

CHAPTER 157

FOOD, BEVERAGE, AND LODGING ESTABLISHMENTS

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157.01 [Repealed, 1995 c 207 art 9 s 61]

157.011 RULES.

Subdivision 1. **Establishments.** The commissioner shall adopt rules establishing standards for food and beverage service establishments, hotels, motels, lodging establishments, and resorts.

Subd. 2. **Certification of food service managers.** The commissioner shall:

- (1) adopt rules for certification requirements for managers of food service operations; and
- (2) establish in rule, criteria for training and certification.

Subd. 3. **Rule exemption.** Notwithstanding any rule to the contrary, no food establishment shall be required to acquire equipment or change construction solely because ownership of the food establishment has been transferred.

History: 1995 c 165 s 11; 1996 c 451 art 4 s 46; 1Sp2005 c 4 art 6 s 42

157.02 [Repealed, 1995 c 207 art 9 s 61]

157.03 [Repealed, 1996 c 451 art 4 s 71]

157.031 [Repealed, 1995 c 207 art 9 s 61]

157.04 [Repealed, 1995 c 207 art 9 s 61]

157.045 [Repealed, 1995 c 207 art 9 s 61]

157.05 [Repealed, 1995 c 207 art 9 s 61]

157.06 [Repealed, 1975 c 310 s 38]

157.07 [Repealed, 1975 c 310 s 38]

157.08 [Repealed, 1995 c 207 art 9 s 61]

157.081 [Repealed, 1993 c 206 s 25]

157.082 [Repealed, 1994 c 567 s 24]

157.09 [Repealed, 1994 c 567 s 24]

157.10 [Repealed, 1965 c 45 s 73]

157.11 [Repealed, 1975 c 310 s 38]

157.12 [Repealed, 1995 c 207 art 9 s 61]

157.13 [Repealed, 1995 c 207 art 9 s 61]

157.14 [Repealed, 1995 c 207 art 9 s 61]

157.15 [Repealed, 1959 c 592 s 29]

157.15 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to sections 157.011 and 157.15 to 157.22.

Subd. 2. [Repealed, 1996 c 451 art 4 s 71]

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Boarding establishment.** "Boarding establishment" means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

Subd. 5. **Food and beverage service establishment.** "Food and beverage service establishment" means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Subd. 6. **Food cart.** "Food cart" means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

Subd. 7. **Hotel or motel.** "Hotel or motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

Subd. 7a. **Limited food establishment.** "Limited food establishment" means a food and beverage service establishment that primarily provides beverages that consist of combining dry mixes and water or ice for immediate service to the consumer. Limited food establishments must use equipment and utensils that are nontoxic, durable, and retain their characteristic qualities under normal use conditions and may request a variance for plumbing requirements from the commissioner.

Subd. 8. **Lodging establishment.** "Lodging establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

Subd. 9. **Mobile food unit.** "Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or

(2) operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Subd. 10. **Person.** "Person" has the meaning given in section 103I.005, subdivision 16.

Subd. 11. **Resort.** "Resort" means a building, structure, enclosure, or any part thereof located on, or on property neighboring, any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

Subd. 12. **Restaurant.** "Restaurant" means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.

Subd. 12a. **Seasonal permanent food stand.** "Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

Subd. 12b. **School concession stand.** "School concession stand" means a food and beverage service establishment located in a school, on school grounds, or within a school-owned athletic complex, that is operated in conjunction with school-sponsored events. A school kitchen or school cafeteria is not a school concession stand.

Subd. 13. **Seasonal temporary food stand.** "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location.

Subd. 14. **Special event food stand.** "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.

Subd. 15. [Repealed, 1998 c 407 art 2 s 109]

Subd. 16. **Critical control point.** "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Subd. 17. **HACCP plan.** "Hazard analysis critical control point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Subd. 18. **Hazard.** "Hazard" means any biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Subd. 19. **Statewide hospitality fee.** "Statewide hospitality fee" means a fee to fund statewide food, beverage, and lodging program development activities, including training for inspection staff, technical assistance, maintenance of a statewide integrated food safety and security information system, and other related statewide activities that support the food, beverage, and lodging program activities.

Subd. 20. **Youth camp.** "Youth camp" has the meaning given in section 144.71, subdivision 2.

