

Chapter H 96

RESTAURANTS

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History: Chapter H 96 as it existed on June 30, 1969 was repealed and a new chapter H 96 was created effective July 1, 1969.

H 96.01 Scope of rules. (1) **APPLICABILITY.** The provisions of these regulations shall apply to the licensee of any restaurant, temporary restaurant or mobile restaurant as hereinafter defined.

(2) **APPROVED COMPARABLE COMPLIANCE.** When strict adherence with these regulations appears to be impractical and satisfactory proof is provided to the department, it may approve modifications as needed to safeguard public health, safety and welfare.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69.

H 96.02 Definitions. (1) "Department" means the department of health and social services.

(2) "Restaurant" means and includes any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. "Meals or lunches" shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" does not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs or civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public nor shall it include any public or private school lunchroom or private individual selling foods from a movable or temporary stand at public farm sales, s. 50.50 (3), Stats.

(3) "Mobile restaurant" means one operating from a movable vehicle, trailer or boat which periodically or continuously changes location and wherein meals or lunches are prepared or served or sold to transients or the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant. The term "mobile restaurant" does not include a common carrier regulated by the state or federal government.

(4) "Temporary restaurant" means one operating for special occasions such as a fair, carnival, circus, public exhibition or similar gathering.

(5) "Restaurant operator or licensee" means the person legally responsible for the operation of the restaurant.

(6) "Adulterated" means the condition of a food if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established; if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; if it has been processed, prepared, packed or held under insanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; if it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(7) "Approved" means acceptable to the department based on its determination as to conformance with appropriate standards and good public health practices.

(8) "Corrosion-resistant material" means a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

(9) "Easily cleanable" means readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

(10) "Employee" means any person working in a restaurant.

(11) "Equipment" shall include but not be limited by enumeration herewith to all appurtenances such as stoves, ranges, hoods, counter freezers, meatblocks, counters, refrigerators, sinks, ice-making machines, dishwashing machines, steamtables, blenders, meat grinders and slicers and similar items, other than utensils, used in the operation of a restaurant.

(12) "Furnishings" shall include but not be limited by enumeration herewith to all appurtenances such as linens, chairs, tables, shelves, drapes, curtains, decorations, fixtures and similar items used in the operation of a restaurant.

(13) "General public" means the whole body of mankind and includes children and adults regardless of race, creed or color and also includes, but is not limited by enumeration herewith, members of churches, religious, fraternal, youth or patriotic organizations, members, employes and occupants of public or private service clubs, civic organizations, industrial plants, office buildings, businesses and institutions.

(14) "Lunch or meal" means all raw, cooked, or processed foods, beverages other than those exempt by the statutes, or ingredients prepared, served or sold at retail for human consumption to any part of the general public but not limited by enumeration herewith at any fixed or mobile restaurant; coffee shop; cafeteria; cafe; luncheonette; grill; tearoom; sandwich shop; drive-in restaurant; caterer, whether meals or lunches are sold at a stated price or contracted by the meal or on an hourly basis;

commissary; delicatessen, selling food, hot or cold, by the count, weight, or volume at retail; industrial feeding establishment; private organization operating a food service in a hospital, school, or temporary restaurant.

(15) "Occasional" means less than 4 days during any 12-month period.

(16) "Person" means an individual, partnership, firm, company, corporation, municipality, county, town, whether tenant, owner, lessee, licensee, or their agent, heir or assign.

(17) "Potentially hazardous food" means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms.

(18) "Premises" means the tract of land on which a licensed restaurant is located and all associated buildings thereon except the premises of a temporary restaurant is each individual space or stand where lunches or meals are prepared or served or sold.

(19) "Pre-wash" means the process of water scraping of utensils prior to washing.

(20) "Sanitize" means effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the department as being effective in destroying micro-organisms, including pathogens.

(21) "Tourist or transient" means a person who travels from place to place away from his permanent address for vacation, pleasure, recreation, culture, business or employment regardless of race, creed, color or blood relationship and regardless of the length of stay away from the permanent address.

(22) "Utensils" shall include but not be limited by enumeration herewith to any kitchenware, tableware, glassware, cutlery, containers or other appurtenances with which food or drink comes in contact during storage, preparation or serving.

(23) "Wholesome" means in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

History: Cr. Register, June, 1969, No. 182, eff. 7-1-69; r. and rec. (13) through (18), and cr. (19) through (23), Register, November, 1972, No. 203, eff. 12-1-72; am. (2), Register, November, 1980, No. 299, eff. 12-1-80.

H 96.03 Permits. (1) **REQUIREMENT.** Before opening for business, every restaurant operator shall obtain a permit from the department through application made upon a form furnished by the department. A permit will not be granted to an operator of a new restaurant or to a new operator of an existing restaurant without a pre-inspection. The permit must be conspicuously displayed in the room in which meals or lunches are served or sold.

(2) **CHANGE OF OWNERSHIP.** A restaurant operator shall promptly notify the department in writing of his intentions to cease operations and

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also supply the department with the names and post office addresses of any prospective new operators.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69.

