

**LEGISTAR #44179 - Body**

DRAFTER'S ANALYSIS: Section 7.07(8)(g) is amended to split an existing category for Food and Drink Licenses into two different fees based on annual gross food sales. New Sec. 7.07(9) is created to create a separate fee for micro markets. Secs 7.07(10), (11), and (12) are renumbered. Newly renumbered Sec. 7.07(10) is amended to charge a re-inspection fee when follow-up is required consistent with the State of Wisconsin re-inspection fee structure. Secs 7.08(1); (7)(b); (7)(c); and (7)(e) are amended to update the term "Temporary Restaurant" to "Temporary food establishment" to be consistent with Wisconsin Food Code. Sec 7.08(7)(a) is amended to remove the late fee for Temporary Food permits. Sec. 7.08(7)(b) is amended to create an annual Temporary Food Establishment license and remove the daily permit required as mandated by changes in Wis. Stat. ch. 97. Secs. 7.08(7)(j) and (k) are created to require Temporary Food Establishments to register with the Department and authorize the Department to inspect their premises. Sec. 7.15 is amended to be consistent with State of Wisconsin Administrative Code on Tattoo and Body Piercings. Sec. 7.50 is amended to create a re-inspection fee for all licensed establishments. Sec. 7.50(9) is amended to create a fee for Hazard Analysis and Critical Control Point Plan review. Sec. 7.51(3) is amended to change the fees to be equal for the inspection of Tourist Rooming Houses and Bed and Breakfasts. Several State Statutes and Administrative Code references in Chapter 7 are changed to reflect changed code references at the state level.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (g) of Subsection (8) entitled "Food and Drink Permit" of Section 7.07 entitled "Regulations Regarding Foods Handled by Public Places" of the Madison General Ordinances is amended to read as follows:

"(g) The annual fee for the food and drink permit shall be based upon the anticipated gross annual food and drink sales for the licensing year as set forth in the tables below. The licensing year shall be from July 1 through the following June 30. The permit fee herein established shall be for one year or a fractional part thereof. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of fifteen percent (15%) of the license fee. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a license. For the licensing years commencing July 1, ~~2015~~2017, and subsequent thereto:

<u>Anticipated Gross Annual Food and Drink Sales</u>	<u>Annual Permit Fee</u>
\$0 - \$10,000	\$190
\$10,001 - \$100,000	\$421
\$100,001 - \$250,000	\$541
\$250,001 - <del>\$1,000,000</del>	
<u>\$500,000</u>	\$757
<u>\$500,001 - \$1,000,000</u>	<u>\$777</u>
\$1,000,001 - \$5,000,000	\$935
Greater than \$5,000,000	\$1,038

2. New Subsection (9) entitled "Micro Market Permit" of Section 7.07 entitled "Regulations Regarding Foods Handled by Public Places" of the Madison General Ordinances is created to read as follows:

"(9) Micro Market Permit.

- (a) A micro market is an unstaffed, self-checkout retail food establishment selling prepackaged time- and temperature-controlled food located within a business.
- (b) No person, firm, or corporation shall operate a micro market without possessing a food and drink permit in good standing. The permit shall be posted in a conspicuous place in the premises named in the permit. Only a person who complies with the requirements of this ordinance shall be entitled to receive and/or retain a permit.
- (c) The annual fee for the micro market permit shall be sixty dollars (\$60) for the licensing year commencing July 1, 2017, and subsequent thereto. The licensing year shall be from July 1 through the following June 30. The permit fee herein established shall be for one year or a fractional part thereof. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of fifteen percent (15%) of the license fee. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a license."

3. Current Subsections (9) through (11) of Section 7.07 entitled "Regulations Regarding Foods Handled by Public Places" of the Madison General Ordinances are hereby renumbered to Subsections (10) through (12), respectively.

4. Newly renumbered Subsection (10) entitled "Reinspection Fee" of Section 7.07 entitled "Regulations Regarding Foods Handled by Public Places" of the Madison General Ordinances is amended to read as follows:

"(10) Reinspection Fee. If Public Health Madison and Dane County reinspects a retail food establishment or restaurant because Public Health Madison and Dane County finds a violation of this Chapter, Public Health Madison and Dane County shall charge the retail food establishment or restaurant owner or operator a reinspection fee of one hundred and fifty dollars (\$150) ~~per reinspection~~ for the first inspection and two hundred and fifty dollars (\$250) for the second and subsequent reinspections. A reinspection fee is payable when the reinspection is completed, and is due upon written demand from Public Health Madison and Dane County."