History: 1995 c 207 art 9 s 41; 1996 c 451 art 4 s 47-55,70; 1997 c 203 art 2 s 19-21; 1998 c 407 art 2 s 87-91; 1Sp2005 c 4 art 6 s 43; 2009 c 79 art 10 s 36; 2010 c 285 s 1; 2010 c 294 s 1; 2011 c 92 s 1; 1Sp2011 c 9 art 2 s 23

157.16 LICENSES REQUIRED; FEES.

Subdivision 1. **License required annually.** A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment, youth camp, hotel, motel, lodging establishment, public pool, or resort. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Special event food stands are not required to submit plans. Nonprofit organizations operating a special event food stand with multiple locations at an annual one-day event shall be issued only one license. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service establishment, hotel, motel, lodging establishment, public pool, or resort; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. **License renewal.** Initial and renewal licenses for all food and beverage service establishments, youth camps, hotels, motels, lodging establishments, public pools, and resorts shall be issued on an annual basis. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of \$60 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a special event food stand, and a penalty of \$120 shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, youth camps, public pools, and resorts operating without a license for a period of up to 30 days. A late fee of \$360 shall be added to the license fee for establishments operating more than 30 days without a license.

Subd. 2a. **Food manager certification.** An applicant for certification or certification renewal as a food manager must submit to the commissioner a \$35 nonrefundable certification fee payable to the Department of Health. The commissioner shall issue a duplicate certificate to replace a lost, destroyed, or mutilated certificate if the applicant submits a completed application on a form provided by the commissioner for a duplicate certificate and pays \$20 to the department for the cost of duplication.

Subd. 3. **Establishment fees; definitions.** (a) The following fees are required for food and beverage service establishments, youth camps, hotels, motels, lodging establishments, public pools, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, public pools, and resorts shall pay an annual base fee of \$150.

(c) A special event food stand shall pay a flat fee of \$50 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand and a school concession stand, and each hotel, motel, lodging establishment, public pool, and resort shall pay an additional annual fee for each fee category, additional food service, or required additional inspection specified in this paragraph:

(1) Limited food menu selection, \$60. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, \$120. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or
- (v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, \$310. "Medium establishment" means a fee category that meets one or more of the following:

- (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;
- (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or
- (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, \$540. "Large establishment" means either:

- (i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or
- (ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$60.

(6) Beer or wine table service, \$60. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, \$165.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$10, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$1,000. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public pool, \$325; each additional public pool, \$175. "Public pool" means a fee category that has the meaning given in section 144.1222, subdivision 4.

(10) First spa, \$175; each additional spa, \$100. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, \$150. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public. Additional food service does not apply to school concession stands.

(13) Additional inspection fee, \$360. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee for review of construction plans must accompany the initial license application for restaurants, hotels, motels, lodging establishments, resorts, seasonal food stands, and mobile food units. The fee for this construction plan review is as follows:

Service Area	Type	Fee
Food	limited food menu	\$275
	small establishment	\$400
	medium establishment	\$450
	large food establishment	\$500
	additional food service	\$150
Transient food service	food cart	\$250
	seasonal permanent food stand	\$250
	seasonal temporary food stand	\$250
	mobile food unit	\$350
Alcohol	beer or wine table service	\$150
	alcohol service from bar	\$250
Lodging	less than 25 rooms	\$375

25 to less than 100 rooms	\$400
100 rooms or more	\$500
less than five cabins	\$350
five to less than ten cabins	\$400
ten cabins or more	\$450

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, resorts, seasonal food stands, and mobile food units are extensively remodeled, a fee must be submitted with the remodeling plans. The fee for this construction plan review is as follows:

Service Area	Type	Fee
Food	limited food menu	\$250
	small establishment	\$300
	medium establishment	\$350
	large food establishment	\$400
	additional food service	\$150
Transient food service	food cart	\$250
	seasonal permanent food stand	\$250
	seasonal temporary food stand	\$250
	mobile food unit	\$250
Alcohol	beer or wine table service	\$150
	alcohol service from bar	\$250
Lodging	less than 25 rooms	\$250
	25 to less than 100 rooms	\$300
	100 rooms or more	\$450
	less than five cabins	\$250
	five to less than ten cabins	\$350
	ten cabins or more	\$400

(g) Special event food stands are not required to submit construction or remodeling plans for review.

(h) Youth camps shall pay an annual single fee for food and lodging as follows:

- (1) camps with up to 99 campers, \$325;
- (2) camps with 100 to 199 campers, \$550; and
- (3) camps with 200 or more campers, \$750.

(i) A youth camp which pays fees under paragraph (d) is not required to pay fees under paragraph (h).

