

## CHAPTER 186. - IN GENERAL

### FOOTNOTE(S):

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**Editor's note**—Ord. No. 99-Or-115, § 1, adopted Oct. 29, 1999, repealed Ch. 186, §§ 186.10—186.60, which pertained to general regulations. Ord. No. 99-Or-118, § 1, adopted Oct. 29, 1999, enacted provisions designated as a new Ch. 186, §§ 186.10—186.60, to read as herein set out. See the Code Comparative Table.

### **186.10. - Title.**

This title shall be known and cited as the food code. (99-Or-118, § 1, 10-29-99)

### **186.20. - State code incorporated.**

The Minnesota Food Code, Minnesota Rules, Chapter 4626, and amendments thereto, is hereby adopted by reference and is incorporated in this title as fully as if set forth herein, subject to and including such portions as are supplemented by chapter 188 of this Code. (99-Or-118, § 1, 10-29-99)

### **186.30. - More restrictive standards to apply.**

Where the conditions imposed by any provision of the food code are either more restrictive or less restrictive than comparable conditions imposed by the Minnesota Food Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern, to the extent permitted by law. (99-Or-118, § 1, 10-29-99)

### **186.40. - "Regulatory authority" defined for the code.**

Wherever the term "regulatory authority" is used in the Minnesota Food Code, it shall be held to mean the Minneapolis Health Department. (99-Or-118, § 1, 10-29-99; 2013-Or-135, § 1, 12-6-13)

### **186.50. - Definitions.**

All terms used in this title, unless expressly defined in this section, shall be interpreted as defined in the Minnesota Food Code, part 4626.0020, as they may be amended from time to time. In addition, ~~T~~the following terms shall have the following meanings:

*Community kitchen* refers to an approved facility licensed as a food manufacturer that may be used by licensed businesses for commercial purpose. A community kitchen may also be an unlicensed kitchen that is used by community members for cooking non-commercial or exempt foods or for cooking classes and/or other related activities.

*Confectionery, as a license type*, shall mean the class of food that shall include ready-to-eat, single-service, pre-packaged snack items and beverages including chips, pop, candy, crackers, cookies, pastries, popcorn, sandwiches, milk, yogurt, ice cream, cheese and/or microwavable single-service soups or entrees and similar items. Ready-to-eat, single serving fruits and vegetables prewashed by the supplier may be sold if the facility has a conveniently located hand wash sink. No packaging or re-packaging may occur on the premises. If the facility is equipped with an NSF-approved three-compartment ware-washing sink with two (2) drain boards, and a hand wash sink conveniently located in the ware-washing area, the following non-potentially hazardous food items may be sold: coffee and flavored specialty coffees dispensed from a self-service device, pastries in a self-service display case, and candies in bulk containers for self-service. Food products designed for home preparation are not permitted. A commercial grade self-service microwave oven for self-service reheating of purchased food items is permitted. Approved commercial refrigeration and freezers are required.

~~*Critical item* means a part of the Food Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.~~

~~*Food establishment* shall be defined including Minnesota Rules 4626.0020 subpart 35(c), in addition to those facilities listed in Minnesota Rules 4626.0020 subpart 35(a) and (b).~~

*Food manufacturer* means a food service establishment with food preparation and service for carry-out, delivery, on-site dining with twelve (12) or fewer seats or a community kitchen.

*Food market distributor* means a vendor in a public or municipal market that is selling or reselling foods for off-site consumption.

*Food market manufacturer* means a vendor in a public or municipal market that is selling foods for immediate consumption.

*Food shelf* shall mean a food establishment operated by a nonprofit organization where food is collected, stored, or packaged for free distribution to individuals who qualify for food according to need.

*Food stand* shall mean a temporary food establishment operated in one (1) contiguous space by a single licensee and which complies with the guidelines for dispensing food ~~under~~ as a short-term or seasonal short-term food establishment permit.

~~*Imminent* means impending or likely to develop without delay.~~

*Institutional/congregate food service* shall mean a food establishment that serves food primarily to a defined population in a congregate dining fashion and may include commercial child care centers, hospital cafeterias, public and private schools, senior independent living facilities, charitable dining halls, community food service or similar facilities. Institutional food service shall not mean home-based daycare businesses, establishments that operate with a city board and lodging license or food service operations at group homes, nursing homes, and veteran homes, etc. that are licensed at the county, state or federal level.

*Mobile food vehicle* means a food establishment preparing and/or serving foods from a self-contained vehicle, either motorized or within a trailer, on public sidewalks, curbside on the

public streets, or on private property that is readily movable, without disassembling, for transport to another location, which operates 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

*Mobile food vehicle, limited* means a food establishment serving only prepackaged, nonperishable or packaged confections curbside on the public streets from a self-contained motorized vehicle.

