

CHAPTER 37
(Revised 12-1-1998)
PUBLIC HEALTH

37.01 AUTHORITY AND TITLE. This chapter is adopted pursuant to the specific delegation of authority granted to counties by Sec. 251.02 of the Wisconsin Statutes, and shall be known as the "Brown County Public Health Ordinance.

37.02 JURISDICTION. The jurisdiction of this chapter shall include all areas, except cities which have opted out of the countywide public health system, in Brown county as provided in Section 251.08 of the Wisconsin Statutes.

37.03 PURPOSE. The purpose of this chapter is to promote the public Health of the people and communities within Brown County.

37.04 INTENT AND INTERPRETATION. The general intent of this chapter is to provide for public health services by implementing a public health system so as to protect the health of residents and transients and to secure safety from communicable diseases. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for violation of this chapter.

In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements and shall be broadly and liberally construed in favor of Brown County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes, and is limited only by express language.

37.05 ABROGATION AND UNIFORMITY WITH STATE REGULATIONS. (1)It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing ordinances, rules, regulations or permits previously adopted or issued pursuant to law. Pursuant to Sec. 50.355 of the Wisconsin Statutes, Brown County has been designated as an agent for enforcement purposes as to certain health regulations by state enforcement agencies.

(2) This chapter shall be subject to the provisions of Chapter 251, Wisconsin Statutes, and all subsequent rules and regulations promulgated there under regarding local public health systems as set forth in Wisconsin Administrative Code.

(3) This chapter shall not be interpreted to be more lenient than the Wisconsin Administrative Code rules and regulations promulgated pursuant to Chapter 251, Wisconsin Statutes and related public health statutory provisions.

(4) Incorporation of Provisions by Reference. This chapter incorporates by reference the applicable rules, regulations and laws as set forth in Chapters 250 to 255, Wisconsin Statutes; Sec. 66.124, Wisconsin Statutes; Sec. 97, Wisconsin Statutes; and Chp. ATCP 75, Retail Food Establishments; Ch. HSS 177, Mobile Home Parks; Ch. ILHR 90 and CH. HSS 172, relating to Public Swimming Pools; Ch. HSS 175, Recreation and Educational Camps; Ch. HSS 178, Campgrounds; Ch. HSS 195, Hotels, Motels and Tourist Rooming Houses; Ch. HSS 196, Restaurants; Ch. HSS 197, Bed and Breakfast Establishments; Ch. HSS 198, Vending of

Foods; of the Wisconsin Administrative Code. These rules, regulations and laws shall apply until amended and then shall apply as amended. The regulations set forth in this Chapter are no less stringent than and do not conflict with the said enumerated state statutes and administrative rules.

(5) Incorporation of Provisions of Ch. HFS 173, Wisconsin Administrative Code, Relating to Tattooing and Body Piercing. This chapter incorporates, by reference, the applicable laws as set forth in Chapters 250 to 255, Wisconsin Statutes, and the rules and regulations set forth in Ch. HFS 173 of the Wisconsin Administrative Code relating to the regulation of tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect the public health and safety. These rules and regulations shall apply until amended, and then shall apply as amended. This subsection (5) is enacted pursuant to the authority delegated by Sec. 252.245(6) of the Wisconsin Statutes.

37.06 DEFINITIONS. For this chapter definitions provided in Ch. ATP 75, Retail Food Establishments; Ch. HSS 177, Mobile Home Parks; Ch. ILHR 90 & Ch. HSS 172, Recreation and Educational Camps; Ch. HSS 178, Campgrounds; Ch. HSS 195, Hotels, Motels and Tourist Rooming Houses; Ch. HSS 196, Restaurants; Ch. HSS 197, Bed and Breakfast Establishments and Ch. HSS 198, Vending of Foods; all as set forth in the Wisconsin Administrative Code are hereby adopted by reference.

37.07 LICENSE, PRE-INSPECTION FEES AND LATE FEES. Late payment fees, pre-inspection fees and all individual license fees shall be established as part of the annual budget process.

37.08 ISSUANCE AND REVOCATION OF LICENSES. (1) License Required. No Person shall engage in any business or activity enumerated in subsection (2) below, without a license or permit therefore as provided by this section. The words "license" and "permit", as used throughout this chapter, shall be interchangeable.