Subd. 3a. **Statewide hospitality fee.** Every person, firm, or corporation that operates a licensed boarding establishment, food and beverage service establishment, seasonal temporary or permanent food stand, special event food stand, mobile food unit, food cart, resort, hotel, motel, or lodging establishment in Minnesota must submit to the commissioner a \$35 annual statewide hospitality fee for each licensed activity. The fee for establishments licensed by the Department of Health is required at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Subd. 4. **Posting requirements.** Every food and beverage service establishment, for-profit youth camp, hotel, motel, lodging establishment, public pool, or resort must have the license posted in a conspicuous place at the establishment. Mobile food units, food carts, and seasonal temporary food stands shall be issued decals with the initial license and each calendar year with license renewals. The current license year decal must be placed on the unit or stand in a location determined by the commissioner. Decals are not transferable.

History: 1995 c 207 art 9 s 42; 1996 c 451 art 4 s 56; 1997 c 203 art 2 s 22; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 92; 1Sp2001 c 9 art 1 s 54; 2002 c 379 art 1 s 113; 1Sp2005 c 4 art 6 s 44-47; 2007 c 147 art 9 s 34; 2008 c 328 s 8; 2009 c 79 art 10 s 37; 2009 c 157 art 1 s 13,14; 2010 c 285 s 2; 1Sp2010 c 1 art 21 s 2

157.17 ADDITIONAL REGISTRATION REQUIRED FOR BOARDING AND LODGING ESTABLISHMENTS OR LODGING ESTABLISHMENTS; SPECIAL SERVICES.

Subdivision 1. **Definitions.** (a) "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, and arranging for medical and social services. Supportive services also include providing reminders to residents to take medications that are self-administered or providing storage for medications if requested.

(b) "Health supervision services" means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in dressing, grooming, bathing, or with walking devices.

Subd. 2. **Registration.** At the time of licensure or license renewal, a boarding and lodging establishment or a lodging establishment that provides supportive services or health supervision services must be registered with the commissioner, and must register annually thereafter. The registration must include the name, address, and telephone number of the establishment, the name of the operator, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the boarding and lodging establishment or lodging establishment the necessary form for submitting the registration.

Housing with services establishments registered under chapter 144D shall be considered registered under this section for all purposes except that:

- (1) the establishments shall operate under the requirements of chapter 144D; and
- (2) the criminal background check requirements of sections 299C.66 to 299C.71 apply. The criminal background check requirements of section 144.057 apply only to personnel providing home care services under sections 144A.43 to 144A.47 and personnel providing hospice care under sections 144A.75 to 144A.755.

Subd. 3. **Restriction on the provision of services.** A boarding and lodging establishment or lodging establishment registered under subdivision 2 may provide health supervision services only if a licensed nurse is on site in the establishment for at least four hours a week to provide monitoring of health supervision services for the residents. A boarding and lodging establishment or lodging establishment that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the Office of the State Fire Marshal.

Subd. 4. [Repealed, 1998 c 254 art 1 s 57]

Subd. 5. **Services that may not be provided in a boarding and lodging establishment or lodging establishment.** Except those facilities registered under chapter 144D, a boarding and lodging establishment or lodging establishment may not admit or retain individuals who:

(1) would require assistance from establishment staff because of the following needs: bowel incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or

(2) require a level of care and supervision beyond supportive services or health supervision services.

Subd. 6. **Certain individuals may provide services.** This section does not prohibit the provision of health care services to residents of a boarding and lodging establishment or lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.

Subd. 7. **Exemption for establishments with a human services license.** This section does not apply to a boarding and lodging establishment or lodging establishment that is licensed by the commissioner of human services under chapter 245A.

Subd. 8. **Violations.** The commissioner may revoke the establishment license if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

History: 1995 c 207 art 9 s 43; 1996 c 451 art 4 s 57; 1997 c 113 s 14,15; 1998 c 254 art 1 s 55,56; 2002 c 252 s 21

157.175 DOGS; OUTDOOR FOOD AND BEVERAGE SERVICE ESTABLISHMENTS.

Subdivision 1. **Municipal authorization.** A statutory or home rule charter city may adopt an ordinance to permit food and beverage service establishments to allow dogs to accompany persons patronizing designated outdoor areas of food and beverage establishments.

Subd. 2. **Dangerous and potentially dangerous dogs.** The ordinance must prohibit dangerous and potentially dangerous dogs, as defined in section 347.50, from accompanying patrons to food and beverage establishments.

Subd. 3. **Banning dogs.** The ordinance may not prohibit a food and beverage establishment from banning dogs. A person accompanied by a dog who remains at an establishment knowing that the operator of the establishment or its agent has posted a sign banning dogs or otherwise informed the person that dogs are not permitted in the establishment may be ordered to leave the premises.