*Mobile food vehicle, non-profit free food distributor* means a food establishment serving prepared food or grocery items to the public in a charitable, non-commercial manner.

~~*Non-critical item* means a part of the Food Code that, if in noncompliance, is less likely than other violations to contribute to food contamination, illness, or environmental degradation and represent substantial public health hazards. The designation of a non-critical item shall be in conformance with the designation contained within Minnesota Rules, Chapter 4626, as they may be amended from time to time.~~

*Perishable food* is fresh fruit and fresh vegetables, such as, but not limited to, apples, bananas, oranges and grapefruit, lettuce, carrots, radishes, onions and potatoes.

~~*Potentially hazardous food:*~~

- ~~(1) Potentially hazardous food means a food that is natural or synthetic and is in a form capable of supporting:
  - a.— The rapid and progressive growth of infectious or toxigenic microorganisms;
  - b.— The growth and toxic production of *Clostridium botulinum*; or
  - e.— In raw shell eggs, the growth of *Salmonella enteritidis*.~~
- ~~(2) Potentially hazardous food includes foods of animal origin that is raw or heat treated, a food of plant origin that is heat treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified in item (1).~~
- ~~(3) Potentially hazardous food does not include:
  - a.— An air cooled hard boiled egg with the shell intact;
  - b.— A food with an a(w) value of 0.85 or less;
  - e.— A food with a pH level of 4.6 or below when measured at twenty four (24) degrees Celsius (seventy five (75) degrees Fahrenheit);
  - d.— A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
  - e.— A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, including a food that has an a(w) and pH that are above the levels specified in subitem (2) or (3) and that~~

~~may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or~~

- ~~f. A food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth microorganisms as specified in item (1).~~

*Process review* means evaluating the menu and processes to receive, store, prepare, cook, hold, cool, and serve food.

*Restaurant* means a food service establishment with food preparation and service for carry out, delivery or on-site dining with thirteen (13) or more seats.

Risk Categories as referenced in MS 157.20:

- (1) Risk (1): High risk establishment means a public pool, or any food and beverage service establishment, hotel, motel, lodging establishment, or resort that:
- a. Serves potentially hazardous foods that require extensive processing on the premises including manual handling, cooling, reheating, or holding for service;
  - b. Prepares foods several hours or days before service;
  - c. Serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;
  - d. Serves foods that use specialized processes;
  - e. Has a public swimming pool; or
  - f. Draws its drinking water from surface water supply.
- (2) Risk (2): Medium risk establishment means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:
- a. Serves potentially hazardous foods but with minimal holding between preparation and service;
  - b. Serves foods, such as pizza, that require extensive handling followed by heat treatment; or
  - c. Serves foods that require some preparation on-site.
- (3) Risk (3): Low risk establishment means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a Risk (1): high-risk or a Risk (2): medium risk establishment.
- (4) 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.
- (5) 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.

Seasonal short-term food establishment, referenced as seasonal temporary food stand in MS 157.15, means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location. A seasonal short-term food establishment may operate for 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, that has jurisdiction over the seasonal short-term food establishment. A seasonal short-term food establishment pays an annual fee to operate at multiple, approved short-term food events, such as fairs, carnivals, and community celebrations, and is an approved participant under the auspices and control of each such event.

*Sell or sale* is any transaction of a mercantile character.

Short-term food establishment, referenced as special event food stand in MS 157.15, means a food and beverage service establishment which operates no more than three (3) times annually for no more than ten (10) total days in conjunction with ~~at~~ fairs, community celebrations, carnivals, circuses, promotional food product events, sports events and ~~the like~~ other special events.

*Sidewalk cart food vendor* shall mean a food establishment that is a nonmotorized vehicle self-propelled by the operator.

*Unpackaged processed food* means any processed food offered for sale from containers that permit a customer to dispense the food directly into packages, except produce offered for sale or food which is intended to be shelled.

*Wholesome* shall mean sound, healthful, clean, free from adulteration and in all ways fit for human food. (99-Or-118, § 1, 10-29-99; 2000-Or-059, § 1, 7-14-00; 2003-Or-022, § 1, 2-28-03; 2004-Or-035, § 1, 4-16-04; 2010-Or-012, § 1, 4-2-10; 2010-Or-079, § 1, 9-3-10; 2011-Or-039, § 1, 4-15-11; 2011-Or-070, § 1, 8-5-11; 2012-Or-031, § 1, 5-11-12)

#### **186.60. - Severability.**

If any part or provision of this title or the application thereof to any person, entity, or circumstances shall be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application which is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this title or the application thereof to other persons, entities, or circumstances. (99-Or-118, § 1, 10-29-99)