H 96.04 Water supply and waste disposal. (1) **SERVICE AVAILABILITY.** The requirements covering the water supply and the sewage disposal facilities for all restaurants are based upon the availability of public utilities as well as the practicability of connection to the public utilities.

(2) **PUBLIC UTILITIES.** When acceptable public water supply and/or public sewerage facilities are available to the restaurant premises, connection and use is required.

(3) **PRIVATE WELLS.** Private wells are permitted as a source of water when a public water facility is not available to the premises. The well shall be located on the premises and be constructed and the pump installed in accordance with the regulations of the board of natural resources governing well drilling and pump installation. Whenever geological conditions are such that safe water cannot be obtained consistently from a well constructed in apparent compliance with the well code regulations, as evidenced by unsafe laboratory reports, the well shall be reconstructed in accordance with the requirements of the department of natural resources; or if such reconstruction is determined to be impractical by the department of natural resources or is found to be ineffective, the use of the well shall be discontinued and water transported from a source and in a manner approved by the department.

(4) **PRIVATE SEWAGE DISPOSAL.** (a) Private sewage disposal systems are permitted when a public sewer facility is not available to the premises. The system shall be located on the premises and be designed and constructed in accordance with Wis. Adm. Code, ch. H 62, the Wisconsin state plumbing code.

(b) Plans and installation details covering the design and construction, alteration or extension of private sewage disposal systems shall be approved by the section of plumbing and fire protection systems of the department prior to construction.

(c) Privies are only acceptable at existing restaurants and shall be constructed in accordance with the applicable requirements of the Wisconsin Administrative Code and be acceptable to the department. When a change of licensee of a restaurant occurs, privies shall be eliminated.

(5) **PLUMBING.** (a) All plumbing shall meet the requirements contained in the Wisconsin state plumbing code.

(b) All plumbing fixtures shall be connected to the building drainage system with discharge to a public sewer or private sewage disposal system.

(c) All plumbing shall be maintained in a good state of repair. Leaks in water or waste piping and fixtures shall be promptly repaired or the piping or fixtures replaced.

(6) **DRAINAGE OF REFRIGERATORS.** Drains from ice-making machines, ice storage compartments, refrigerators and similar equipment shall be installed in accordance with the Wisconsin state plumbing code. Where

a building drain is not available, a drain pipe shall be provided and wastes disposed of in such a manner as to avoid a nuisance.

(7) **WATER.** Hot and cold water under pressure shall be available at all sink compartments in rooms in which food is prepared or utensils are washed and at all lavatories in all employe and public toilet rooms.

(8) **HANDWASHING FACILITIES.** (a) Employes' handwashing facilities shall be separate from utensil washing facilities and shall be located in or immediately adjacent to the food preparation area whenever possible in existing restaurants.

(b) In all new or at the time of change in licensee of existing restaurants, handwashing facilities for employes shall be provided in the food preparation area.

(c) Handwashing facilities shall be provided in each public toilet room.

(d) Soap and single-service towels for drying hands shall be provided for employes' handwashing facilities and in public toilet rooms. Approved electric hand dryers may be used to supplement toweling.

(9) **PUBLIC TOILET ROOMS.** (a) Every existing restaurant which sells food for consumption on the premises that can accommodate 25 customers or less shall provide one toilet room for public use.

(b) In all new restaurants or existing restaurants changing licensee, at least one toilet room shall be provided for each sex.

(c) Restaurants that can accommodate in excess of 25 customers shall have additional toilet fixtures based on the requirements contained in the applicable regulations of the department of industry, labor and human relations.

(d) At drive-in restaurants, toilet fixture requirements shall be based on $2\frac{1}{4}$ customers per car stall.

(e) Toilet rooms shall be under the supervision of the restaurant operator.

(f) All toilet room doors shall be self-closing.

(g) All public toilet rooms shall be so located that it is not necessary for patrons using the facilities to pass through a food preparation, serving or storage area or an area where utensils are washed.

(h) Public toilet rooms at new restaurants shall be located contiguous to the dining or serving areas.

(i) Toilet room doors or room labels shall be marked with the words "Men" or "Women," respectively, in letters not less than one inch in height.

(j) Directions to toilet rooms not located adjacent to the dining or serving areas at existing restaurants shall be conspicuously posted.

(k) Toilet rooms and fixtures shall be maintained in a clean sanitary condition.

Note: See also section H 96.04(8) (c).

(10) **GARBAGE AND REFUSE.** (a) All garbage and refuse while in the kitchen shall be kept in water-tight, covered containers.

(b) All garbage which is not stored in kitchen areas shall be kept in separate, leakproof, nonabsorbent containers equipped with tight-fitting covers unless otherwise protected from flies and insects.

(c) The use of wooden or paper containers for garbage is prohibited.

(d) Fly-tight containers with covers shall be provided for cans, bottles and other rubbish.

(e) Garbage cans shall be washed each time they are emptied unless provided with a single-service sanitary, removable, water-proof liner. Garbage and refuse storage areas shall be maintained in a clean sanitary condition.

(f) Stored garbage and refuse shall be disposed of as often as necessary to prevent decomposition or overflow. Kitchen garbage containers shall be emptied or removed daily.

