

CHAPTER 29

WEIGHTS & MEASURES

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ARTICLE I. ADOPTION OF STATE LAW & DEFINITIONS

SECTION 29-1 ADOPTION OF STATE STATUTES AND WISCONSIN ADMINISTRATIVE CODE.

The following federal standards, Wisconsin State Statutes and rules and regulations promulgated by the Wisconsin Department of Trade and Consumer Protection, in the Wisconsin Administrative code, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply.

- (A) W.S.A. Chapter 98, WEIGHTS AND MEASURES
- (B) ATCP 90, PACKAGING AND LABELING
- (C) ATCP 91, METHOD OF SALE OF COMMODITIES
- (D) ATCP 92, SEALS AND SCALE PITS
- (E) ATCP 108, MOTOR FUEL TRADE PRACTICES
- (F) ATCP 109, FREEZER MEAT AND FOOD SERVICE PLAN TRADE PRACTICES
- (G) ATCP 113, GASOLINE ADVERTISING
- (H) ATCP 124, PRICE COMPARISON ADVERTISING
- (I) ATCP 135, PLASTIC CONTAINERS; LABELING FOR RECYCLING

- (J) Sections of W.S.A. chapter 97 pertaining to product labeling, specifically including the following:
 - 1. W.S.A. sec 97.03, STANDARD MISBRANDING
 - 2. W.S.A. sec 97.07, INTERPRETATION
 - 3. W.S.A. sec 97.09, RULES
 - 4. W.S.A. sec 97.12, ENFORCEMENT
- (K) Sections of W.S.A. Chapter 100 pertaining to Advertising, specifically including W.S.A. 100.18, Fraudulent Advertising, and W.S.A. sec 100.183, Fraud, Advertising Foods
- (L) NIST Handbook 44, U.D. Department of Commerce, Specifications, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices except as such regulations may apply to weighing and measuring devices used for the purposes of contests or awards.

SECTION 29-2 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Incorrect: as applied to weights and measures and commodities, includes any failure to comply with the requirements of this article.

Package: means any commodity put up or packaged in any manner in advance of sales in units suitable for either wholesale or retail sale.

Sealer: means the “Sealer of Weights and Measures” or deputies.

Sell, Sale and Sold:
include barter or exchange and any offering or exposing for sale or possession with intent to sell.

Weight: means net weight when used in reference to a commodity.

Weights and Measures:
means weights and measures of every kind, instruments and devices for weighing and measuring, counting or pricing and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural) or water when the meters are operated in a public utility system, and scales under the control of the grain and warehouse commission.

ARTICLE II. CITY SEALER

SECTION 29-3 SEALER TO HAVE POLICE POWERS

There is hereby conferred upon the Sealer the powers of a police officer, and he/she is hereby empowered and authorized to make arrest, with or, without formal warrant, of any person or persons violating the provisions of this Chapter or relevant statutes of the State of Wisconsin relating to weights and measures.

SECTION 29-4 RIGHT OF INSPECTION

The Sealer may enter and go into or upon any structure or premises and may stop any person or vehicle for the purpose of enforcing this Chapter. They shall inspect and test any weights or commodities which are sold or used commercially as often as necessary to secure compliance with this Chapter. The Sealer shall approve for use and seal or mark with appropriate devices such weights and measures as found upon inspection and test to be correct, and shall reject and mark or tag as rejected such weights and measures as found upon inspection or test to be incorrect but which in their best judgement are capable of satisfactory repair. Weights and measures that have been rejected or condemned may be confiscated and may be destroyed by the Sealer if not corrected as required by the Sealer or if used or disposed of contrary to this Chapter.

SECTION 29-5 INSPECTION AND CERTIFICATE OF APPROVAL

It shall be the duty of the Sealer to inspect and test the accuracy of all weights, measures, scales, scale beams, patent balances, steel yards, automatic and computing scales and all other instruments used in weighing or measuring any articles intended to be purchased or sold in the City as often as necessary to secure compliance with this chapter; to stamp with a suitable and permanent seal upon all weights and measures so used which accurately conform to City standards; and to deliver to the owner thereof a certificate of their accuracy. Such weights, measures and scales so sealed shall be described in such certificate with sufficient particularity so that the same may be identified, and such certificate shall be signed by the Sealer by whom the inspection was made.

SECTION 29-6 INSPECTION ON PREMISES EXCEPT PEDDLERS SCALES

The Sealer shall examine and inspect all weights, measures, scales, scale beams, patent balances, steel yards, computing and automatic scales, and all other instruments used for weighing at the stores or places where the same may be used; provided, however, that all itinerant peddlers and hawkers, including all persons peddling or selling any farm produce and all transient merchants using any such scales, balances, weights or measures shall take the same to the office of the Sealer, before any use is made thereof, and

have the same sealed and adjusted annually.

