Ungraded Eggs." The grade designation, or the words "Ungraded Eggs" shall not be abbreviated. The use of the term "fresh" or any other term of similar import shall not be deemed to be a substitute for grade designation. (Code 1960, As Amend., § 709.060)

194.70. Misleading advertisements. No person shall sell, offer for sale, or advertise for sale, eggs for human consumption if the package containing them, or the label thereon, or any advertising accompanying them, shall bear any

statement or device which may be false or misleading in any particular. (Code 1960, As Amend., § 709.070)

194.80. False statement as to freshness. No person shall sell, offer for sale, or advertise for sale, any lot of eggs under the term "Fresh Eggs," or any other word or description of similar import, if such statement or term is false or misleading. (Code 1960, As Amend., § 709.080)

194.90. Official grades declared. The official consumer grades of eggs sold, or offered for sale, or advertised for sale, for human consumption shall be as follows:

- (a) *Consumer Grade A Jumbo.* Eggs of which at least eighty (80) per cent are Grade A quality, and the balance Grade B quality. Minimum net weight per dozen of this grade shall be thirty (30) ounces; minimum net weight per thirty (30) dozen, fifty-six (56) pounds; minimum net weight for individual eggs at rate per dozen, twenty-nine (29) ounces. This shall be an optional grade provided the eggs were graded "Grade A Jumbo" as a purchase grade, and such eggs may also be graded "Grade A Large."
- (b) *Consumer Grade A Large.* Eggs of which at least eighty (80) per cent are A quality, and the balance B quality. Minimum net weight per dozen for this grade shall be twenty-four (24) ounces; minimum net weight per three hundred (300) dozen, forty-five (45) pounds; minimum net weight for individual eggs at rate per dozen, twenty-three (23) ounces.
- (c) *Consumer Grade A Medium.* Eggs of which at least eighty (80) per cent are A quality, and the balance B quality. Minimum net weight per dozen for this grade shall be twenty-one (21) ounces; minimum net weight per thirty (30) dozen, forty (40) pounds; minimum net weight for individual eggs at rate per dozen, twenty (20) ounces.
- (d) *Consumer Grade A Small.* Eggs of which at least eighty (80) per cent are A quality, and the balance B quality. Minimum net weight per dozen for this grade shall be eighteen (18) ounces; minimum net weight per thirty (30) dozen, thirty-four (34) pounds; minimum net weight for individual eggs at rate per dozen, fifteen (15) ounces.
- (e) *Consumer Grade B.* Eggs of which at least eighty (80) per cent are B quality, and the balance C quality. Minimum net weight per dozen for this grade shall be twenty-four (24) ounces; minimum net weight per thirty (30) dozen, forty-five (45) pounds; minimum net weight for individual eggs at rate per dozen, twenty-three (23) ounces.
- (f) *Consumer Grade C.* Eggs which are C quality. Minimum net weight per dozen for this grade shall be eighteen (18) ounces; minimum net weight per thirty (30) dozen, thirty-four (34) pounds; minimum net weight for individual eggs at rate per dozen, fifteen (15) ounces. (Code 1960, As Amend., § 709.090)

194.100. Grading not required. Nothing in this article shall be construed to

require the grading of eggs. (Code 1960, As Amend., § 709.110)

194.110. Enforcement of article. The department of licenses and consumer services shall enforce the provisions of this chapter. (Code 1960, As Amend., § 709.100)

CHAPTER 196. WATER FOR DRINKING AND DOMESTIC PURPOSES*

***Cross references:** Water generally, Title 19; polluted water wells, Ch. 215.

196.10. Standard of purity required. All water furnished for sale or sold for drinking, household or domestic uses and purposes shall be of the standard of purity, both chemical and bacteriological, adopted by the department of health, to wit: All well, spring, distilled and artesian well water shall be free from the presence of the colon bacillus and all other pathogenic bacteria; and the composition of all said waters shall be substantially as follows:

TABLE INSET:

	Parts per 100,000	
Total solid residue....	20.	60.
Chlorine..	0.2	0.5
Free ammonia.003	.005
Albuminoid ammonia.002	.006
Oxygen absorbed in 10 minutes at 100 degrees C.....	.010	.050
Nitrogen as nitrates....	None	.100
Nitrogen as nitrites....	None	

(Code 1960, As Amend., § 712.010)

196.20. Furnishing nonconforming water. No person shall furnish for sale or sell any water or waters for drinking, household or domestic purposes that is not of the standard of purity, both chemical and bacteriological, hereinabove required. (Code 1960, As Amend., § 712.020)

196.30. Materials for delivery containers. All containers in which water is furnished and sold for drinking, household and domestic purposes shall be of stainless steel, monel metal, glass, plastic, coated paper cartons or such other container material or lining as may be approved by the commissioner of health. Surfaces in contact with water shall be of a nontoxic material and shall not contribute to the adulteration of the water itself. (Code 1960, As Amend., § 712.030)

196.40. Cleansing of containers. All tanks, pails and bottles used in the sale and delivery of water as aforesaid shall be cleansed at the place of business of the person using the same, with hot water or steam each and every time they are used or refilled, and no corks shall be used a second time in any of such bottles; and all such tanks and bottles shall be filled and refilled at the spring or central plant of the person using the same for the purposes aforesaid, and no such bottles shall be filled or refilled from any delivery vehicle or tank thereon until such bottles have been first cleaned with hot water or steam. (Code 1960, As Amend., § 712.040)

196.50. Bottle cases to be covered; labeling. All bottle cases used in such delivery of water shall be covered, and all such cases and bottles shall be marked with a legible stamp, tag or impression bearing the name of the person using and distributing the same and his place of business, including the name of street and street number. (Code 1960, As Amend., § 712.050)

196.60. Sanitary requirements. All persons engaged in the sale and delivery of water for drinking, household and domestic uses shall keep their respective bottling works, buildings or other places of business wherein water is bottled or kept for sale, and any and all coolers so-called furnished to customers, in a clean, wholesome and sanitary condition; and no person shall use any of the bottles so used in such sale and delivery of water for any other purpose whatever. (Code 1960, As Amend., § 712.060)

196.70. Inspections. The commissioner of health and assistants and deputies of the commissioner of health may stop and inspect or cause to be inspected any vehicle or tank thereon used by any person in delivering water for drinking, household or domestic purposes for the purpose of enforcing the provisions of this chapter and may inspect any and all buildings and plants where water is prepared, distilled or bottled for the uses and purposes hereinabove mentioned. (Code 1960, As Amend., § 712.070; Pet. No. 251270, § 21, 1-22-90)

CHAPTER 198. SOFT DRINK MANUFACTURE AND STORAGE*

*State law references: Regulation of nonalcoholic beverages, M.S. Ch. 34.