(11) **PROHIBITION.** The use of the common drinking cup is prohibited.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. (4) through (11), Register, November, 1972, No. 203, eff. 12-1-72.

H 96.05 Equipment, utensils and furnishings. (1) **APPROVAL.** (a) Any equipment or utensils for use in restaurants that meets the criteria of the national sanitation foundation or which is approved by the public health service may be used upon the approval of the department.

(b) Equipment or utensils in use at the time of adoption of this regulation which does not fully meet the above requirements may be continued in use if it is in good repair, capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic.

(c) Equipment and utensils not suitable for use or not capable of being maintained in a sanitary condition shall be removed from the premises.

(d) Cracked, chipped or porous utensils or those with open seams shall be discarded.

(2) **DESIGN.** (a) All equipment, utensils and furnishings shall be so designed and of such material and workmanship as to be smooth, easily cleanable and durable; and the food-contact surfaces of equipment and utensils shall be nontoxic, corrosion resistant, relatively nonabsorbent and easily accessible for cleaning.

(b) All utensils reused for food preparation, eating and drinking utensils or storage shall be nontoxic and designed by the manufacturer as multi-use utensils.

(c) The use of any fountain, cooler or dispenser for filling glasses or other drinking receptacle where the top rim of receptacle comes in contact with any part of the appliance is prohibited.

(3) **INSTALLATION.** (a) All equipment and furnishings shall be so installed as to facilitate the cleaning thereof and of all adjacent areas.

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(b) Soft drink, water or other similar dispensing devices shall be located over a sink or basin not used for ice storage or for washing, rinsing or sanitizing utensils.

(4) **UTENSIL STORAGE.** (a) After cleaning and until use, all food-contact surfaces of equipment and utensils shall be so stored and handled as to be protected from contamination.

(b) Utensils shall be stored on a clean, smooth impervious surface in a clean, dry place protected from contamination and, wherever practicable, utensils shall be covered or inverted. Cups or glasses shall not be nested.

(c) Dipping utensils for ice cream, ice milk or similar products shall be stored in a running water well or in another manner approved by the department.

(5) **FURNISHINGS.** (a) All furnishings shall be maintained in a clean and sanitary manner and in a good state of repair.

(b) Soiled linens should be kept in containers used exclusively for such purpose.

(6) **SINGLE-SERVICE ITEMS.** (a) Single-service utensils such as paper plates, cups and straws shall be stored in the original wrapper and in a clean dry place until used.

(b) When straws are used they shall be furnished to the customer in the original individual unopened wrapper or, if unwrapped, served by means of an approved dispensing device.

(c) Cups shall be served by means of an approved, covered dispensing device.

(d) Single-service utensils and food containers shall not be reused and shall be made from nontoxic materials.

(7) **WASHING AIDS.** (a) All washing aids such as brushes, dish mops, dish cloths and other hand aids used in dishwashing shall be maintained in a clean and sanitary condition.

(b) Floor cleaning aids such as mops, brooms and buckets shall not be stored in food preparation or storage areas.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; cr. (1) (d), r. and recr. (1) (c), and (2) through (9), Register, November, 1972, rough (9), Register, November, 1972, No. 203, eff. 12-1-72.

H 96.06 Washing, rinsing and sanitizing utensils. (1) **CLEANING OF UTENSILS AND EQUIPMENT.** (a) All kitchen utensils and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly cleaned and sanitized after use.

(b) Cooking surfaces of equipment shall be cleaned at least once a day.

(c) All eating and drinking utensils shall be washed and sanitized immediately after use.

(d) Non-food-contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.

(2) **PRE-WASH.** All new restaurants and existing restaurants where dishwashing equipment is being replaced shall include pre-washing as an integral part of manual and mechanical utensil washing operations.

(3) **MANUAL CLEANING.** (a) A 2-compartment sink for manual dishwashing is permitted for existing restaurants only.

(b) A 3-compartment sink for washing, rinsing and sanitizing utensils, with adequate drain boards at each end, is required at all new installations and at the time of replacing sinks at existing restaurants. In addition, a single-compartment sink located adjacent to the soiled utensil drain board is required for pre-washing. The additional sink may also be used for liquid waste disposal, counter cloth washing and as an employes' handwashing facility if the utensil washing area is in the food preparation or serving room. In lieu of the additional sink for pre-washing, a well-type garbage disposal with overhead spray wash may be provided.

(c) The size of each sink compartment shall be adequate to permit immersion of at least 50% of the largest utensil used.

(d) The utensils shall be washed in water having a minimum temperature of 110° Fahrenheit, containing an adequate amount of an effective soap or detergent. Water shall be kept clean by changing it frequently. Following washing, all utensils shall be rinsed in clean water to remove soap or detergent.

(e) Following manual dishwashing and rinsing, all utensils shall be sanitized by either of the following 2 methods:

1. Submerge for 30 seconds in clean water continuously maintained at a temperature of 170° Fahrenheit or more. A thermometer with an accuracy of $\pm 2^\circ$ Fahrenheit must be installed in the final rinse compartment.