(2) Granting of Licenses. The County Health Officer may issue the following licenses subject to the standards established by this chapter.

- (a) Bakeries and confectioneries.
- (b) Eating and Drinking Establishments.
- (c) Hotel and Motel.
- (d) Retail Food Stores.
- (e) Swimming Pools.
- (f) Bed and breakfast establishments.
- (g) Mobile Home Parks.
- (h) Campgrounds.

(i) Recreational/Educational Camps.

(3) Licenses--Payment of Taxes and Other Obligations.

(a) The following are conditions precedent to the issuance by the County Health Office of any licenses or permit, except alcohol beverage licenses, provided under the Brown County Code.

1. The payment of all personal property taxes and room taxes imposed pursuant to Wisconsin Statutes or Municipal Code and all other claims or judgments due and owing from the applicant to Brown County at the time the license or permit is issued.

2. The payment of all taxes, claims or judgments, as described in paragraph 1, relating to the property or business previously licensed if the new license is granted conditionally upon or subsequent to the sale or transfer of the business or stock in trade or furnishings or equipment of the premises or the sale or transfer of the ownership or control of a corporation.

(b) No license or permit shall be issued until all required payments have been made.

(c) A determination made under this section may be appealed by the applicant to the Board of Health, which shall provide for due notice and hearing before the Board of Health. The Board of Health shall make findings of fact and issue its conclusion. In the event the County Board of Supervisors makes a determination that an error was committed, any amount improperly paid by the applicant shall be promptly refunded, together with the interest rate of 12% per annum from the date the amount was paid to the date of refund.

If any taxpayer is delinquent in the payment of the taxes imposed by this section, the County Treasurer may, upon 10 days notice and after giving the taxpayer an opportunity to confer, recover the taxes, interest, and penalties from the security or surety placed with the County Treasurer by such taxpayer. No interest shall be paid or allowed by the County to any person for the deposit of such security.

(4) Separability or Conflict. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions of this ordinance.

37.09 SUSPENSION AND REVOCATION OF CERTAIN LICENSES. (1) Licenses issued under Section 37.07, Brown County Code, may be suspended or revoked pursuant to this provision.

(2) Enforcement of Rules and Regulations. Whenever, upon inspection of a licensed establishment by an authorized agent of the County Health Department or by County Health Officer, it is found the establishment is not operating or equipped as required in subsection (1), the County Health Officer or an agent shall notify in writing the person operating the premises and shall specify the requirements described by State law or code and local ordinance to make such place of business conform to the standards established, and shall specify the time limit within which compliance shall take place. If the time limit in the order is

not met, or any extension of time granted for compliance, then the permit to operate the establishment may be suspended by the County Health Officer.

(3) Inspection. (a) Access to Licensed Premises. The Health Officer or an authorized representative may enter any establishment licensed under (1) to inspect the premises, secure samples or specimens, examine and copy any relevant document, or obtain photographs or other evidence needed to enforce the provisions of the above-referenced section.

(b) Examination and Condemnation of Food or Drink. Samples of food or drink in any bakery, confectionery, restaurant, or retail food establishment may be taken from an establishment and examined by the County Health Officer as often as deemed necessary for protection against and detection of unwholesomeness or adulteration. Chapter 94, Wisconsin Statutes, is incorporated by reference as if fully set forth herein.

(4) Emergency Health Hazard Situations. Whereas a result of an inspection, the County Health Officer or an agent has reasonable cause to believe that any inspected food, construction, sanitary condition, method, or operation of a premises or equipment used on the premises creates a danger to health, the County Health Officer is delegated authority to issue orders and may issue a temporary order prohibiting the sale or movement of food for any purpose or otherwise prohibiting the continued operation which creates the immediate danger to health. Pursuant to Sec. 66.124, Stats. The County Health Officer or authorized agent may, in addition to the above without written notice, suspend a license referred to in (1) where the violations of the above-referenced provisions exist to such a degree as to constitute in the opinion of the County Health Office an immediate health hazard. By so doing, the licensee must immediately cease all operations authorized by the license or permit. Section 97.12(2), Wisconsin Statutes, is incorporated by reference as if fully set forth herein.