198.10. License required. No person shall manufacture, or maintain an establishment for the purpose of manufacturing, storing or otherwise dealing at wholesale in beverages derived wholly or in part from cereals, fruits or substitutes thereof, carbonated waters, or beverages carbonated and noncarbonated, artificial mineral waters, soft drinks, essences for the manufacture of beverages or syrups, without being licensed under this chapter. (Code 1960, As Amend., § 714.010)

State law references: State license required, M.S. § 34.02.

198.20. Application for license. Any person desiring a license under this chapter shall file a written application for such license. The application should state the name and place of residence of the applicant, the name and place of the owner of the premises, and the location of the place where the applicant desires to manufacture or deal at wholesale in such beverages. Upon the filing of such application for a license, it shall be referred to the commissioner of health for investigation, report and recommendation. After the report and recommendation of the commissioner of health have been received by the director of licenses and consumer services, the license may be granted or denied pursuant to section 259.30. (Code 1960, As Amend., § 714.020; 2005-Or-112, § 1, 11-18-05)

198.30. License fees. The annual fee for a license under this chapter shall be as established in Appendix J, License Fee Schedule, for each separate establishment. (Code 1960, As Amend., § 714.030; 77-Or-147, § 1, 7-15-77; 78-Or-153, § 1, 12-8-78; 80-Or-063, § 1, 4-25-80; 83-Or-095, § 1, 4-29-83; 86-Or-041, § 1, 3-14-86; 90-Or-014, § 1, 1-26-90; 91-Or-049, § 1, 3-29-91; 98-Or-046, § 1, 5-22-98; 2002-Or-023, § 1, 4-5-02; 2002-Or-099, § 1, 9-27-02)

198.40. When licenses expire. Licenses issued under this chapter shall expire on May first of each year. (Code 1960, As Amend., § 714.040; 2009-Or-123, § 1, 11-13-09)

198.50. Contents and posting of license. Each license shall be conspicuously posted on the licensed premises, and shall state the name of the licensee, the address of the licensed premises, and the date of the last inspection by the commissioner of health. (Code 1960, As Amend., § 714.050)

198.60. License revocation. Any license issued under this chapter may be

revoked at any time by the mayor or city council. (Code 1960, As Amend., § 714.060)

198.70. Sanitary requirements at plant. All establishments licensed hereunder shall conform to the plumbing laws of the state and city and shall be kept clean and sanitary. All floors of the bottling and manufacturing rooms shall be of concrete or tile and properly trapped and drained and kept in good repair. All walls and ceilings shall be painted and kept clean. All rooms shall be adequately lighted and ventilated and screened during the season of fly prevalence. No substance shall be manufactured or stored in any stable, room used for sleeping or living purposes or in direct communication with any such stable or room, or with a water closet compartment except when such water closet is enclosed with a suitable and properly lighted and ventilated vestibule. There shall be a wash bowl and towel for employees, and after leaving closets, employees shall wash their hands. No cat, dog or other animal shall be allowed in the rooms of the building. Bottles shall not be removed from any dwelling where a communicable disease exists or has existed until permission is given by the commissioner of health or one of the assistants of the commissioner of health. No person with a communicable disease nor any "disease carrier" shall be employed in an establishment licensed under this chapter. (Code 1960, As Amend., § 714.070; Pet. No. 251270, § 22, 1-12-90)

State law references: Regulations governing sanitation, M.S. § 34.09.

198.80. Sanitary methods required. Materials and equipment used for the manufacture of soft drinks shall be kept in a sanitary manner and shall be handled so as to avoid contamination. All water used in the manufacture of soft drinks shall be approved by the commissioner of health or his assistants. All bottles shall be thoroughly washed and sterilized before filling in a manner approved by the commissioner of health or his assistants. Brushes must be used in cleaning bottles, and after brushing, the bottles must be rinsed in clean water. Spring stoppers are prohibited. In drawing carbonated water from the carbinator to the bottling table, a blocked tinned pipe must be used. No material or equipment used for the manufacture of drinks shall be composed of or made either wholly or in part of brass, lead, copper or other metallic substances that are or will be affected by a liquid used therein, so that dangerous or deleterious compounds may be formed therein or thereby. No harmful material shall be added to the substance of the drink or incorporated in the bottle or cap. (Code 1960, As Amend., § 714.080)

198.90. Capping. All caps and corks must be kept in such a way as to remain clean. When the finger is used in placing caps in machinery, a sanitary covering must be worn upon the finger. (Code 1960, As Amend., § 714.090)

198.100. Labeling; ingredients. Each bottle must contain a crown or label stating the name and address of the manufacturer and the quantity of contents,

or the same must be blown in the bottle. Artificial products made in imitation of natural food products must be so branded on the crown, label or bottle. The amount of benzoate of soda must not exceed one-tenth of one per cent, and the amount and chemical name of any preservative must be stated on the label, crown or bottle. Preservatives not permitted by the state dairy and food law are prohibited. Use of any acid other than citric, tartaric, phosphoric, lactic, and malic acids must be stated on the crown, label or bottle. All syrups shall have no less than eight (8) pounds of sugar to a gallon of water, and no less than one ounce of this mixture shall be used to eight (8) ounces of the finished product. Other forms of sweetener must be stated on the label together with the percentage. No poisonous or harmful materials shall be added to the substance of the drink or incorporated in the bottle or cap. (Code 1960, As Amend., § 714.100)

198.110. Unwholesome beverages. No person shall bring in or cause to be brought into the city or have or hold in his possession for the purpose of sale any beverages that are harmful, unclean and unwholesome or have been manufactured in unclean and unsanitary conditions, or whose constituents are not displayed upon the label if they do not meet with the above standard. The inspector at his discretion may place a tag upon any beverage, equipment, material or substance used for, about, or in the manufacture of beverages that he may have cause to believe harmful, contaminated, dirty or rusty, or unfit for human consumption or in violation of this chapter. Such tag shall be marked "Held for Investigation." No person shall remove such material or substance from the place retained or shall remove such tags from any material or substance. The presence in any part of the establishment of apparatus or substance for the manufacture of beverages shall be prima facie evidence of intended use. (Code 1960, As Amend., § 714.110)

CHAPTER 200. MILK AND DAIRY PRODUCTS*

***Charter references:** Authority to regulate inspection of milk, Ch. 4, § 5(23).

State law references: Dairy products, M.S. Ch. 32.