Subd. 4. **Permit process.** (a) The ordinance must require participating establishments to apply for and receive a permit from the city before allowing patrons' dogs on their premises. The city shall require from the applicant such information as the local government deems reasonably necessary, but shall require, at a minimum, the following information:

(1) the name, location, and mailing address of the establishment;

(2) the name, mailing address, and telephone contact information of the permit applicant;

(3) a description of the designated outdoor areas in which the permit applicant intends to allow dogs; and

(4) a description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor areas.

(b) A permit issued pursuant to the authority granted in this section must not be transferred to a subsequent owner upon the sale of a food and beverage establishment but must expire automatically upon the sale of the establishment. The subsequent owner shall be required to reapply for a permit pursuant to this section if the subsequent owner wishes to continue to accommodate patrons' dogs.

(c) A city may incorporate the permit requirements of this section into a permit or license issued under an existing ordinance if the city ensures that current and future permit and license holders comply with the requirements of this section. A city may exempt current permit and license holders from reapplying for a permit, if the current permit or license holder provides the city with the information required in paragraph (a) and any other information that the city requests.

Subd. 5. Minimum requirements. The ordinance must include such regulations and limitations as the local government deems reasonably necessary to protect the health, safety, and general welfare of the public, but must require, at a minimum, the following requirements, which must be clearly printed on a sign or signs posted on premises in a manner and place that are conspicuous to employees and patrons:

- (1) employees must be prohibited from touching, petting, or otherwise handling dogs;
- (2) employees and patrons must not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations;
- (3) patrons must keep their dogs on a leash at all times and must keep their dogs under reasonable control;
- (4) dogs must not be allowed on chairs, tables, or other furnishings; and
- (5) dog waste must be cleaned immediately and the area sanitized.

Subd. 6. Service animals. Nothing in this statute, or an ordinance adopted pursuant to this statute, shall be construed to limit:

- (1) the right of a person with disabilities to access places of public accommodation while accompanied by a service animal as provided in sections 256C.02 and 363A.19; or
- (2) the lawful use of a service animal by a licensed peace officer.

Subd. 7. Designated outdoor area. The ordinance must include a definition of "designated outdoor area" that is consistent with applicable rules adopted by the commissioner of health.

History: 2008 c 325 s 1

157.18 [Repealed, 1996 c 451 art 4 s 71]

157.19 [Repealed, 1996 c 451 art 4 s 71]

157.20 INSPECTION; FREQUENCY; RISK CATEGORIES; ORDERS.

Subdivision 1. Inspections. It shall be the duty of the commissioner to inspect, or cause to be inspected, every public pool, food and beverage service establishment, hotel, motel, lodging

establishment, or resort. For the purpose of conducting inspections, the commissioner shall have the right to enter and have access thereto at any time during the conduct of business.

Subd. 2. **Inspection frequency.** The frequency of inspections of the establishments shall be based on the degree of health risk.

(a) High-risk establishments must be inspected at least once every 12 months.

(b) Medium-risk establishments must be inspected at least once every 18 months.

(c) Low-risk establishments must be inspected at least once every 24 months.

Subd. 2a. **Risk categories.** (a) **High-risk establishment.** "High-risk establishment" means a public pool, or any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;

(2) prepares foods several hours or days before service;

(3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;

(4) has a public swimming pool; or

(5) draws its drinking water from a surface water supply.

(b) **Medium-risk establishment.** "Medium-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

(c) **Low-risk establishment.** "Low-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

(d) **Risk exceptions.** Mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

(e) **School inspection frequency.** Elementary and secondary school food service establishments must be inspected according to the assigned risk category or by the frequency required in the Richard B. Russell National School Lunch Act, whichever frequency is more restrictive.

Subd. 3. **Orders.** When, upon inspection, it is found that the business and property so inspected is not being conducted, or is not equipped, in the manner required by the provisions of this chapter or the rules of the commissioner, or is being conducted in violation of any of the laws of this state pertaining to the business, it is the duty of the commissioner to notify the person in charge of the business, or the owner or agent of the buildings so occupied, of the condition found and issue an order for correction of the violations. Each person shall comply with the provisions of this chapter or the rules of the commissioner. A reasonable time may be granted by the commissioner for compliance with the provisions of this chapter.