(5) Appeal by the Operator. Any person aggrieved by an order of the County Health Officer may appeal such order to the Board of Health within 30 days after the issuance of such order. The Board of Health may either reaffirm, summarily set aside, or modify the order, or set a date for a hearing on the matter. The action taken by the Board of Health may either suspend the order or continue it in force pending determination of the issue. If the Board of Health has summarily modified the order, the person aggrieved may appeal from the modified order. The procedures for appeal of Health Department orders as found at Sec. 68.11, Wis. Stats., shall apply. An order and final determination of the Board of Health may be appealed to the Circuit Court of Brown County pursuant to Sec. 68.13 of the Wisconsin Statutes.

37.10 EATING AND DRINKING ESTABLISHMENTS. (1) Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

(a) Eating and drinking establishments mean restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, soda fountain, non-alcoholic bar where beverages are dispensed into re-usable or other containers, and any other public eating and drinking establishment, as well as any kitchen in which food and drink are prepared and sold or given away for human consumption.

(b) Itinerant Restaurant. Itinerant restaurant means a restaurant operating temporarily in connection with a fair, carnival, circus, public exhibition or other similar gathering.

(c) Employee. Employee means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.

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

(e) County Health Officer. County Health Officer means the County Health Director of Brown County or an authorized representative.

(2) Enforcement. This chapter shall be enforced by the County Health Officer in accordance with standards adopted by an ordinance of the County Board of Supervisors, a certified copy of which standards shall be on file in the County Clerk's office and in the County Health Department.

(3) Permit. (1) Permit Required. No person shall operate an eating and drinking establishment in Brown County who does not possess an unrevoked permit and in whose place of business such permit is not posted in a conspicuous place, except the County Health Officer may exempt a person conducting an itinerant restaurant in connection with a philanthropic society, a one-day event, or the like from such requirement. Only persons who comply with the requirements of this chapter shall be entitled to receive and retain such a permit.

(a) Application for Permit. An application for permit shall be made to the County Health Department and shall state the name and address of the person applying for the permit and such other information as the County Health Officer may require.

(b) Approved Applications. When application is approved by the County Health Officer, the permit shall be granted by the County Health Department.

(c) Suspended or Revoked Permit. Such permit may be suspended or revoked by the County Health Department upon the recommendation of the Board of Health. The holder of the permit shall be granted an opportunity for a due process hearing before the Board of Health upon such suspension or revocation.

(4) Itinerant Restaurants. Itinerant restaurants shall be constructed and operated in a manner approved by the Health Director.

(5) Examination and Condemnation of Food or Drink. Samples of food and drink may be taken and examined by the County Health Officer as often as deemed necessary for the detection of unwholesomeness or adulteration. The County Health Officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which the County Health Officer deems unwholesome or adulterated.

(6) Inspection. (a) The County Health Officer shall inspect every restaurant in the County. If the County Health Officer discovers a violation of any provisions of this chapter, an order shall be issued to correct the violation. Failure to obey the order on two consecutive inspections shall be cause for immediate suspension of the permit.

(b) One copy of the inspection report shall be posted by the County Health Officer within the restaurant and shall not be defaced or removed by any person except the

County Health Officer. Another copy of the inspection report shall be filed in the Health Department.

(7) Sanitation Requirements. All eating and drinking establishments shall comply with all of the following requirements:

(a) Floors. The floors of all rooms in which food or drink is stored, prepared, or serviced, or in which utensils are washed, shall be smooth-surfaced and easily cleaned and shall be kept clean and in good repair.

(b) Walls and Ceilings. Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is stored or prepared shall be light colored. The walls and ceilings of all rooms in which food or drink is prepared or utensils are washed shall have smooth, washable surfaces.

(c) Doors and Windows. When flies are prevalent, all openings into the outdoors shall be effectively screened and all doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.

(d) Lighting. All rooms in which food or drink is stored or prepared, or in which utensils are washed, shall be well lighted.

(e) Ventilation. All rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be well ventilated.

(f) Toilet Facilities. Every restaurant shall be provided with adequate and conveniently located toilet facilities, conforming with City and State law, for its employees and patrons. Toilet rooms shall not open directly into any kitchen or storeroom. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept clean, in good repair, and well lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees. If privies or earth closets are permitted and used, they shall be separate from the restaurant building and shall be constructed and operated in conformity with applicable state and local regulations.

