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Title: An ordinance relating to health department licensing regulations.

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Attachments: 1. Health Dept. Cover Letter.PDF, 2. Fiscal Note.PDF, 3. Fiscal Review Analysis.pdf, 4. 6/3/02 Letter from City Atty. Letter.PDF

Date	Ver.	Action By	Action	Result	Tally
5/14/2002	0	COMMON COUNCIL	ASSIGNED TO		
5/16/2002	0	PUBLIC SAFETY COMMITTEE	HEARING NOTICES SENT		
5/23/2002	0	PUBLIC SAFETY COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:1
6/4/2002	0	COMMON COUNCIL	PASSED	Pass	15:1
6/13/2002	0	MAYOR	SIGNED		
6/20/2002	0	CITY CLERK	PUBLISHED		
10/15/2013	0	COMMON COUNCIL	HEARING NOTICES SENT		

020230
ORIGINAL

THE CHAIR
An ordinance relating to health department licensing regulations.
60-1-3 cr
60-21-7 am
60-23-3-b-1 rp
60-23-3-b-2 rp
60-23-3-b-3 rn
60-23-3-b-4 rn
60-23-5 am
60-23-6 am
60-31-1-a rp
60-31-1-b rp
60-31-1-d rn
60-31-1-e rn
60-31-4 am
60-33 rp
60-35 rp
60-59-4 cr
60-73 rp
60-83.5 cr
60-85-7 cr

60-91-2-c am
68-01 am
68-4-1.5 rc
68-6-3 am
68-6-5 rc
70-3-3 rp
75-30-2 am
75-30-3-0 am
75-51-7 am

This ordinance makes various changes relating to health department licensing regulations, including:

1. Establishment of license fees for tattooing and body-piercing establishments.
 2. Making the fee for a duplicate license consistent (i.e., \$6 for all license types for which a duplicate fee is provided).
 3. Elimination of the fees for food peddlers and temporary food operations that bake or process confections at the point of sale.
 4. Elimination of the fees for slaughtering or meat packing establishment licenses.
 5. Codification of the policy on refunding of license and permit fees by the health department.
 6. Clarification of the procedure by which the food license review board reviews appeals of orders or other actions of the commissioner of health.
- The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 60-1-3 of the code is created to read:

60-1. General Provisions.

3. REFUND OF FEES BY HEALTH DEPARTMENT. If an application for a license or permit issued by the health department is withdrawn, or if such a license or permit is denied or not issued, the fee for the license or permit shall be refunded, except that the department shall retain the portion of the fee necessary to defray the city's cost of processing the application pursuant to this chapter. The refundable portion of the fee shall be refunded by the health department upon receipt of a written request by the applicant, provided such request is made no later than one year after the date of application for the license or permit. No refund shall be made after one year from the date of application.

Part 2. Section 60-21-7 of the code is amended to read:

60-21. Food Dealer's License.

7. The fee for a duplicate license is ~~[[\$5]]~~ >> \$6 <<.

Part 3. Section 60-23-3-b-1 and 2 of the code is repealed.
(Note: The provisions being repealed read as follows:

60-23. Food License: Temporary - Basic.

3. FEES.

b-1. Food processing - bakery: see s. 60-33.

b-2. Food processing - confectionery: see s. 60-35.)

Part 4. Section 60-23-3-b-3 and 4 is renumbered 60-23-4-b-1 and 2.

Part 5. Section 60-23-5 and 6 of the code is amended to read:

5. LATE FEE. Any person who does not meet the application deadline in sub. 4 shall pay a late application fee of ~~[[\$15]]~~ >>\$20<< for each individual food operation, site, location or stand where food is prepared, served or sold at the temporary event.

6. DUPLICATE PERMIT. The fee for a duplicate permit is ~~[[\$5]]~~ >>\$6<<.

Part 6. Section 60-31-1-a and b of the code is repealed.

(Note: The provisions being repealed read as follows:

60-31. Food Peddler Permits.

1.

a. Food processing - bakery: see s. 60-33.

b. Food processing - confectionery: see s. 60-35.)

Part 7. Section 60-31-1-d and e is renumbered 60-31-1-a and b.

Part 8. Section 60-31-4 of the code is amended to read:

4. The fee for a duplicate permit or identifying device is ~~[[\$5]]~~ >>\$6<<.

Part 9. Section 60-33 of the code is repealed.

Part 10. Section 60-35 of the code is repealed.

Part 11. Section 60-59-4 of the code is created to read:

60-59. Meal Permit Service Fee.

4. The fee for a duplicate meal service permit is \$6.

Part 12. Section 60-73 of the code is repealed.

Part 13. Section 60-83.5 of the code is created to read:

60-83.5. Tattooing and Body-Piercing Establishments. 1. TATTOO ESTABLISHMENT LICENSE. The fee for a tattoo establishment license shall be \$100. The fee for a temporary tattoo establishment license shall be \$100.

2. BODY-PIERCING ESTABLISHMENT LICENSE. The fee for a body-piercing establishment license shall be \$100. The fee for a temporary body-piercing establishment license shall be \$100.
3. COMBINED TATTOO/BODY-PIERCING ESTABLISHMENT LICENSE. The fee for a combined tattoo/body-piercing establishment license shall be \$150. The fee for a temporary combined tattoo/body-piercing establishment license shall be \$100.
4. STATE FEE. In addition to the license fees specified in this section, an applicant for a tattoo or body-piercing establishment license shall pay the state of Wisconsin administrative fee for such license, the amount of which is on file with the Wisconsin department of health and family services.
5. DUPLICATE LICENSE. The fee for a duplicate copy of any of the licenses listed in this section shall be \$6.
6. LATE FEE. There shall be an additional fee of \$20 for the late filing of a renewal application for any of the licenses listed in this section.
(See s. 75-51.)