ARTICLE I. GENERALLY

200.10. Public health service ordinance adopted. The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products sold for ultimate consumption within the jurisdiction of the city; the inspection of dairy herds, dairy farms and milk plants; the issuing and revocation of permits and/or licenses to milk producers, haulers, owners of receiving stations, cottage cheese plants, cottage cheese packaging plants, pasteurization plants, milk distributors and vehicles used in the transportation of milk and milk products; definition of milk and milk products, milk

producers and pasteurization; prohibition of the sale of adulterated and misbranded milk and milk products; provision for the construction of dairy farms; milk receiving stations, and milk plants; the enforcement of the terms and requirements of this article; and the fixing of penalties hereunder, shall all be regulated in accordance with the provisions of Part II of the Grade A Pasteurized Milk Ordinance, 1978, recommendations of the United States Public Health Service, as the same shall be from time to time amended, including all footnotes thereof. Three (3) certified copies of said Grade A Pasteurized Milk Ordinance, 1978, recommendations of the United States Public Health Service, as the same shall be from time to time amended, shall be kept on file in the office of the city clerk and shall be made available upon request for use within said office to members of the public; provided that the following definitions be added thereto:

B-8. *Cottage cheese*. Cottage cheese is that product defined in the Code of Federal Regulations, Title 21, Section 133.128.

B-9. *Dry curd cottage cheese*. Dry curd cottage cheese is that product defined in the Code of Federal Regulations, Title 21, Section 133.129.

B-10. *Lowfat cottage cheese*. Lowfat cottage cheese is that product defined in the Code of Federal Regulations, Title 21, Section 133.131.

The term "milk" when used in these definitions means fresh, sweet milk, produced by healthy cows and which has been pasteurized before or during the manufacture of nonfat dry milk. It shall not contain buttermilk, preservative, neutralizing agents nor any other chemical, except vitamins as approved in the ordinance.

The terms "cottage cheese," "dry curd cottage cheese" and "creamed lowfat cottage cheese" shall be added to the first paragraph of definition N, Section 1 of the aforesaid Grade A Pasteurized Milk Ordinance, 1978, recommendations of the United States Public Health Service which has been adopted hereby. (Code 1960, As Amend., § 730.010; 80-Or-212, § 1, 9-12-80)

200.20--200.30. Reserved.

ARTICLE II. LICENSES, CERTIFICATES AND PERMITS

200.40. Reserved.

Editor's note: Section 1 of 90-Or-204, adopted August 10, 1990, repealed § 200.40. Prior to such repeal, § 200.40 pertained to issuance of certificate of inspection and was derived from Code 1960, as amended, § 731.010, and Pet. No. 251270, § 23, adopted Jan. 12, 1990.

200.50. Distributors' licenses. No person shall sell within the city any pasteurized milk or milk products unless such milk or milk products have been pasteurized in a pasteurization plant for which a certificate of inspection has been secured. No person shall process the same within the city without first having obtained a milk pasteurization license.

- (a) Application for a milk distributor's license shall be made to the department of licenses and consumer services. Such application shall be accompanied by the fee or fees herein set forth and established in Appendix J, License Fee Schedule, payable to the city finance officer. The license shall be issued or denied pursuant to section 259.30.
- (b) When any license is issued for a time less than the full license period, the license fee shall be prorated as provided by law.
- (c) The department of licenses and consumer services shall keep a register of each license issued, the number thereof, the name of the person to whom the same is issued, the date when issued, and date of expiration, the amount paid therefor, and such other data as may be required.
- (d) At the time of application for a milk distributor's license, in addition to the regular application form required by the department of licenses and consumer services, a form prescribed and furnished by the commissioner of health shall be filled in by the applicant and shall become a part of the permanent records of the health department. Such form shall be submitted to the department of licenses and consumer services and forwarded directly, upon submission, to the commissioner of health. (Code 1960, As Amend., § 731.020; Ord. of 10-11-74, § 1; 77-Or-147, § 1, 7-15-77; 80-Or-064, § 1, 4-25-80; 83-Or-096, § 1, 4-29-83; 86-Or-041, § 1, 3-14-86; 89-Or-177, § 1, 9-15-89; 90-Or-014, § 1, 1-26-90; 90-Or-204, § 2, 8-10-90; 91-Or-049, § 1, 3-29-91; 98-Or-046, § 1, 5-22-98; 2002-Or-023, § 1, 4-5-02; 2002-Or-100, § 1, 9-27-02; 2005-Or-113, § 1, 11-18-05; 2009-Or-124, § 1, 11-13-09)

200.60. Reserved.

Editor's note: Section 3 of 90-Or-204, adopted August 10, 1990, repealed § 200.60. Said section pertained to license fees for cottage cheese distributors and was derived from Code 1960, as amended § 731.030; an ordinance of Oct. 11, 1974; 77-Or-147, § 1, adopted July 15, 1977; 86-Or-041, § 1, adopted March 16, 1986; 86-Or-117, § 1, adopted May 23, 1986; and 90-Or-014, § 1, adopted Jan. 26, 1990.

200.70. Vehicle licenses. (a) No person shall use or operate on any public highway in the city any vehicle used for the delivery of milk, or its products, or groceries and milk, without first having obtained a license in the manner hereinafter provided, except those vehicles exempt under Minnesota Statutes. This shall not be construed to apply to any retail grocery store vehicle delivering milk, its products, or groceries and milk, to city homes or places of business during the ordinary course of the delivery system operated by the grocery store. The application for such license shall be made to the department of licenses and consumer services and shall be accompanied by the fee or fees hereinafter set forth, payable to the city finance officer. The license shall be issued or denied pursuant to section 259.30. Licenses shall be transferable from one approved vehicle to another, owned by the same owner, at any time upon the payment of the requisite transfer fee.

- (b) No license shall be issued or renewal of an issued license granted unless and

until the person applying for such license shall first execute or obtain and file with the department of licenses and consumer services, for each vehicle, a policy or policies in an insurance company authorized to do business in the State of Minnesota, insuring such person, the lessees or licensees of such person, against loss in the sum of at least twenty-five thousand dollars (\$25,000.00) for injury or death of any one person in any one accident, and (subject to said limit for one person) to a limit of not less than fifty thousand dollars (\$50,000.00) for injury or death of two (2) or more persons in any one accident, resulting from the negligent operation, ownership, use or defective condition of any such milk delivery or grocery and milk delivery vehicle. If the licensee operates more than one vehicle he may file one policy of insurance covering all such vehicles, which policy of insurance shall, however, insure or indemnify each vehicle in the amounts hereinabove stated. Every insurance policy or policies insuring milk delivery or grocery and milk delivery vehicles, in addition to the foregoing provisions, shall also contain a provision insuring such person in the sum of at least five thousand dollars (\$5,000.00) against loss or damage to the property of any person or persons in any one accident resulting from the negligent operation, ownership, use or defective condition of any such milk delivery or grocery and milk delivery vehicle.