5. Subsection (1) entitled "Definitions" of Section 7.08 entitled "Regulations Governing Eating and Drinking Establishments" of the Madison General Ordinances is amended to read as follows:

"(1) Definitions. The following definitions shall apply in the interpretations and the enforcement of this ordinance:

- ~~(f)~~ Approved. Wherever the word "approved" appears in this regulation, it shall mean approved by Public Health Madison and Dane County unless otherwise specified.
- ~~(e)~~ Director of Public Health Madison and Dane County. The term "Director of Public Health Madison and Dane County" shall mean the Director of Public Health Madison and Dane County or her/his authorized representative.
- ~~(e)~~ Employee. The term "employee" shall mean any person who is engaged in the preparation or serving of food or drink, or who comes in contact with any eating or drinking utensils and who is employed in a room in which food or drink is prepared or served.
- Food Establishment. Food establishments are defined as an operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term includes, but is not limited to, a restaurant, retail food establishment, and temporary food establishment.
- ~~(g)~~ Permit. The term "permit" as used in this ordinance means a "permit to operate an eating or drinking establishment."
- ~~(a)~~ Restaurant. The term "restaurant" shall mean restaurant, coffee shop, cafeteria, short order cafe, luncheonette, tavern, sandwich stand, and all other eating and drinking

establishments. Kitchens or other places in which meals, lunches or sandwiches are prepared for sale elsewhere, and any conveyance or place from which meals, lunches, or sandwiches are sold are termed "restaurant" for the purpose of this ordinance. The term "restaurant" does not apply to churches, religious and fraternal organizations which occasionally prepare and serve or sell meals or lunches to transients or the general public.

~~(b) Temporary Restaurant Food Establishment. The term "temporary restaurant" shall mean one operating for a temporary period in connection with a fair, carnival, circus, public exhibition, or other similar gathering including events organized, sponsored or operated by churches and religious and fraternal organizations~~ Temporary food establishment is defined as a food establishment that operates at a fixed location for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration such as a fair, carnival, circus, public exhibition, anniversary sale, or occasional sales promotion.

~~(d) Utensils. "Utensils" shall mean any kitchenware, tableware, glassware, cutlery, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving."~~

6. Subdivision (b) entitled "Fee" of Subsection (7) entitled "Temporary Restaurant" of Section 7.08 entitled "Regulations Governing Eating and Drinking Establishments" of the Madison General Ordinances is amended to read as follows:

"(b) Fee. Pursuant to Wis. Stat. § ~~254.69~~ 97.615, the fee for an annual permit to operate a temporary restaurant food establishment shall ~~may be sixty dollars (\$60) for the first day and twenty-five dollars (\$25) per day for each additional day applied for during one licensing year which year shall be from January 1 through the following December 31 and the permit shall not be transferable~~ one hundred and twenty-five dollars (\$125)."

7. The introductory paragraph of Subdivision (c) entitled "Grounds" of Subsection (7) entitled "Temporary Restaurant" of Section 7.08 entitled "Regulations Governing Eating and Drinking Establishments" of the Madison General Ordinances is amended to read as follows:

"(c) Grounds. The temporary ~~restaurant~~ food establishment shall be located in clean surroundings which shall be kept free of litter. Where needed, containers for napkins, paper service, bags and wrappers shall be provided and conveniently located."

8. The introductory paragraph of Subdivision (e) entitled "Operation" of Subsection (7) entitled "Temporary Restaurant" of Section 7.08 entitled "Regulations Governing Eating and Drinking Establishments" of the Madison General Ordinances is amended to read as follows:

"(e) Operation. The operation of a temporary ~~restaurant~~ food establishment shall be such as to assure clean wholesome food."

9. Subdivision (j) entitled "Registration Required" of Subsection (7) entitled "Temporary Restaurant" of Section 7.08 entitled "Regulations Governing Eating and Drinking Establishments" of the Madison General Ordinances is created to read as follows:

"(j) Registration Required. A temporary food establishment shall register with the department prior to commencing operations in any twelve-(12) month period between July 1 and June 30 of the succeeding year. Failure to register a temporary restaurant or temporary retail food operation shall be a violation of this ordinance punishable by a forfeiture of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for a second or subsequent offense in any five- (5)year period. Registration under this section shall be required without regard to the number of days of operation anticipated by

the owner or operator of the facility and without regard to whether the facility is exempt from the requirement to obtain a license under state law.”