SECTION 29-7 INVESTIGATIONS

The Sealer shall investigate complaints made concerning violations of the provisions of this Chapter and shall conduct any investigations the Sealer deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this Chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

SECTION 29-8 PRESUMPTIVE EVIDENCE

For the purpose of this Chapter, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use by the person in charge of such building, enclosure, stand or vehicle.

SECTION 29-9 NON-COMPLIANT MEASURES

The Sealer shall reject, and mark or tag as rejected, such weights and measures as found upon inspection or test to be incorrect or inaccurate. The Sealer may order the correction of weights and measures which are found to be incorrect or inaccurate which in the Sealer's best judgement are capable of being repaired. Weights and measures which are found to be inaccurate or incorrect or which are not corrected as required by order may be confiscated and may be destroyed by the Sealer.

SECTION 29-10 STOP ORDERS AND DISPOSAL ORDERS

The Sealer shall have the power to issue stop orders, stop sale orders, and disposal orders with respect to weights and measures being or capable of being commercially used, and to issue stop sales orders and disposal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold, or in the process of delivery, whenever in the course of the enforcement of the provisions of this Chapter he/she deems it necessary or expedient to issue such orders. No person shall use, remove from the premises specified, or fail to remove from the premises specified, any weight, measure, package or amount of commodity contrary to the terms of a stop use order, stop sale order, or disposal order issued under the authority of this Chapter.

SECTION 29-11 RECORD TO BE KEPT BY SEALER

It shall be the duty of the Sealer to keep a record of all weights, measures, scales, scale beams, patent balances, steel yards, computing and automatic scales and other instruments used for weighing and measuring, the name of the owner of the same, and whether they are conformable to the City standards.

SECTION 29-12 SEALER NOT TO SELL SCALES, ETC.

It shall be unlawful for the Sealer to vend any weights, measures, scales, scale beams, patent balances, steel yards, automatic or computing scales, or other instruments to be used for the purpose of weighing or measuring, or to offer or expose the same for sale, or be interested directly or indirectly in the sale of the same in the City, or to recommend to any person within the said City the purchase of any particular kind, or the purchase from any particular person, of any of the aforesaid articles.

ARTICLE III. GENERAL REGULATIONS

SECTION 29-13 NOTICE TO SEALER OF USE OF SCALES

It shall be the duty of every person owning or having in possession or under their control any weight, measure, scale, scale beam, patent balance, steel yard, computing or automatic scale or other instrument used for the purpose of weighing or measuring any article, animal or thing intended to be purchased or sold within the city, to notify the Sealer in writing of the acquisition of such device and have same sealed before using commercially. Such notice shall also contain the number thereof and a general description of the same, and the street and number of the place where the same may be found for the purpose of inspection, and such notice shall be signed by the person owning or having such weight or instrument in possession or under control.

SECTION 29-14 REPONSIBILITIES OF EQUIPMENT OWNERS OR USERS

The owner, operator or user of any commercial weights and measures equipment, devices or associated equipment is responsible for the accuracy and maintenance of the equipment.

- (A) It shall be the duty of every owner, operator or user to notify the Sealer in writing of the acquisition of any device, whether new, rebuilt or used, or of the major repair, conversion or calibration of any device already in use. The notification shall be accomplished within seventy-two (72) hours of the introduction or reintroduction into use of the device.
- (B) Commercial weights and measures devices regulated by this Chapter shall bear security seals appropriately affixed to any adjustment mechanisms designed to be sealed. The security seals shall bear the mark or imprint of the Sealer or other weights and measures official, or service persons authorized by the Sealer. The security seal may only be moved to facilitate repairs of devices. The Sealer shall be notified of the repairs and removal of the seal within seventy-two (72) hours of removal or of the introduction of a new, rebuilt or used device in accordance with subsection (A) of this section so that the devices may be sealed or resealed.

SECTION 29-15 NON-CONFORMANCE WITH CITY STANDARDS; INCORRECT SCALES

No person shall use, maintain or operate any weight, measure, scale, scale beam, patent balance, steel yard, automatic or computing scale or other instrument which does not conform to City standards, or shall use in weighing any scale, scale beam, patent balance, steel yard, automatic or computing scale or other instrument which is out of order or incorrect or does not balance.

SECTION 29-16 ALTERATION AFTER SEALING

No person shall alter or permit to be altered, or shall knowingly use or permit to be used, any altered weight measure, scale, scale beam, steel yard, automatic or computing scale, patent balance or other instrument for weighing or measuring, that has been certified and sealed per Section 29-5, which by reason of such alteration, does not conform to the City standard. No person shall mark or seal any weight measure, scale, scale beam, steel yard, patent balance, automatic or computing scale, or other implement, utensil or receptacle which is used or intended to be used for weighing or measuring any article or commodity intended to be sold, unless previously authorized by the Sealer.