- (c) Whenever any license is issued for a term less than the full license period, the license fee shall be prorated.
- (d) At the time any vehicle license is issued, the person to whom the license is so issued shall be furnished by the department of licenses and consumer services with one decal for each such vehicle, and such decal shall show thereon a number, the name of the city, and the year when such license expires. The licensee shall at all times display such decal conspicuously on the vehicle as prescribed by the city health department.
- (e) The department of licenses and consumer services shall keep a register of each license issued by said department, the number thereof, the name of the person to whom the same is issued, the date when issued, the date of the expiration of same, the amount paid therefor, and such other data as may be required.
- (f) For each milk delivery vehicle the annual license fee shall be as established in Appendix J, License Fee Schedule.
- (g) For each grocery and milk delivery vehicle the annual license fees shall be as established in Appendix J, License Fee Schedule.
- (h) Every licensee hereunder, and every person delivering milk or groceries and milk, shall display and keep displayed at all times in a prominent place on each outer side of any vehicle used for such deliveries, the name of the licensee which shall be printed in plain letters not less than four (4) inches in height, and keep such printed name in such condition that it may be at all times readily distinguishable. It shall be unlawful to display any name on the outside of the vehicle except that of the licensee and/or his registered trade name. (Code 1960, As Amend., § 731.040; Ord. of 10-11-74, § 1; 77-Or-147, § 1, 7-15-77; 86-Or-187, § 1, 8-8-86; 89-Or-177, § 2, 9-15-89; 90-Or-014, § 1, 1-26-90; 91-Or-049, § 1, 3-29-91; 98-Or-046, § 1, 5-22-98; 2002-Or-023, § 1, 4-5-02; 2002-Or-100, § 2, 9-27-02; 2005-Or-113, § 2, 11-18-05; 2009-Or-124, § 2, 11-13-09)

200.80. When licenses expire. Licenses issued under this chapter shall expire on February first of each year. (2009-Or-124, § 3, 11-13-09)

200.90--200.120. Reserved.

Editor's note: Sections 4--8 of 90-Or-204, adopted August 10, 1990, repealed §§ 200.80--200.120 hereof. Prior to repeal, said sections pertained to receiving station license, cottage cheese plant license, cottage cheese packaging license, certificate of inspection outside city, and compliance rating required, and were derived from Code 1960, as amended, §§ 731.050--731.076; an ordinance of Oct. 11, 1974, § 1; 77-Or-147, § 1, adopted July 15, 1977; 80-Or-065, § 1, adopted April 25, 1980; 80-Or-066, § 1, adopted April 25, 1980; 83-Or-096, § 2, adopted April 29, 1983; 86-Or-041, § 1, adopted March 14, 1986; Pet. No. 251270, § 24, adopted Jan. 12, 1990; and 90-Or-014, § 1, adopted Jan. 26, 1990.

200.130--200.170. Reserved.

Editor's note: Sections 3--7 of 89-Or-177, adopted Sept. 15, 1989, repealed §§ 200.130--200.170 hereof. Prior to repeal, said sections pertained to Grade A milk inspection fees, determination of weight, reports required, payment of inspection fees, and inspection of books, and were derived from Code 1960, as amended, §§ 731.080--731.120; Ordinance of Dec. 12, 1975, § 1; and 77-Or-147, § 1, adopted July 15, 1977.

CHAPTER 201. PUBLIC MARKETS

201.10. Definitions. As used in this chapter, the following terms shall mean:

Market manager: The designated contact person responsible for the supervision, management, and control of the public market.

Public market: A defined place regulated by the city for the selling and buying of farm products and other market related products. (2004-Or-036, § 1, 4-16-04; 2010-Or-011, § 1, 4-2-10)

201.20. License required. It shall be unlawful for any person to conduct or operate a public market without obtaining a license therefor. (2004-Or-036, § 1, 4-16-04)

201.25. Food market manufacturer and food market distributor license required. It shall be unlawful for any person to conduct or operate as a food market distributor or a food market manufacturer without obtaining a license therefor. (2004-Or-036, § 1, 4-16-04)

201.30. License application. Each applicant for a license to operate a public market shall file an application with the department of licenses and consumer services on forms provided by the department. The director of licenses and consumer services may require such information on the application as the director considers reasonable and necessary, including:

- (1) The full name, date of birth, and current residence address of the applicant.
- (2) If the applicant is a partnership or firm, the name, place and date of birth, residence address of all partners or persons interested therein; if a corporation, the state of incorporation, the name, place and date of birth, of all persons named in the corporation, and shall state whether or not any person named in the application has ever been convicted of any crime.
- (3) The proposed location of the public market and the dates on which and the hours during which the market will be operated.
- (4) A scaled diagram showing the site plan and layout of the market stalls with an indication of the portion thereof intended to be used in the conduct of such business pursuant to the license.
- (5) A list of all food market manufacturers and food market distributors at the public market.
- (6) The market manager's name, residence address, and telephone contact number. (2004-Or-036, § 1, 4-16-04)

201.40. License fee and when licenses expire. The licensee of a public market shall pay an annual license fee as established in Appendix J, License Fee Schedule. Licenses issued under this chapter shall expire on April first of each year. (2004-Or-036, § 1, 4-16-04; 2009-Or-125, § 1, 11-13-09)

201.50. License adverse action. An application or approved license may be denied, revoked, suspended, or not renewed, after notice and an opportunity for a hearing thereon, for any of the following reasons:

- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
- (2) The premises is operated in such a manner as constituting a public nuisance per this Code or Minnesota Statute 609.74 and 609.745.
- (3) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to building maintenance, fire prevention, and health or safety.