2. Submerge for at least 2 minutes in a hypochlorite solution with a chlorine concentration continuously maintained at 100 parts per million, or other approved sanitizing solutions which may be used at the concentration at which tested and approved by the department.

(f) All sanitizing solutions shall be prepared fresh when the restaurant opens or after each meal period and changed as often as necessary to keep sanitizing solutions clean.

(g) Soaps, water softeners, washing compounds and detergents shall not be added to sanitizing solutions.

(h) Utensils shall be racked in baskets so that all surfaces will be reached by the sanitizing solution while submerged, and after sanitizing be placed on a rack or drain board to air dry.

(4) **MECHANICAL CLEANING.** (a) Utensils shall be stacked in racks or trays so as to avoid overcrowding and in such manner as to assure complete washing contact of all surfaces of each article.

(b) The wash water temperature shall be held at from 130° to 150° Fahrenheit. The utensils shall be in the washing section for at least 20 seconds.

(c) A detergent shall be used in all utensil washing machines. An automatic detergent dispenser is required on all new mechanical dishwashing machines that reuse wash water.

(d) Sanitizing shall be accomplished by either of the following 2 methods:

1. For sanitizing in a spray type machine, dishes shall be subjected to a rinse period of at least 10 seconds at a temperature in the supply line at the machine of at least 180° Fahrenheit.

2. For sanitizing in an immersion tank type machine, dishes shall be submerged for at least 30 seconds with the water continuously maintained at a minimum temperature of 170° Fahrenheit. There shall be a constant change of water through the inlet and overflow.

(e) On all new installations, a smooth-end type sampling tap shall be provided in the sanitizing rinse line of all spray type dishwashing machines to facilitate temperature measurement of the sanitizing rinse water.

(f) On all new installations of spray type mechanical dishwashers, a pressure gauge shall be installed in the rinse line on the machine side of the final rinse valve or any other plumbing fitting in the line. The pressure shall be maintained between 8 and 12 pounds per square inch.

(g) Temperature gauges shall be located in the wash compartment of all mechanical dishwashers and in the rinse water line of a spray type mechanical dishwasher or in the rinse tank of an immersion type dishwasher. The temperature gauges shall be readily visible, fast acting and accurate to $\pm 2^\circ$ Fahrenheit.

(5) DRYING OF UTENSILS. All utensils shall be air dried in racks or baskets or on drain boards.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. Register, November, 1972, No. 203, eff. 12-1-72.

H 96.07 Food. (1) APPROVED SOURCE. (a) All food shall be from sources approved or considered satisfactory by the department and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption.

(b) No hermetically sealed, nonacid and low-acid food which has been processed in a place other than a commercial food processing establishment shall be used.

(c) Canned and pre-packaged foods shall be identified with the manufacturer's, processor's or distributor's name and the list of contents or product name.

(d) Only milk and milk products which meet the Grade "A" milk standards of the Wisconsin department of agriculture and are certified by the department shall be served or used.

(e) All ice used for cooling drinks or food by direct contact shall be made from water from an approved public or private water supply.

(f) No food can be served in any restaurant unless it is prepared on the premises or in another place licensed by the appropriate state agency.

(2) PROTECTION. (a) All food while being stored, prepared, served or sold at restaurants, or during transportation shall be protected from contamination by dust, flies, rodents, other vermin, unclean equipment, utensils and work surfaces.

(b) All food shall be stored and displayed at such temperatures as will protect against spoilage. All perishable and potentially hazardous food which includes all custard-filled and cream-filled pastries, milk and milk products, meat, fish, shellfish, gravy, poultry stuffing and sauces, dressings, salads containing meat, fish, eggs, milk or milk products, and any other food or food products liable to rapid food spoilage shall be continuously maintained at safe temperatures, 40° Fahrenheit or below or 150° Fahrenheit or above, except during necessary periods of preparation and service. Each cold storage facility used for the storage of perishable and potentially hazardous food in a nonfrozen state shall be maintained at a temperature of 40° Fahrenheit or lower.

(c) Stuffings, poultry, stuffed meats and poultry and pork and pork products shall be thoroughly cooked before being served.

(d) Individual portions of food once served to the customer shall not be served again, except that wrapped food which has not been unwrapped and which is wholesome may be re-served.

(e) Each cold storage facility used for the storage of perishable food in a nonfrozen state shall be provided with an indicating thermometer accurate to $\pm 2^\circ$ Fahrenheit. The thermometer shall be located in the warmest part of the facility in which food is stored, and be of such type and so situated that the thermometer can be easily read.

(f) Only such poisonous and toxic materials as are required to maintain sanitary conditions may be used or stored in restaurants. Poisonous and toxic materials shall be labeled and stored in cabinets used for no other purpose. The cabinets shall not be located in the food preparation room or area. Poisonous and toxic materials shall be used only in such manner and under such conditions as will not contaminate food or constitute a hazard to employes or customers.

(g) All milk, cream and other milk products shall be kept in the original containers in which delivered and under refrigeration until served or used. Dipping of milk is not permitted. No surfaces of bulk milk dispensers with which milk comes in contact, other than the delivery orifice, shall be accessible to manual contact, droplets, dust or flies and the product container shall be cleaned, sanitized, filled and sealed only at a milk plant which meets the grade "A" milk standards of the Wisconsin department of agriculture and certified by the department. Cream pitchers, if used, shall be provided with covers.