Subd. 4. **Alternative compliance methods for delegated agencies.** (a) A local agency operating with a delegation agreement under section 145A.07 may request approval from the

commissioner to supplant subdivisions 1 to 3 with alternative compliance methods. The local agency must submit to the commissioner:

- (1) the alternative compliance methods that will be taken to ensure an equivalent degree of protection to public health, safety, or the environment;
- (2) the reasons why alternative methods are requested;
- (3) a plan for evaluating the effectiveness of the alternative methods;
- (4) a statement that the local agency applying for approval of the alternative methods will comply with the terms, if granted; and
- (5) other relevant information the commissioner determines necessary to evaluate the request.

(b) The commissioner may approve the request if the alternative methods will have no potential adverse effect on public health, safety, or the environment and if the alternative methods are equivalent to or superior to those prescribed in subdivisions 1 to 3. In approving the request, the commissioner may attach conditions the commissioner determines are needed to protect public health, safety, or the environment. The commissioner shall notify the local agency in writing of the commissioner's decision to approve or deny the request. If a request is denied, the commissioner shall specify the reasons for the denial.

Subd. 5. **Variance requests.** (a) A person may request a variance from all parts of Minnesota Rules, chapter 4626, except as provided in paragraph (b) or Minnesota Rules, chapter 4626. At the time of application for plan review, the person, operator, or submitter must be notified of the right to request variances.

(b) No variance may be requested or approved for the following parts of Minnesota Rules, chapter 4626:

- (1) Minnesota Rules, part 4626.0020, subpart 35;
- (2) Minnesota Rules, parts 4626.0040 to 4626.0060;
- (3) Minnesota Rules, parts 4626.0065 to 4626.0100;
- (4) Minnesota Rules, parts 4626.0105 to 4626.0120;
- (5) Minnesota Rules, part 4626.1565;
- (6) Minnesota Rules, parts 4626.1590 and 4626.1595; and
- (7) Minnesota Rules, parts 4626.1600 to 4626.1675.

History: 1995 c 207 art 9 s 46; 1996 c 451 art 4 s 58,59; 2001 c 205 art 2 s 2; 1Sp2005 c 4 art 6 s 48,49; 2008 c 328 s 9,10; 1Sp2011 c 9 art 2 s 24

157.21 INSPECTION RECORDS.

The commissioner shall keep inspection records for all food and beverage service establishments, hotels, motels, lodging establishments, and resorts, together with the name of the owner and operator.

History: 1995 c 207 art 9 s 47; 1996 c 451 art 4 s 60

157.215 [Repealed, 1Sp2005 c 4 art 6 s 58]

157.22 EXEMPTIONS.

This chapter does not apply to:

(1) interstate carriers under the supervision of the United States Department of Health and Human Services;

(2) weddings, fellowship meals, or funerals conducted by a faith-based organization using any building constructed and primarily used for religious worship or education;

(3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;

(4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;

(5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;

(6) nonprofit senior citizen centers for the sale of home-baked goods;

(7) fraternal, sportsman, or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to, affiliated with, or supported by such fraternal, sportsman, or patriotic organizations for events held in the building or on the grounds of the organization and at which home-prepared food is donated by organization members for sale at the events, provided:

(i) the event is not a circus, carnival, or fair;

(ii) the organization controls the admission of persons to the event, the event agenda, or both; and

(iii) the organization's licensed kitchen is not used in any manner for the event;

(8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any manner for the potluck event. For purposes of this clause, "school" means a public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections 120A.22 and 120A.24. Potluck event food shall not be brought into a licensed food establishment kitchen;

(9) a home school in which a child is provided instruction at home;

(10) school concession stands serving commercially prepared, nonpotentially hazardous foods, as defined in Minnesota Rules, chapter 4626;

(11) group residential facilities of ten or fewer beds licensed by the commissioner of human services under Minnesota Rules, chapter 2960, provided the facility employs or contracts with a certified food manager under Minnesota Rules, part 4626.2015;

(12) food served at fund-raisers or community events conducted in the building or on the grounds of a faith-based organization, provided that a certified food manager, or a volunteer trained in a food safety course, trains the food preparation workers in safe food handling practices.

This exemption does not apply to faith-based organizations at the state agricultural society or county fairs or to faith-based organizations that choose to apply for a license; and

(13) food service events conducted following a disaster for purposes of feeding disaster relief staff and volunteers serving commercially prepared, nonpotentially hazardous foods, as defined in Minnesota Rules, chapter 4626.

History: 1995 c 207 art 9 s 48; 2000 c 378 s 1; 2001 c 65 s 1; 1Sp2001 c 9 art 1 s 55; 2002 c 379 art 1 s 113; 2009 c 79 art 10 s 38; 2009 c 142 art 2 s 10; 2011 c 92 s 2