The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations. (2004-Or-036, § 1, 4-16-04)

201.60. Duties of market manager. The market manager shall prepare rules and regulations relative to the care and conduct of said public market and the placing of vehicles therein, preservation of order, prevention and removal of obstructions and nuisances, removal of vagrants and disorderly persons or persons found loitering therein, and the seizure of unhealthy, unwholesome or

noxious substances. The market manager or designee is responsible for the operation of the public market and must be present when the market is open to the public. The market manager shall:

- (1) Complete an environmental health plan review and pay the applicable plan review fee as indicated in Appendix J.
- (2) Provide fully operational and stocked toilet facilities shall be available to all customers and vendors.
- (3) Provide sufficient potable water to meet the needs of each vendor.
- (4) Insure that all market food distributors and market food manufacturers are located on a hard, smooth and easily cleanable surface.
- (5) Insure prompt removal of all trash and debris from the public right of way within one hundred (100) feet of the public market and in accordance with the Code of Ordinances. (2004-Or-036, § 1, 4-16-04)

201.70. Health requirements. A food market distributor or food market manufacturer shall meet the following requirements in addition to any already noted in Chapters 186 and 188:

- (1) Completion of an environmental health plan review and pay the applicable plan review fee as indicated in Appendix J.
- (2) Food market manufacturer shall complete an approved two (2) hour food handler safety class. (2004-Or-036, § 1, 4-16-04)

201.80. Food sampling. Market food distributors and market food manufacturers may provide food samples in accordance with the requirements of the Code, including Chapters 186 and 188. Samples shall only be offered in individual portions and served with individual paper napkins, souffle cups or toothpicks. Samples may be distributed with tongs or a person wearing disposable gloves. (2004-Or-036, § 1, 4-16-04)

CHAPTER 202. MUNICIPAL MARKET*

***Editor's note:** Ord. No. 2004-Or-037, § 1, adopted April 16, 2004, repealed, Ch. 202, in its entirety, which pertained to public market. Ord. No. 2004-Or-038, § 1, adopted April 16, 2004, added provisions designated as a new Ch. 202 to read as herein set out. See also the Code Comparative Table.

202.10. Definitions. As used in this chapter, the following terms shall mean:

Producer: Any person actually engaged in the business of producing farm products on land owned or leased by such person or which such person has been permitted to use, or a member of the family or agent of such person or an employee working on the farm, orchard or garden of such person.

Municipal market: A city owned and regulated place together with the buildings thereon designated in this chapter for the selling and buying of farm products and other market related products. (2004-Or-038, § 1, 4-16-04)

202.20. License required. It shall be unlawful for any person to conduct or operate a municipal market without obtaining a license therefor. License shall be obtained by the lessee to operate a municipal market. (2004-Or-038, § 1, 4-16-04)

202.30. Food market manufacturer and food market distributor license required. It shall be unlawful for any person to conduct or operate as a food market distributor or a food market manufacturer without obtaining a license therefor. (2004-Or-038, § 1, 4-16-04)

202.40. License application. Each applicant for a license to operate a municipal market shall file an application with the department of licenses and consumer services on forms provided by the department. The director of licenses and consumer services may require such information on the application as the director considers reasonable and necessary, including:

- (1) The full name, date of birth, and current residence address of the applicant.
- (2) If the applicant is a partnership or firm, the name, place and date of birth, residence address of all partners or persons interested therein; if a corporation, the state of incorporation, the name, place and date of birth, of all persons named in the corporation, and shall state whether or not any person named in the application has ever been convicted of any crime.
- (3) The proposed location of the municipal market and the dates on which and the hours during which the market will be operated.
- (4) A scaled diagram showing the site plan and layout of the market stalls with an indication of the portion thereof intended to be used in the conduct of such business pursuant to the license.
- (5) A list of all vendors at the municipal market.
- (6) The market manager's and designee's names, residence addresses, and telephone contact numbers. (2004-Or-038, § 1, 4-16-04)

202.50. License fee and when licenses expire. The licensee of a municipal market shall pay an annual license fee as established in Appendix J, License Fee Schedule. Licenses issued under this chapter shall expire on April first of each year. (2004-Or-038, § 1, 4-16-04; 2009-Or-126, § 1, 11-13-09)

202.60. License adverse action. An application or approved license may be denied, revoked, suspended, or not renewed, after notice and an opportunity for

a hearing thereon, for any of the following reasons:

- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
- (2) The premises is operated in such a manner as constituting a municipal nuisance per this Code or Minnesota Statute 609.74 and 609.745.
- (3) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to building maintenance, fire prevention, and health or safety.

The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations. (2004-Or-038, § 1, 4-16-04)

202.70. Established. That tract of land described as Lot 1, Block 3, Glenwood Renewal Subdivision No. 2, originally acquired by the city in condemnation proceedings No. 27 and No. 28, for a site for a municipal market, with such additions and extensions as may hereafter be made thereto, is designated and established as the municipal market of the city, for the barter and sale of vegetables, fruits, plants, cut flowers and related market products, and any other article of farm produce, subject to all the regulations and provisions of this chapter and to such other rules and regulations adopted in the manner herein provided. (2004-Or-038, § 1, 4-16-04)

202.80. Sale of items other than foodstuffs. Sale of handicraft and works of art shall be permitted in surplus space in the municipal market during the hours established for the operation of the market, if the space needs of the aforementioned commodities have been satisfied. Such space shall be allocated in the order of making application therefor. (2004-Or-038, § 1, 4-16-04)

202.90. Position of market manager created; supervision duties. (a) There shall be a market manager who shall, under the direction of the city engineer, have the supervision, management and control of said municipal market. The market manager may be appointed a special police officer by the mayor to exercise police powers within the municipal market and the territory adjoining and surrounding said market, as may be defined in the order of appointment under Section 3 of Chapter VI of the Charter.

(b) If the city shall enter into a contract with any individual, corporation or association, for the operation of the market for the city, the market manager shall be appointed by and be an employee of said individual, corporation or association; but the appointment must be approved by the city engineer who will hold the individual, corporation or association together with their appointed market manager responsible for the orderly operation of the market in conformity with the said contract and this code. (2004-Or-038, § 1, 4-16-04)

202.100. Applications for stalls. Forms of applications for the right to lease any stall or stalls, or for a permit to use any stall or stalls, shall include a clause by which the applicant for said lease or permit agrees to abide by each and all of the provisions of this chapter and all rules and regulations promulgated as provided herein, to furnish under oath, if desired, such information with reference to applicant's address, character, nature and extent and location of applicant's business, the names and amounts of the products that the applicant produces, or which the applicant sells on the municipal market, the period when the applicant comes to the municipal market, and such other data as may be deemed necessary for the protection of the public welfare and the proper administration of the municipal market; and to consent to immediate cancellation of any lease or permit by the market manager and to summary ejection by the market manager within twenty-four (24) hours after such cancellation of any lease or permit. No person shall use or occupy any stall or other space in said municipal market without first paying the rental herein provided. (2004-Or-038, § 1, 4-16-04)