Part 14. Section 60-85-7 of the code is created to read:

60-85. Vehicle Scale Operator's License.

7. DUPLICATES. The fee for a duplicate license, permit or certificate specified in this section is \$6.

Part 15. Section 60-91-2-c of the code is amended to read:

60-91. Weighing and Measuring Device Licenses.

2. RETAIL PETROLEUM METERS.

c. The fee for a duplicate retail petroleum meter license is ~~[[\$5]]~~ >>\$6<<.

Part 16. Section 68-01 of the code is amended to read:

68-01. Adoption of State Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts ~~[[ch. 97]]~~ >>chs. 97 and 98<<, Wis. Stats., chs. ATP 75, 80 >>, 88<< and HFS 196, Wis. Adm. Code, as amended, and where pertaining specifically to food operation premises, Comm 14 and 16, Comm 51, 52, 54, 55 and 64, Wis. Adm. Code, as amended, as part of this code.

Part 17. Section 68-4-1.5 of the code is repealed and recreated to read:

68-4. Food Dealer License.

1.5. LICENSE NOT REQUIRED. A food dealer license shall not be required for the following:

- a. A person selling only bottled or canned water or bottled or canned soda and no other food items.
- b. A religious, fraternal, youth, civic or patriotic organization, service club

or religious assembly that sells food only one day during a fiscal year.

Part 18. Section 68-6-3 of the code is amended to read:

68-6. Suspension or Revocation.

3. SUSPENSION OF LICENSES. Notwithstanding other provisions of this chapter, whenever the commissioner of health finds unsanitary or other conditions in the operation of a food service establishment, which in his >>or her<< opinion constitute a substantial hazard to the public health, he >>or she<< may without warning, notice or hearing, issue a written notice to the license holder, operator or employee in charge of said licensed premise citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such order shall state that the license is immediately suspended and all food service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the commissioner of health, shall be afforded a hearing before the food license review board [~~within 10 days of such petition~~] >>in accordance with sub. 5<<. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension.

Part 19. Section 68-6-5 of the code is repealed and recreated to read:

5. APPEALS TO FOOD LICENSE REVIEW BOARD. a. A person who seeks to appeal an order or other action of the department or the commissioner shall file a written appeal with the food license review board within 5 working days after the person has received written notice of the order or action being appealed. The appeal shall state with specificity the reason that the appellant believes the order or action was taken in error.

b. Upon receipt of a written appeal, the board shall within 10 days notify the appellant of the date, time and place of the hearing.

c. The board shall serve the appellant with written notice of the hearing. The notice shall be served so that the appellant has at least 5 working days' notice of the hearing. The hearing notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement that an opportunity will be given to the appellant to challenge the order or action, present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-3. A statement that the appellant may be represented by an attorney of the appellant's choice at the appellant's expense, if the appellant so wishes.

d. At the hearing, the board chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the appellant admits notice. The chair shall advise the appellant that the appellant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the appellant may simply make a statement to the board.

- e. A due process hearing shall be conducted in the following manner:
 - e-1. All witnesses will be sworn in.
 - e-2. The department or commissioner shall proceed first.
 - e-3. The appellant shall be permitted an opportunity to cross-examine.
 - e-4. After the conclusion of the evidence of the department or commissioner, the appellant shall be permitted to present the appellant's own witnesses, subject to cross-examination.
 - e-5. Board members may ask questions of witnesses.
 - e-6. Both the department or commissioner and the appellant shall be permitted a brief summary statement.
 - e-7. The board, in its discretion, may allow the filing of written briefs.
- f. The recommendations of the board regarding the appellant shall be based on evidence presented at the hearing.
- g. The board may affirm, reverse or modify the original order or action of the department or commissioner. The board may make a decision immediately following the hearing or at a later date. The board shall provide its decision in writing to the commissioner and the appellant.

Part 20. Section 70-3-3 of the code is repealed.
(Note: The provisions being repealed read as follows:

70-3. Slaughtering and Meat Packing Licenses Required.

- 3. FEE. a. Each such license shall be issued upon the payment of the license fee required in s. 60-73.
- b. Inspection of meat, and inspection as otherwise provided in this section, by the city health department shall be charged to the slaughterhouse or meat-packing establishment at the rate provided for in s. 60-73.)

Part 21. Section 75-30-2 and 3-0 of the code is amended to read:

75-30. Reinspection.

- 2. If, upon the second reinspection, the order or directive is found not to have been complied with and additional reinspections are required, a fee shall be assessed the responsible party for each additional reinspection to compensate for the costs of such reinspections. ~~[[The reinspection fees shall be billed with the annual food license.]]~~ >>The licensee shall be billed for reinspection fees as those fees are assessed.<<
- 3. ~~[[All reinspection fees shall be paid by the due date for license renewal.]]~~ Any responsible party who receives notification of ~~[[such]]~~ >>the assessment of reinspection fees<< shall remit the fees to the department within 15 days of mailing or service of the notification of charges. Failure to remit in full

within this time period may subject the responsible party to an action to collect the sum in a civil action. An alternative to the commencement of a civil action collection may be enforced as follows:

Part 22. Section 75-51-7 of the code is amended to read:

75-51. Tattooing and Body-Piercing.

7. FEES. Each license applicant shall pay the appropriate license fee or fees provided in ch. ~~[[HFS 173, Wis. Adm. Code.]]~~ >>60<<.

APPROVED AS TO FORM

Legislative Reference Bureau

Date:_____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date:_____

Health Department

LRB02217-1

JDO

5/8/02