10. Subdivision (k) entitled “Inspection” of Subsection (7) entitled “Temporary Restaurant” of Section 7.08 entitled “Regulations Governing Eating and Drinking Establishments” of the Madison General Ordinances is created to read as follows:

“(k) Inspection. Without regard to whether a temporary restaurant or temporary retail food operation is required to obtain a license under state law, the department is authorized to inspect any such operation at any time and to issue a cease operations order if unsanitary conditions are found to exist. The Department shall cause any such order to be posted in a prominent and conspicuous place on the premises.”

11. Subsection (1) entitled “Adoption by Reference” of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances is amended to read as follows:

“(1) Adoption by Reference. ~~Chapter DHS 473 Wis. Admin. Code ch. SPS 221, Wis. Admin. Code and Secs. Wis. Stats. §§ 252.23(5) and 252.24(5) 463.10(4) and 463.12(4), Wis. Stats.,~~ and all subsequent amendments, additions and recodifications thereto are hereby adopted by reference. It is the intent of the City that where there may be conflict between this subsection and the remainder of this section that the most stringent provision shall apply.”

12. The introductory paragraph of Subsection (3) of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances is amended to read as follows:

“(3) When ear piercing with a needle, tattooing or body piercing the tattooist or piercer must comply with the requirements found in ~~Chapter DHS 473, Wis. Admin. Code ch. SPS 221.~~ Ear piercing conducted with a piercing gun shall be performed in accordance with the following procedures:”

13. Subdivision (b) entitled “Patrons” of Subsection (3) of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances is amended by amending herein the following:

“(b) Patrons. An ear piercer may not pierce an ear without first obtaining the patron’s signature on an informed consent form approved by the department. A patron under the age of 18 may not be ear-pierced unless an informed consent form has been signed by the patron’s parent or legal guardian in the presence of the practitioner. An ear piercer may not pierce a patron’s ear if that patron appears to be under the influence of alcohol or a mind-altering drug or has evidence of skin lesions or skin infections on the ear that is to be pierced.”

14. Paragraph 2. entitled “Practitioner” of Subdivision (a) entitled “Requirement” of Subsection (6) entitled “Licensing and Fees” of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances is amended to read as follows:

“2. Practitioner. No person may tattoo or body pierce another within the City unless the person has obtained a license and paid fees as specified in ~~this section~~ Wis. Admin. Code ch. SPS 221.”

15. Subdivision (b) entitled “Licensing” of Subsection (6) entitled “Licensing and Fees” of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances is amended to read as follows:

- “(b) Licensing. Application for licensing shall be made thirty (30) days prior to issuance. The licensing year shall be from July 1 through the following June 30. The permit fee herein established shall be for one year or a fractional part thereof, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of 15% of the filing fee. Payment of the late filing fee shall not relieve any person from any other penalties set forth in this section or in the ordinances for failure to possess or obtain a license.”

16. Subparagraphs e. and f. of Paragraph 1. of Subdivision (d) entitled “Fees” of Subsection (6) entitled “Licensing and Fees” of Section 7.15 entitled “Regulation of Tattooing and Body-Piercing” of the Madison General Ordinances are created to read as follows:

- “e. First Reinspection Fee, \$150
- f. Subsequent Reinspection Fee, \$250”

17. Section 7.50 entitled “Pre-Inspection Permits and Fees and Changes of Ownership” of the Madison General Ordinances is amended to read as follows:

**7.50 PRE-INSPECTION PERMITS AND FEES, AND CHANGES OF OWNERSHIP AND RE-INSPECTION FEES.**

- (1) Requirement. Before opening for business, every operator of an enterprise requiring: a food and drink permit; a hotel, motel, tourist rooming house, bed and breakfast establishment permit; a public swimming pool permit; or a recreational, educational camp or campground permit, shall obtain a permit from Public Health Madison and Dane County through application made upon a form furnished by the Department. A permit or license shall not be granted to an operator without a pre-inspection. The permit or license shall be conspicuously displayed in or near the licensed facility.
- (2) Change of Ownership. Every operator of an enterprise requiring a food and drink permit, a hotel or tourist rooming house or a swimming pool shall promptly notify Public Health Madison and Dane County in writing of his or her intention to cease operations and shall also supply the Department with the names and post office addresses of any prospective new operators.
- (3) Requested Inspections. Any operator or prospective operator of an enterprise requiring a food and drink permit or a hotel or tourist rooming house license or a swimming pool license, who requests an inspection shall pay the pre-inspection fee herein set forth before said inspection.
- (4) Pre-Inspection Fees. Pursuant to authority set forth in Wis. Stat. § ~~254.69~~ 97.615, the fee for a pre-inspection shall be three hundred seventy-five dollars (\$375) for each inspection. A separate pre-inspection fee shall be paid for each category of permit or license. Except food and drink establishments that are primarily retail or taverns that do not serve food and do not engage in food processing the pre-inspection fee shall be one hundred dollars (\$100) for each pre-inspection.
- (5) Inspection Fees. Public Health Madison and Dane County may charge a State of Wisconsin licensed operator or entity an inspection fee of twenty five dollars (\$25) per day.
- (6) Re-Inspection Fees. If Public Health Madison and Dane County re-inspects an establishment regulated under Madison General Ordinance Chapter 7 because Public Health Madison and Dane County finds a violation of this Chapter, Public Health Madison and Dane County shall charge the establishment owner or operator a re-inspection fee of one hundred and fifty dollars (\$150) for the first re-inspection and two hundred and fifty dollars (\$250) for second and subsequent re-inspections. A re-inspection fee is payable when the re-inspection is

completed, and due upon written demand from Public Health Madison and Dane County.

- (7) Plan Review Requirement and Fee. Public Health Madison and Dane County shall require an operator of a new or extensively remodeled food establishment to submit equipment layout plans, equipment schedules, detailed descriptions of food processing operations, and menus for review as requested. Public Health Madison and Dane County shall charge the establishment owner or operator of a new food establishment three hundred seventy-five dollars (\$375) for a plan review and two hundred and fifty dollars (\$250) for a plan review of an existing licensed food establishment that will be extensively remodeled.
- (8) Fees for Special Conditions Inspections. Public Health Madison and Dane County may charge for an inspection or consultation services that are not directly related to Public Health Madison and Dane County's permitting and licensing responsibilities. Public Health Madison and Dane County may charge the operator or entity requesting the inspection or consultation a fee of two hundred and fifty dollars (\$250).
- (9) Fees for Hazard Analysis and Critical Control Point (HAACP) Plan Review. Public Health Madison and Dane County may charge a fee of one hundred dollars (\$100) for an HAACP plan review and subsequent annual verification to the operator or entity required by law to submit an HAACP plan for approval.
- (5) ~~Effective Date. This ordinance shall become effective July 1, 1985."~~

18. The title of Section 7.51 entitled "Hotels, Bed And Breakfast Establishments and Tourist Rooming Houses" of the Madison General Ordinances is hereby amended to read as follows:

**"7.51 HOTELS, MOTELS, BED AND BREAKFAST ESTABLISHMENTS AND TOURIST ROOMING HOUSES."**

19. Subsection (3) entitled "Fees" of Section 7.51 entitled "Hotels, Bed And Breakfast Establishments and Tourist Rooming Houses" of the Madison General Ordinances is amended to read as follows:

- (3) Fees. The annual fee for Hotels, Motels, and Tourist Rooming Houses shall be based upon the number of rooms held open for the use of the public on the licensed premises. The annual fee for Bed and Breakfast Establishments shall be a flat rate. The licensing year shall be from July 1 through the following June 30. Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of fifteen percent (15%) of the license fee or a minimum of three dollars \$3.00), whichever is greater. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a license. The fee herein established shall be for one year or a fractional part thereof.

Hotels and Tourist Rooming Houses:

Number of Rooms	License Fee
1 – <del>30</del> <u>4</u>	<del>\$209</del> <u>\$149</u>
<u>5-30</u>	<u>\$209</u>
31 - 99	\$297
100 - 199	\$429
200 or more	\$484

Bed and Breakfast Establishments: ~~\$105~~ \$149"

20. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of

Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

<u>Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Failure to register temporary food establishment.	7.08(7)(j)	\$50, 1st \$200, 2nd or sub w/in 5 yrs.

21. The City Attorney is directed to make corresponding changes to other City ordinances to reflect updates to references to the Wisconsin Administrative Code and Wisconsin Statutes.

EDITOR’S NOTE: A new or revised forfeiture range must be approved by the Municipal Judge prior to adoption. This revised range has been so approved.