202.110. Rentals. (a) Upon recommendation of the city engineer, the city council shall fix from year to year the length of the market season, the market fees and stall rentals, service charges, and any market concession rentals. When the market is operated under contract with an individual, corporation or association, the market season and market fees shall be fixed by the individual, corporation, or association subject to the approval of the city engineer and review of the council from time to time. The market manager shall assess and collect such fees and rentals from all persons who occupy such stall spaces on the municipal market for selling purposes. In recommending stall rentals, the city engineer may classify the stall spaces, both underneath and outside of market sheds, according to desirability of location and other factors affecting their value, and different charges may be made for such different classes of stalls. In order to better utilize the selling spaces on the market, the market manager may rent a single stall to two (2) or more persons under adequate rules and regulations, and in such case a fixed scale of reduced rentals may be made to apply. Each year the city engineer shall file with the city finance officer a list of the classes of stalls on the municipal market and the stall numbers which make up such class, together with the rental charges for the stalls, service charges and concession rentals which have been fixed by the city council.

(b) In assigning market stalls on a seasonal basis, the market manager may separate vendors into classes according to the kinds of products which they sell or the periods during which they come to the municipal market, or both, and assign certain market sheds or certain sections of such sheds to certain classes of vendors, in such a way that the best interests of the market will be served. Unless it is desirable to transfer a person from one stall to another, in order to place the person with the proper class, a person who rents a stall one year shall have the renewal of that stall for the next year provided the person has complied with the provisions of this chapter and the market rules a regulation. (2004-Or-038, § 1, 4-16-04)

202.120. Market available to producers. (a) All farm producers and market gardeners who raise their own produce shall have first priority to the use of the municipal market on terms of equality and without discrimination, and subject to the provisions of this chapter. They shall be allowed to sell on the municipal market wholesome fresh, canned, dried or prepared food products of their own production or preparation; also certain other products of their farm, garden, greenhouse, apiary, or of the forest, such as flowers, plants, nuts, herbs, hay, straw, Christmas trees and greens; provided, that in so doing they comply with all of the provisions of this Code and other applicable laws covering the handling and distribution of edible food products.

(b) When a producer is unable temporarily to come to market, or when the quantity of the marketable products is too small to warrant the producer to come, the producer may send the products to municipal market by a neighboring producer; provided, that the latter acts only in the capacity of an agent of the first producer and does not purchase the products involved and provided further, that the producer involved secure from the market manager a permit covering such action. Before issuing such permit, the market manager may require, under oath, such information from the applicant as may be deemed necessary. (2004-Or-038, § 1, 4-16-04)

202.130. Open hours. The municipal market shall be open for business during such hours as shall be determined by the market manager with the approval of the city engineer, so as to best serve the reasonable needs of the farmers, market gardeners and the public. (2004-Or-038, § 1, 4-16-04)

202.140. Hours for vehicles. In order that the market may be properly cleaned, the market manager may fix in the market rules and regulations the hours during which all or part of the municipal market shall be cleared of vehicles, and during such prescribed hours no person shall drive a vehicle into the municipal market in violation of such rules, or refuse to remove his vehicle from the market promptly upon the order of a market employee. (2004-Or-038, § 1, 4-16-04)

202.150. Display of produce; removal of unwholesome produce. All vegetables, provisions or produce offered for sale in the municipal market shall be placed in such manner as the market manager may direct. If any such vegetables, provisions or produce shall be deemed by the market manager to be unwholesome or unfit to be consumed or used, the market manager shall order the owners thereof to remove same immediately from the municipal market; and if such owner shall neglect or refuse to obey such order, the market manager shall remove same without delay. Failure to obey is just cause for revocation of permit. (2004-Or-038, § 1, 4-16-04)

202.160. Removal from market; disposal of refuse. The occupant of such stall or space in the municipal market, within a half hour after the time for the closing of the market, shall cause his produce, wares, and vehicle to be removed

from the market and shall cause his stall to be thoroughly cleaned and all refuse or vegetable rubbish to be removed from the market and disposed of in accordance with directions of the market manager, unless, in case of emergency, the market manager shall otherwise direct. (2004-Or-038, § 1, 4-16-04)

202.170. Receipts to be given; identification of sellers. In order that business conducted on the municipal market may be facilitated, and disputes, mistakes, dishonesty and fraud eliminated so far as possible, the market manager may and shall for all nonfarm products, require, through market rules and regulations, that sellers deliver to buyers approved sales slips, receipts and contracts for future delivery covering any or all business transactions involving goods displayed for sale, offered for sale or sold on the municipal market, or covering goods offered by sellers on the municipal market for future delivery. The market manager may also require through market rules and regulations that every person who sells on the municipal market display an approved sign in an approved space in connection with the seller's stall space or on the seller's truck, giving the name and address and other identification of the producer or dealer operating in the stall space. (2004-Or-038, § 1, 4-16-04)

202.180. Eating facilities. (a) The city council may conduct on the market, eating places which will provide the buyers and sellers on the market with suitable accommodations of this nature; or, in its discretion, it may rent such facilities, under such rules and regulations as it may prescribe, to a private party. When such action is made effective, thereafter no other person shall display, offer for sale on the market grounds or in buildings thereon any prepared foods or beverages designed for the immediate consumption of the buyers and sellers on the market. It shall be understood that the refectory privileges on the market, whether operated by the city or by a private party, carry with them the exclusive right to sell such foods and beverages on the market.