(h) All ice shall be stored in a smooth-surfaced, easily cleanable container. Packaged ice shall be stored in a clean area and protected against contamination.

(i) Foods shall be stored in such manner so as to prevent contamination by sewage, waste water backflow, condensation, leakage or vermin. Food shall be stored at least 8 inches above the floor in basement storage areas and at a sufficient height so the floor under the shelves can be cleaned. In other than basement storage areas, food shall be stored above the floor on clean racks, dollies or other clean surfaces which can be moved for cleaning and be protected from splash or other contamination. Food in walk-in refrigeration shall be stored at least 6 inches above the floor.

(j) The wet storage of food or beverages is prohibited.

(k) All foods when displayed must be protected from flies, insects, rodents, dust, sneeze or cough spray and from handling by the public. Where unwrapped food is placed on display in all types of restaurant operations, including smorgasbords, buffets and cafeterias, it shall be protected against contamination by customers and other sources by effective, easily cleanable, counter-protector devices, sneeze rails, cabinets, display cases, containers or other similar type of protective equipment. All potentially hazardous food while on display should be served by restaurant personnel whenever possible. Self-service openings in counter guards shall be so designed and arranged as to protect food from manual contact by customers.

(l) Food containers shall be constructed of materials that are good conductors of heat and so arranged to minimize the reaching over of food by patrons.

(m) A clean plate shall be used if successive servings are permitted at smorgasbords, cafeterias and other similar operations.

(n) Mixing spoons, tongs, scoops, dispensing spoons and other suitable utensils shall be used in dispensing and preparation of food and ice to eliminate the unnecessary use of hands or contamination of food. All dispensing utensils shall be of sufficient length to prevent them from falling into containers of food.

(o) All foods, including vegetables, served raw shall be thoroughly washed in clean water from an approved public or private water supply.

(p) Sugar, cream, mustard, ketchup or other condiments not dispensed by a food service employe shall be individually packaged or served from an approved dispensing device in an approved manner.

(3) RESTRICTIONS. (a) The harboring of birds, cats, dogs or other animals is not permitted in rooms or areas in which food is prepared, or stored, or served or where utensils are washed.

(b) Rooms in which food is prepared or stored or where dishes are washed shall not be used for sleeping, nor shall food preparation or storage areas be used for laundry purposes.

(c) Doors to living or sleeping quarters at new restaurants shall not open to a food preparation, storage or serving area or to an area where utensils are washed. Such doors at existing restaurants shall be self-closing.

(4) DELIVERY VEHICLES. Vehicles used in delivery of a pre-ordered meal or lunch prepared in a restaurant shall be equipped with clean con-

tainers or cabinets to store the food while in transit. The container or cabinet shall be so constructed as to prevent food contamination by dust, insects, animals, vermin or other sources of contamination. Potentially hazardous food shall be transported in containers or cabinets maintained at a temperature at or below 40° Fahrenheit or a temperature at or above 150° Fahrenheit until the food is delivered to the person placing the order.

(5) **SERVING FOOD IN OPEN AIR.** Food may be served at drive-ins, open-air dining rooms and other similar restaurants where screening is not provided for the dining room, provided that the areas where food is served are kept free of flies and other insects through the use of approved, properly applied chemicals and that all food served and all utensils used in connection therewith are covered or wrapped.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. (1) through (3), Register, November, 1972, No. 203, eff. 12-1-72.

H 96.08 Personnel. (1) **COMMUNICABLE DISEASE CONTROL.** (a) No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease.

(b) If the restaurant licensee suspects that any employe has contracted any disease in a communicable form or has become a carrier of such disease, he shall exclude the employe from the restaurant and notify the local health officer immediately. The local health officer shall determine whether the employe has a communicable disease or is a carrier of such disease. If the local health officer is not a physician, he shall make arrangements to employ a physician to aid in making the diagnosis. Laboratory examination, as may be indicated, may be required by the physician.

(c) Chest X-ray and/or tuberculin test are recommended annually for all restaurant personnel.

(2) **RESTRICTIONS ON EMPLOYMENT.** Persons who at any time have had typhoid or paratyphoid fever shall not be employed in a restaurant until it has been definitely determined by appropriate tests that such persons are not typhoid or paratyphoid carriers.

(3) **CLEANLINESS.** (a) All employes shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved handwashing facility before starting work, upon resuming work after visiting the toilet rooms and as often as may be necessary to remove soil and contamination. Fingernails shall be clean and neatly trimmed.

(b) Effective hair restraints, such as hair nets or caps, shall be used by food-preparation personnel. Hair sprays and head bands are not acceptable hair restraints. Effective hair control to eliminate unnecessary touching or handling of hair shall be practiced by waitresses and other restaurant employes.

(c) All employes shall refrain from using tobacco in any form while on duty in food preparation and storage rooms, while serving food and

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while engaged in equipment or utensil washing. Smoking areas where no contamination hazards will result may be approved.

(d) Dressing rooms or other suitable areas with lockers shall be provided when employees change clothing within the establishment.