ARTICLE IV. STANDARD, UNITS OF WEIGHTS & MEASURES

SECTION 29-17 STATE STANDARDS ADOPTED

The weights and measures prescribed by the laws of the State of Wisconsin are hereby declared to be the standard weights and measures of the City.

SECTION 29-18 STANDARDS OF WEIGHTS AND MEASURES

- (A) There shall be supplied by the City such field standards and such equipment as may be found necessary to carry out the provisions of this Chapter. The field standards shall be verified by the State Department of Agriculture, Trade and Consumer Protection upon their initial receipt and at regular intervals thereafter stipulated by the State.
- (B) The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the National Institute of Standards and Technology shall apply in the City except as modified by rules issued by the State Department of Agriculture Trade and Consumer Protection.

SECTION 29-19 METHOD OF SALE OF COMMODITIES

- (A) Commodities in liquid form shall be sold by liquid measure and commodities not in liquid form shall be sold by weight, provided that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure if such methods are in general use and give accurate information as to the quantity of commodity sold.

- (B) Berries and small fruits may be sold by measure only if in containers having capacities of one-half (1/2) dry pint, one (1) dry pint or one (1) dry quart.

- (C) It shall be unlawful to advertise, offer for sale or sell within the City firewood, fireplace wood, slab wood or stove wood in any other manner than by the cord, fractions of a cord, volumetric measure or by weight.
 - (1) Mill ends, lumber scraps, and irregular pieces when sold for fuel, shall be sold by net weight.

 - (2) The cord is hereby defined for purposes of this section as the amount of wood, or a combustible, fibrous growth, which is one hundred twenty-eight (128) cubic feet generally meaning a stack of wood four (4) feet by four (4) feet by eight (8) feet. Ranked and well stowed shall be construed to mean pieces of wood placed in a line or row with individual pieces touching and parallel to each other, and stacked in a compact manner.

 - (3) The identity of the wood shall be in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

 - (4) Units of firewood of less than four (4) cubic feet, whether sold as single logs or in packages consisting of two (2) or more logs commonly referred to as bundles, shall be sold by net weight.

 - (5) No person shall advertise to residents of the City nor sell and deliver within the City any firewood, fireplace wood, slab wood or stove wood without first having obtained an annual license as required by Section 29-27 of the code.

 - (6) A delivery ticket or invoice shall be presented by the seller to the purchaser whenever any non-packaged fireplace or stove wood is sold. The delivery ticket or sales invoice shall clearly and legibly state in ink or other indelible substance at least the following information:
 - (a) Name and address of seller;
 - (b) Name and address of purchaser;
 - (c) Date of delivery;
 - (d) This section shall not apply to commodities sold in compliance with a State or

Federal law which prescribes another method of sale or to commodities for immediate consumption on the premises where sold.

SECTION 29-20 DECLARATION OF QUANTITY

- (A) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling price based upon a price per unit of weight or measure, shall be sold unless the weight or measure of the commodity is conspicuously declared on the commodity or tag, label or sign. If a commodity is wrapped or labeled in advance of sale with a price affixed to the commodity or wrapping, the quantity that determines that price shall appear on the package with the price even though the quantity may already appear on a counter card or sign.
- (B) No commodity shall be wrapped or its container made, formed or filled so as to mislead the purchaser; nor shall the qualifying term "when packaged", or the terms "jumbo" or "giant" or "full", or words of similar import that tend to mislead the purchaser as to the amount of the commodity, be used in connection with a declaration of quantity.
- (C) In addition to the other declarations required by this section, any commodity in package form, the package being one (1) of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count.

SECTION 29-21 VARIATIONS FROM DECLARED QUANTITY

The magnitude of permitted variations from declared quantity shall be determined as follows:

- (A) The compliance of commodities sold, either in bulk or in prepackaged form, shall be based upon the results of the application of inspection procedures and tolerances as set forth by the State Department of Agriculture, Trade and Consumer Protection.
- (B) Commodities, both in bulk or prepackaged form, found in violation of this Chapter after test and analysis of a random or statistical sample, shall be acted upon either individually or on a by-the-lot basis.

SECTION 29-22 ADVERTISING COMMODITIES FOR SALE

Whenever a commodity in bulk or packaged form is advertised in any manner and the price of the commodity is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the quantity of contents offered in the case of packaged commodity, or of the price per unit and the unit based upon in the case of a bulk commodity.

- (A) When the commodity is in packaged form, the quantity, as it appears on the package, shall likewise appear in the advertisement; provided that where the law or regulation requires a dual declaration only that declaration setting forth the quantity in terms of the smaller unit of weight or measure (the declaration that is required to appear first on the package) need appear in the advertisement.
- (B) Whenever any commodity is advertised as described, the appropriate method of sale as set forth in State statutes and administrative rules adopted by reference shall also be applied in the advertisement.
- (C) There shall not be included as part of the declaration required under this section such qualifying terms as "when packaged", "minimum", "not less than", or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count, for example "jumbo", "giant", "full", and the like, that tends to exaggerate the amount of commodity in the package.