(b) Provided, that the city council may permit any duly licensed caterer to vend his goods, wares and merchandise in a place or stall properly assigned to such caterer by the city engineer acting through the market manager and upon such conditions and regulations as the city engineer shall impose and direct. Any person desiring to so operate shall make application to the market manager for such a permit and shall pay an appropriate fee for such permit. (2004-Or-038, § 1, 4-16-04)

202.190. Shoplifting. No person shall remove any products, containers for products, or any other property from the truck of, or the display space allotted to, any person who sells on the municipal market without previously having purchased and paid for, or without previously having made arrangements satisfactory to the seller for the purchase or transfer of such products, containers or other property. (2004-Or-038, § 1, 4-16-04)

202.200. Acts prohibited generally. No person shall willfully deface or

damage the buildings, pavement or other physical equipment of the municipal market. No person shall deposit unsold merchandise, vegetable refuse or other garbage, broken crates, boxes, barrels or pieces thereof, paper or other rubbish on the municipal market, nor burn any such garbage or rubbish on said market except in places which may be provided for the specific purposes. No person shall slaughter or draw any animal or fowl within the municipal market. No person shall distribute, scatter about, or post on the municipal market any advertising pamphlet, card, handbill or other printed matter, nor shall any person beg, loiter, solicit patronage for any business, or sell or attempt to sell real estate, animals, meat, butter, junk, or vehicles on the municipal market. No person shall make any public outcry, do hawking or give any musical or other entertainment for the purpose of drawing customers or to attract attention. The market manager, however, may arrange for or otherwise procure such entertainment, music, displays, or other forms of promotion for the purpose of encouraging public patronage of the market provided, however, no such display, promotion or other device may be used in any way to promote any political party, candidate, or any proposal subject to a vote of the people of Minneapolis or any segment of the population whether said vote be subject to official election laws or rules or fall under some other jurisdiction, official or unofficial, and further such entertainment, music, or display shall first be approved by the city engineer. (2004-Or-038, § 1, 4-16-04)

202.210. Parking. No person shall park his vehicle on the municipal market grounds during market hours except while he is transacting legitimate market business in the market. (2004-Or-038, § 1, 4-16-04)

202.220. Inspections. All products sold or bought on the municipal market shall be open to the inspection of duly authorized city or state health officials and the officials of the municipal market. (2004-Or-038, § 1, 4-16-04)

202.230. Unwholesome products prohibited. No food product shall be offered for sale, displayed or sold on the municipal market which is unwholesome or unfit for food. (2004-Or-038, § 1, 4-16-04)

202.240. Ready-to-eat foods prohibited. No ready-to-eat foods or foods available for immediate consumption shall be offered for sale, displayed, or sold on the Nicollet Mall extension of the municipal market bounded by the area on Nicollet Avenue from Washington Avenue to South Thirteenth Street. (2004-Or-038, § 1, 4-16-04)

202.250. Removal of violators. The market manager shall have the authority to order and remove any person from the municipal market who is guilty therein of any violation of this chapter, or who shall fail to obey any lawful orders of the market manager. (2004-Or-038, § 1, 4-16-04)

202.260. Forfeiture of space. Any lessee of any stall, or any person having a license or permit to occupy any stall or space in the municipal market, who shall be twice convicted of any violation of this chapter or of any rule relating to his conduct or the conduct of any of his officers or agents on the municipal market, shall upon his second conviction automatically forfeit his lease or permit. Any lessee who shall use or attempt to use any stall or space for any purpose other than that for which it was specifically rented, or other than is permitted by the provisions of this chapter, shall forthwith forfeit his lease to said stall or space. (2004-Or-038, § 1, 4-16-04)

202.270. Alcoholic beverages prohibited. No person shall have in his possession, or use, sell or give away in the municipal market, any wines, or spirituous, intoxicating, mixed or fermented liquors or beer. (2004-Or-038, § 1, 4-16-04)

202.280. Resisting market manager. No person shall resist the market manager in the lawful discharge of his duties. (2004-Or-038, § 1, 4-16-04)

202.290. Use of proceeds from market. All receipts from the operation of the market shall be credited to the market operation fund, and all expenditures incident to the administration, operation and maintenance of said market shall be charged against said market operation fund. The city council may from time to time transfer any balances in said market operation fund not needed for the administration, operation and maintenance of the market to the sinking fund for the purpose of retiring bonds sold for the construction of the market. (2004-Or-038, § 1, 4-16-04)

CHAPTER 203. GROCERY STORES AND SPECIALTY FOOD STORES

203.10. Definitions. As used in this chapter, the following words and phrases shall mean:

Accessory food items. Non-staple food items, such as coffee, tea, cocoa, carbonated and un-carbonated drinks, candy, condiments, and spices.

Grocery store. A retail establishment that sells such products as staple foods, accessory food items, and household goods.

Perishable foods. Those items that are fresh, un-refrigerated or refrigerated staple food items that will spoil or suffer significant deterioration in quality within two (2) to three (3) weeks.

Specialty food store. A retail establishment that sells only specialized types or classes of staple foods and accessory foods, including, but not limited to, such establishments as imported food stores, gift shops, department stores, and general retail stores that specialize in products other than consumable products. Such an establishment may not sell tobacco products. A specialty food store is not a grocery store that sells a wide variety of common staple food items so as to be eligible for

government supplemental nutrition programs.

Staple foods. Those food items intended for home preparation and consumption, including meat, poultry, fish, bread, and breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products. (96-Or-005, § 1, 2-9-96; 2008-Or-015, § 1, 2-29-08; 2009-Or-185, § 1, 12-4-09)

203.20. Requirements. Grocery stores and specialty foods stores are both subject to the requirements of chapter 188. A grocery store that does not possess a grocery license as of February 9, 1996 must meet the requirements of subsections (a) and (b). All grocery stores licensed under this chapter except those exempted pursuant to section 203.30 must meet the requirements of subsection (c).

- (a) The grocery store shall provide and maintain a minimum sales floor area of two thousand (2,000) square feet.
- (b) The grocery store shall provide and maintain a minimum of four (4) adjoining off-street parking spaces, notwithstanding the provisions of chapter 531.
- (c) All grocery stores licensed under this chapter must offer for sale food for home preparation and consumption, on a continuous basis, at least three (3) varieties of qualifying, non-expired or spoiled, food in each of the following four (4) staple food groups, with at least five (5) varieties of perishable food in the first category and at least two (2) varieties of perishable food in all subsequent categories:
 - (1) Vegetables and/or fruits.
 - (2) Meat, poultry, fish and/or vegetable proteins.
 - (3) Bread and/or cereal.
 - (4) Dairy products and/or substitutes. (96-Or-005, § 1, 2-9-96; 2008-Or-015, § 2, 2-29-08; 2009-Or-185, § 2, 12-4-09)

203.30. Exemptions. The following are exempt from the requirements of sections 203.20(a) and 203.20(b) and 203.20(c):

- (a) Specialty food stores.
- (b) Filling stations, licensed under chapter 287 of this Code, and having not more than three hundred (300) square feet of retail sales floor area.
- (c) Grocery stores located in the central commercial district, as defined in section 360.10.