(4) TRAINING. Employees and management shall be adequately informed concerning acceptable and sanitary food handling practices. Approved food handler training programs should be attended when available.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. (4), Register, November, 1972, No. 203, eff. 12-1-72.

H 96.09 Building structure. (1) STATE BUILDING CODE. The state building code of the department of industry, labor and human relations shall apply as it pertains to the physical structure of the restaurant.

(2) ADDITIONAL REQUIREMENTS. (a) The floor surfaces in kitchens, behind bars, in walk-in refrigerators and in all other rooms and areas in which food is stored or prepared and in which utensils are washed shall be of smooth, nonabsorbent materials and so constructed as to be easily cleanable. Carpeting is not permitted in such rooms or areas or in toilet rooms.

(b) In areas subject to spilling or dripping of grease or fatty substances, the floor coverings shall be of grease-resistant material. It is recommended that floor material used below dishwashing machines be impervious to water in all new establishments and establishments extensively remodeled and the floor be sloped to a drain.

(c) All walls and ceilings of rooms or areas in which food is prepared or stored or utensils are washed shall be durable, easily washable, smooth and light colored. Coved type joints shall exist between walls and floors at all new installations. Materials which are absorbent or have perforated or sculptured surfaces or have other than sealed butt joints are not acceptable for room surfaces in kitchens or cooking areas.

(d) All doors and windows opening to the outer air shall be effectively screened and doors shall be self-closing, unless other effective fly control measures are employed.

(e) All areas in which food is prepared or stored or utensils are washed, handwashing areas, dressing or locker rooms, toilet rooms and garbage and refuse storage areas shall be well lighted. During all clean-up activities, adequate light shall be provided in the area being cleaned, and upon or around equipment being cleaned. Lighting fixtures directly over food preparation surfaces should have protective shielding to prevent broken glass from falling into food.

(f) All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage and refuse storage areas shall be well ventilated. An adequate size ventilation hood with grease filters shall be provided over each cooking area. Filters shall be readily removable for cleaning or replacement and be cleaned at least once each week and more often if necessary.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. Register, November, 1972, No. 203, eff. 12-1-72.

H 96.10 Maintenance. (1) **FLOORS, WALLS AND CEILINGS.** The floors, including carpeting, walls and ceilings of all rooms shall be maintained in a clean and sanitary condition and in good state of repair.

(2) **VERMIN.** The premises shall be kept in such condition as to prevent the entrance, harborage or feeding of vermin.

(3) **PREMISES.** The premises shall be maintained in a clean, neat condition free from refuse. Surfaces of land surrounding the restaurant shall be well drained. Parking areas of drive-in restaurants shall be treated to minimize dust and dirt. The exterior of all restaurant buildings shall be well maintained and kept in good repair.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; r. and recr. Register, November, 1972, No. 203, eff. 12-1-72.

H 96.11 Temporary restaurants. APPLICABLE REGULATIONS. In addition to those requirements contained in sections H 96.01 through H 96.10 considered applicable to temporary restaurants, the following specific regulations apply:

(1) **PERMIT.** (a) No temporary restaurant may be operated before being granted a permit.

(b) No permit will be issued without a prior inspection.

(c) Permits may be transferred to a premise other than that for which it was issued, provided that approval of the new premise is secured from a department representative prior to operation of the temporary restaurant at the new premise.

(d) Permits shall be conspicuously displayed.

(e) Operators or licensees of temporary restaurants whom the department has found to be uncooperative or habitual violators of restaurant regulations may be denied a permit to operate.

(2) **ROOF, SIDEWALLS AND FLOORS.** (a) No temporary restaurant shall be operated without acceptable roof and sidewalls.

(b) Floors shall be maintained in a sanitary condition. Dirt floors shall be covered with wood racks, gravel, clean wood chips or other material which provide protection from splash and dust.

(3) **LOCATION.** No temporary restaurant shall be located within 100 feet of a barn or enclosure housing animals or other source of odors and flies.

(4) **ENCLOSURE OF KITCHEN.** (a) All kitchens maintained in connection with temporary restaurants must be effectively enclosed or screened.

(b) All means of cooking at counters that are not enclosed must be equipped with a glass or metal shield covering front, ends and a portion of the top.

(c) Grills or barbecue pits outside of an enclosed area shall be effectively separated, preferably by fencing, so as not to be accessible to the public.

(5) **TOILET FACILITIES.** Toilet facilities within a reasonable distance of a temporary restaurant are required.

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(6) **WATER.** (a) Water under pressure through a conventional piping system shall be available at the restaurant or be transported from an approved public or private water supply. If water is transported, the containers for hauling and water storage shall be smooth, easily cleanable and provided with a tight-fitting cover. The containers shall be emptied at the end of each day's operation. Prior to each day's operation, the containers shall be cleaned and sanitized. The container for water storage at the restaurant shall be equipped with a faucet, a U-bend vent directed downward and be stored on a clean, elevated surface.

(b) Hot water for handwashing and dishwashing is required.