(g) Water Supply. The water supply shall be easily accessible to all rooms in which food is prepared or utensils are washed and shall be adequate and of a safe sanitary quality.

(h) Lavatory Facilities. Adequate and convenient hand-washing facilities shall be provided, including warm water, soap, and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his or her hands.

(i) Construction of utensils and equipment. All multi-use utensils and all display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be easily cleaned and in good repair.

(j) Cleaning and Bactericidal Treatment of Utensils and Equipment.

1. Equipment. All equipment, including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods, and sinks shall

be kept clean and free from dust, dirt, insects and other contaminating material. All cloths used by waiters, chefs, and other employees shall be clean. Single-service containers shall be used only once.

2. Utensils. All multi-use eating and drinking utensils shall be thoroughly cleaned and effectively subjected to an approved bactericidal process after each usage. All multi-use utensils used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose.
3. Use of Poisonous Substances Prohibited. No article, polish, or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of utensils.

(k) Storage and Handling of Utensils and Equipment. After bactericidal treatment, no utensils shall be stored except in a clean, dry place protected from flies, dust or other contamination, and no utensil shall be handled except in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a sanitary manner.

(l) Storage and Display of Food and Drink. All food and drink shall be so stored and displayed as to be protected from dust, flies, vermin, unnecessary handling, droplet infection, overhead leakage, and other contamination. No animals or fowl shall be kept or allowed in any room in which food or drink is prepared or stored.

(m) Wastes. The premises of all restaurants shall be kept clean and free from litter or rubbish. All wastes shall be properly disposed of and all garbage and trash shall be kept in suitable receptacles in such a manner as not to become a nuisance.

(n) Refrigeration. All readily perishable food or drink shall be kept at or below 40 degrees Fahrenheit except when being prepared or served. Meat or food shall not be placed in direct contact with ice. Waste water from refrigeration equipment shall be properly disposed of.

(o) Cleanliness of Employees. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink utensils, or equipment. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats, and aprons shall be kept in containers provided for this purpose.

(p) Not to be Conducted in Living Quarters. No operation connected with a restaurant shall be conducted in any room used as living or sleeping quarters.

(8) Wholesomeness of Food and Drink. All food and drink shall be wholesome and free from spoilage. All foods served raw, including vegetables, shall be thoroughly washed in clean, safe water. Contents of cans must be removed from such cans when they are opened. All milk, fluid milk products, and ice cream and other frozen desserts shall be from sources approved by the Health Commissioner. Milk and fluid milk products shall be served in the containers in which they were received from the distributor or from a bulk container equipped

with an approved dispensing device. All oysters, clams, and mussels shall be from approved sources.

(9) Communicable Diseases. Notification of Disease. Notice shall immediately be sent to the County Health Officer by the restaurant owner or manager or by the employee concerned if the owner or manager or any employee contracts any infectious, contagious, or communicable disease that is communicable by food or beverage handling. Any such employee shall notify the restaurant owner or manager immediately when any of such conditions occur; and if neither the owner, manager, nor the employee concerned notifies the County Health Officer immediately when any of such conditions occur, they shall be held jointly and severally to have violated this section.

(10) Procedure when Infection Suspected. When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the County Health Officer may require any or all of the following measures:

(a) The immediate exclusion of the employee from all restaurants.

(b) The immediate closing of the restaurant concerned until, in the opinion of the County Health Officer, no further danger of disease outbreak exists.

(c) Adequate medical examinations of the employee and those associated with such person, with such laboratory examinations as may be indicated.

37.11 HUMAN HEALTH HAZARDS PROHIBITED. The provisions of Section 254.59 of the Wisconsin Statutes are incorporated and made part of this section as though set out in full relating to human health hazards defined as a substance, activity or condition that is known to have the potential to cause acute or chronic illness or death if exposure to the substance, activity or condition is not abated.

37.12 PENALTY. Any person who violates any provision of this chapter, upon conviction, shall forfeit not less than \$5 nor more than \$500, together with the costs of prosecution. In default of payment of such forfeiture and costs, the violator shall be imprisoned in the County jail not to exceed 90 days or until such forfeiture and costs are paid.

This section shall not preclude the County from maintaining any appropriate action to prevent or remove a violation of this chapter.