Additionally, a grocery store located in a shopping center as defined in section 520.160 is exempt from the requirements of sections 203.20(a) and 203.20(b). (96-Or-005, § 1, 2-9-96; 2008-Or-015, § 3, 2-29-08; 2009-Or-185, § 3, 12-4-09)

CHAPTER 204. ENVIRONMENTAL PRESERVATION: ENVIRONMENTALLY ACCEPTABLE PACKAGING

204.10. Legislative purpose. The city council finds that discarded packaging from foods and beverages constitutes a significant and growing portion of the waste in Minneapolis' waste stream. Regulation of food and beverage packaging, therefore, is a necessary part of any effort to encourage a recyclable and compostable waste stream, thereby reducing the disposal of solid waste and the economic and environmental costs of waste management for the citizens of Minneapolis and others working or doing business in Minneapolis.

The council further finds that plastic packaging is rapidly replacing other packaging material, and that most plastic packaging used for foods and beverages is nondegradable, nonreturnable and nonrecyclable.

The council also finds that the two (2) main processes used to dispose of discarded nondegradable, nonreturnable and nonrecyclable plastic foods and beverage packaging, are land filling and incineration, both of which should be minimized for environmental reasons.

The council therefore finds that the minimization of nondegradable, nonreturnable and nonrecyclable food and beverage packaging originating at retail food establishments within the City of Minneapolis is necessary and desirable in order to reduce the city's waste stream, so as to reduce the volume of landfilled waste, to minimize toxic by-products of incineration, to make the waste stream less damaging to the environment, and to make our city and neighboring communities more environmentally sound places to live. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 1, 6-28-96)

204.20. Definition. As used in this chapter, the following terms and phrases shall have the meanings as defined in this section:

- (a) Packaging shall mean and include food or beverage cans, glass bottles, or plastic bottles.
- (b) Environmentally acceptable packaging shall mean and include any of the following:
 - (1) Returnable packaging: Food or beverage containers or packages, such as, but not limited to, soft drink bottles and milk containers that are capable of being returned to the distributor, such as, but not limited to, dairies and soft drink bottlers, for reuse at least once as a container for the same food or beverage;
 - (2) Recyclable packaging: Packaging that is separable from solid waste by the generator or during collection for the purpose of recycling.
- (c) Food establishment, as used in this chapter, means a "food establishment" as defined in section 188.10 of the Minneapolis Code of Ordinances.
- (d) Director shall mean the director of environmental health of the regulatory services department of the City of Minneapolis or the director's designee. (89-Or-060, § 1, 3-31-89; 90-Or-067, § 1, 2-23-90; 96-Or-059, § 2, 6-28-96)

204.30. Prohibitions and duties. (a) No person owning, operating or conducting a food establishment within the City of Minneapolis shall do or allow to be done any of the following within the city: Sell or convey at retail or possess with the intent to sell or convey at retail any food or beverage contained, at any time at or before the time or point of sale, in packaging which is not environmentally acceptable packaging. The presence on the premises of the food establishment of packaging which is not environmentally acceptable packaging shall constitute a rebuttable presumption of intent to sell or convey at retail, or to provide to retail customers packaging which is not environmentally acceptable packaging; provided, however, that this subparagraph shall not apply to manufacturers, brokers or warehouse operators, who conduct or transact no retail food or beverage business.

(b) Packaging used to contain food or beverages consumed at the point of sale shall be considered environmentally acceptable packaging only when the food establishment provides consumers with an opportunity to recycle and utilizes a qualified recycling system. A qualified recycling system shall have the following elements:

- (1) A clear and verifiable process for separating recyclable packaging from discarded solid waste; and
- (2) Collection and delivery of recyclable packaging to a recycling facility for processing in the same or at least similar manner as recyclable packaging collected in a municipally approved recycling program. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 3, 6-28-96)

204.40. Enforcement. The director shall have the duty and the authority to enforce provisions of this chapter. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 4, 6-28-96)

204.50. Rules and regulations. The director may, upon notice and hearing, promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter and protect the health of the public, including the development of exemptions under section 204.70 for packaging for which there is no commercially available alternative. In promulgating such rules, the director shall consider the legislative purposes provided in section 204.10 of this chapter and shall consult with the operators of affected food establishments. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 5, 6-28-96)

204.60. Advisory committee on environmentally acceptable packaging. (a) The city council shall, by resolution, establish an advisory committee on environmentally acceptable packaging. The resolution shall provide for the membership, manner of appointment, the committee's charge and its duration. The membership shall be drawn from affected governmental units, business and industry, trade associations, general business organizations, consumer groups, environmental groups and others as determined in the resolution. The advisory committee shall include a member designated by the Hennepin County Board of

Commissioners from outside the City of Minneapolis and a member designated by the Association of Metropolitan Municipalities. The charge of the committee shall include the following:

- (b) Advising the director of environmental health on implementation issues. (89-Or-060, § 1, 3-31-89; 96-Or-059, § 6, 6-28-96)

204.70. Exemptions. Notwithstanding any other provision to the contrary, this chapter shall not apply to:

- (a) Any packaging used at hospitals or nursing homes;
- (b) Any packaging which is not environmentally acceptable, but for which there is no commercially available alternative as determined by the director by rule promulgated pursuant to section 204.50. In determining whether there are commercially available alternatives, the director shall consider the following: (1) the availability of environmentally acceptable packaging for affected products; (2) the economic consequences to manufacturers, suppliers, retailers and other vendors of requiring environmentally acceptable packaging when available; and (3) the competitive effects on manufacturers, suppliers, retailers and other vendors involved in the sale of product brands or labels available only in packaging that is not environmentally acceptable packaging. Every rule creating an exemption under this paragraph shall be reviewed annually by the director to determine whether current conditions continue to warrant the exemption. (89-Or-060, § 1, 3-31-89; 90-Or-067, § 2, 2-23-90; 95-Or-044, § 1, 3-31-95; 96-Or-059, § 7, 6-28-96)

204.80. Penalties. Each violation of any provision of this chapter or of lawful regulations promulgated under section 204.50 hereof shall be a petty misdemeanor, for which the maximum fine shall be fifty dollars (\$50.00). Each day on which a violation occurs constitutes a separate violation. (89-Or-060, § 1, 3-31-89)

204.90. License adverse action. A violation of section 204.30 shall be sufficient grounds for the revocation, suspension, denial or nonrenewal of any license for the food establishment at which the violation occurs. (89-Or-060, § 1, 3-31-89)

204.100. Severability. If any part or provision of this chapter or the application thereof to any person, entity, or circumstances shall be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application which is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons, entities, or circumstances. (89-Or-060, § 1, 3-31-89)

204.110. Effective date. This ordinance shall take effect January 1, 1991. (89-

Or-060, § 1, 3-31-89; 90-Or-067, § 3, 2-23-90)