(7) **SANITARY WASTE DISPOSAL.** Connection to an approved sewage collection system is required, when such a system is available. When not available, a container for liquid waste storage shall be provided and be emptied when necessary to a public sewer. If a public sewer is not available, disposal shall be at a location which will not create a fly, odor or nuisance problem.

(8) **MANUAL DISHWASHING.** A 3-compartment sink for washing, rinsing and sanitizing of multi-use utensils is required. Dishwashing facilities shall not be used for employe's handwashing, counter cloth washing or any other use.

(9) **EMPLOYEES' HANDWASHING FACILITIES.** As a minimum, a handwashing basin, a rinsing basin, soap and individual toweling for employes' handwashing is required.

(10) **DISPENSING OF CONDIMENTS.** Sugar, cream, mustard, ketchup and other condiments shall be individually packaged or served from an approved dispensing device.

(11) **FOOD STORAGE.** There shall be no wet storage of packaged foods and beverages except that bottled or canned beverages may be stored in ice water, providing the top of the bottle is not submerged and that a chlorine residual of at least 50 parts per million is maintained in the ice water.

(12) **SINGLE-SERVICE UTENSILS.** (a) Single-service utensils shall be used in serving all foods and beverages unless the restaurant has hot and cold potable water under pressure and a suitable sewage collection system serving all fixtures, with connection to an acceptable sewage disposal system.

(b) Single-service utensils such as straws, paper plates, cups, spoons, knives and forks shall be stored in the original container until used.

(c) Straws, knives, forks and spoons shall be individually wrapped or, if unwrapped, served through an approved dispenser. Single-service cups shall be dispensed by means of a covered dispenser which provides protection of the interior and lip contact surface from dust and handling.

(13) **HOUSEKEEPING.** (a) The roof, sidewalls, counters, floors and all equipment and utensils shall be maintained in a clean and sanitary condition. The grounds immediately surrounding the restaurant, including the refuse and garbage storage area, shall be kept free of food scraps, paper and other debris.

(b) In areas where flies are prevalent, an effective and acceptable insecticide shall be used in a manner which will not contaminate food or food equipment.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69.

H 96.12 Mobile restaurants. APPLICABLE REGULATIONS. In addition to those requirements contained in sections H 96.01 through 96.10 considered applicable to mobile restaurants, the following specific regulations apply:

(1) (a) For each mobile restaurant and for each service base, the owner or manager shall obtain a restaurant permit from the department before operating.

(b) No permit shall be issued without a prior inspection.

(c) Permits cannot be transferred from one person to another, from one service base to another or from one mobile restaurant to another mobile restaurant, and are valid only for the service base area for which issued.

(d) All mobile restaurants shall be identified by make, model, serial number or other means approved by the department.

(e) A mobile restaurant permit does not in any way limit or interfere with the rights of any town, village or city as provided or established in ch. 129, Stats.

(f) Permits and such other identification issued by the department shall be conspicuously displayed on the licensed premises of each service base and in each mobile restaurant.

(g) Operators or licensees of mobile restaurants whom the department has found to be uncooperative or habitual violators of restaurant regulations may be denied a permit to operate.

(2) **SERVICE BASE.** Every mobile restaurant shall have a licensed service base of operations consisting of an enclosed building for servicing, cleaning, inspection and maintenance of all vehicles.

(3) **BOUNDARY OF OPERATION.** (a) The boundary of a mobile restaurant's operation shall be limited to that distance which it can reasonably be expected to travel in one direction in 4 hours.

(b) Itineraries of each mobile restaurant shall be available at the service base. Each mobile restaurant shall return to its service base not less than once in each 24 hours for servicing and maintenance and oftener if so required.

(c) On request of a representative of the department, each mobile restaurant shall be made available for inspection for a pre-arranged period of not less than one hour between 8 a.m. and 5 p.m. at the service base. A mobile restaurant shall also be open to inspection by a department representative at any time while it is in operation.

(4) **WATERING POINT.** (a) The watering point shall be located in the service base and shall be located and maintained in a manner that will assure protection against contamination.

(b) The service base watering tap fixture shall have a one-half inch or a one-inch diameter threaded outlet. The tap shall be directed downward if it is not otherwise protected by a self-closing cover.

(c) Hoses shall be of approved material. Each end of the hose shall have a threaded attachment for connection to the one-half inch or one-inch threaded outlet of the service base watering tap fixture and the water storage tank respectively. Both ends of the hose shall be prevented from touching the ground or any contaminating material by permanent placement of a 6-inch metal disk near each end. Hoses shall be used for this purpose only and shall be stored on a special reel or in a special locker labeled: "For Watering Point Hose Only."

(5) WATER STORAGE TANK. (a) Every mobile restaurant shall be equipped with a gravity or pressurized water storage tank. Mobile restaurants which only sell or serve food and do not prepare beverages or food other than heating prepared foods must have a water storage tank with a capacity of at least 10 gallons for employe hand washing. Mobile restaurants which prepare food or beverages on the mobile unit shall have a water storage tank with a capacity of at least 40 gallons. Water for the tank shall be obtained from the service base watering point and the vehicle shall return to the service base whenever the amount of water in storage does not equal at least one gallon.

(b) The water storage tank containing a one-half inch or one-inch diameter threaded inlet shall be of durable construction using at least 14 gauge metal. It shall be provided with a glass-sight gauge graduated to read water volume in gallons. A U-bend overflow directed downward shall be provided. A threaded opening on the inlet line or on the tank with a locking device shall be provided for flushing and sanitizing the tank. Following flushing, a chlorine sanitizing solution of 100 parts per million for a contact period of at least 2 minutes shall be used each time prior to filling. The sanitizing solution can be discharged to the liquid waste disposal tank. All openings, other than inlet pipe and discharge pipe, shall be kept locked and the key stored at the service base.

(6) WATERING POINT PROCEDURE. Water must be conducted from the service base fixture to the mobile restaurant storage tank through an approved hose and fitting specified in subsection (4). After connecting the hose to the watering point tap, and before using any water from it, the hose shall be thoroughly flushed. The water filling attachment on the water tank shall be flushed just before the hose is attached for filling the tank.

(7) LIQUID WASTE STORAGE TANK. (a) Mobile restaurants with handwashing facilities only shall be equipped with a waste water storage tank having a capacity of at least 15 gallons, but at least 5 gallons larger than the water storage tank. Mobile restaurants which prepare food or beverages on the unit shall be equipped with a waste water storage tank having a capacity of at least 50 gallons, but at least 10 gallons larger than the water storage tank. The contents of the tank shall be emptied only at the service base in an approved manner to an approved sewage disposal system. The tank shall be completely emptied each time the water supply is replenished.

(b) The waste storage tank shall be of durable construction using at least 14 gauge metal. The tank discharge connection shall contain a min-

imum 1½-inch half-union attachment for gravity draining. A tight-closing valve shall be located between the attachment and tank proper. The waste storage tank shall be maintained in a reasonably sanitary condition.

(8) **LIQUID WASTE DISPOSAL.** (a) Every service base shall have provision for the sanitary disposal of liquid wastes to receive the gravity flow of waste water from the vehicle waste water collection tank. The discharge pipe of the waste collection tank shall contain a tight-closing valve.

(b) When liquid waste cannot be discharged directly to sanitary sewers, a hose with a minimum 1½-inch half-union type attachment for connection to the vehicle waste water tank shall be provided. The hose shall be maintained in a clean and serviceable condition and when not in use shall be stored in a separate cabinet labeled: "For Waste Water Hose Only."

(9) **SEPARATION OF FACILITIES.** No food, food containers, wrappers, packaging materials or utensils shall be kept in the driver's compartment of any mobile restaurant. The driver's compartment shall be separated by a complete partition from the area for food preparation, service or storage.

(10) **BOTTLE OR LIQUEFIED GAS.** If bottle or liquefied gas is used within a mobile restaurant, the owner or licensee shall show, upon demand, that the installation conforms to regulations of the department of industry, labor and human relations for design, construction, location and installation of said equipment.

(11) **MOBILE RESTAURANT TOILET FACILITIES.** Arrangements shall be made by written agreement between owners of public or private toilet facilities and owners or licensees of mobile restaurants for the use of personnel operating the mobile restaurant of said toilet facilities located within the boundary of operation at all hours the mobile restaurant is in operation.

(12) **RESTRICTIONS.** (a) No mobile restaurant shall be used for living or sleeping purposes.

(b) Mobile restaurants shall not be used for any other purpose or business.

(c) Non-employees shall not be permitted in the vehicle.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69.

H 96.13 Enforcement. (1) **ENFORCEMENT OF RULES AND REGULATIONS.** Whenever, upon inspection of a restaurant by an authorized employe or agent of the department and it is found that such restaurant is not operated or equipped as required in the rules, the authorized employe or agent of the department shall notify the owner in writing and shall specify the requirements prescribed by the law and rules of the department to make such place of business conform with the standards established and the time limit within which compliance must be effected. If the order is not fulfilled at the expiration of the time stipulated in said order, or any extension of time granted for compliance, then the permit to operate the restaurant may be suspended or revoked by the department.

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(2) **ENFORCEMENT POLICY.** (a) With the approval of the department revocation or suspension of a permit to operate a restaurant, without a written notice from the department, may be carried out where violations constitute an immediate health hazard.

(b) Hotel and restaurant sanitarians of the department are authorized to summarily suspend the permit of any temporary or mobile restaurant found to be violating regulations of the department until such regulations have been complied with.

(3) **APPEAL BY THE OPERATOR.** Any person aggrieved by an order of the department may appeal to the secretary within 30 days after issuance of the order. The secretary shall either reaffirm, summarily set aside or modify the order, or set a date for hearing on the matter. The action taken by the secretary may either suspend the order or continue it in force pending determination of the issues. If the secretary has summarily modified the order, the person aggrieved may appeal from the modified order.

(4) **STATE HEALTH OFFICER EMPOWERED TO ACT.** The state health officer is empowered to act for the department in the administration and enforcement of all provisions of ch. 50, Stats., and the rules and regulations of the department pertaining to restaurants.

History: Cr. Register, June, 1969, No. 162, eff. 7-1-69; am. (4), Register, November, 1980, No. 299, eff. 12-1-80.