SECTION 29-23 MISREPRESENTATION OF PRICE

- (A) Generally. Whenever any commodity or service is sold or is offered, exposed or advertised for sale by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or respective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (1/2) the height and width of the numerals representing the whole cent.
- (B) Cash registers and similar devices. Prices generated by a device such as a cash register or scanning system, are also affected under this section. The Sealer shall inspect and test such systems and monitor pricing declarations made by or relative to them, such as pricing signs, shelf tags or individually price-marked units, to ensure agreement of all prices. Prices generated by these systems shall wholly agree with posted or pre-marked prices for the item being sold.
 - (1) Cash registers. Each cash register used in buying and selling transactions shall be maintained in proper operating condition by its owner. All components, attachments and functions of the register shall be operating correctly as designed. All pricing representations shall be accurate.
 - (2) UPC, scanning and point of sale systems. Pricing systems utilizing a scanning device such as a hand held gun or wand, or counter-mounted scanner units at retail checkouts which read universal product code symbols or other bar code labels and the like, shall be maintained in proper operating condition and be so calibrated to accurately read the intended symbols and then generate the proper description and price for the given code.
- (C) Price refunds; price information.
 - (1) A person who uses an electronic scanner to record the price of a commodity or thing at a

price higher than the posted, tagged or advertised price of that commodity or thing, at least shall refund to a person who purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale.

- (2) A person who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the requirements of sub (1).

SECTION 29-24 HEATING OIL AND MOTOR FUEL DELIVERED TO PREMISES OF CONSUMER

All heating oils and motor fuels shall be sold by net weight. In the case of each delivery of liquid fuel not in package form and in an amount greater than ten (10) gallons in the case of sale by liquid measure or one hundred (100) pounds in the case of sale by weight, there shall be rendered to the purchaser, either at the time of delivery or within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or other indelible substance, there shall be clearly and legibly stated:

- (1) The name and address of the vendor;
- (2) The name and address of the purchaser;
- (3) The identity of the type of fuel comprising the delivery;
- (4) The unit price, that is, the price per gallon or per pound, as the case may be, of the fuel delivered;
- (5) In the case of sale by liquid measure, the liquid volume of the delivery, together with the print meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions; and
- (6) In the case of sale by weight, the net weight of the delivery, together with any weighing scale readings from which such net weight has been computed, expressed in terms of tons or pounds.

SECTION 29-25 MOTOR FUEL, HEATING OIL, AND SOLVENTS SOLD ON PREMISES OF SELLER

Every wholesaler, retailer and every other person selling or distributing motor fuel, motor oil, antifreeze, heating oil or solvents in the City shall keep posted in a conspicuous place, accessible to the public, at his/her place of business and on every pump from which delivery is made directly into the fuel tank attached to a motor vehicle or into any other vessel brought into same premises by the user, a placard, sign or the like clearly stating the identity of each product dispensed, i.e., the grade, blend or mixture of the product, and the next selling price per gallon, along with the amount of all taxes per gallon thereon, except that no such placard shall be required on a computer pump whereupon the information described is legibly shown on the face.

SECTION 29-26 PROHIBITED ACTS

- (A) No person shall in any way or manner obstruct, hinder, molest, or impersonate the Sealer in the performance of the duties required under this Chapter.
- (B) No person shall refuse to exhibit any weight, measure, scale, scale beam, patent balance, steel yard, automatic or computing scale, or other instrument for weighing or measuring to the Sealer for the purpose of having it inspected and examined.
- (C) No person shall use or have in possession for use in buying or selling any commodity or service or sales in any incorrect weight or measure.
- (D) No person shall represent in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.
- (E) No person shall use or dispose of any rejected weight or measure commodity or removes therefrom any official tag, seal, stamp or mark without written authority from the Sealer.
- (F) No person shall use any weighing or measuring device in determining the quantity of any commodity or service to be sold or purchased without having the device approved and sealed by the Sealer and the proper certificate obtained.
- (G) No person shall violate any other provision of this Chapter.

ARTICLE V. FEES

SECTION 29-27 FEES

Every person or establishment owning or having in their possession any weight, measure or instrument subject to the provisions of this Code is required to possess a valid license from the City Sealer. Fees for licenses required by this Article are due and payable before the issuance of a permit and annually before July 1 of each year, and shall be as follows:

DESCRIPTION	FEE
Annual Base Fee	\$105.00
Bundled Firewood Dealer	\$40.00
Group 1 Scales 1-30 lbs.	\$55.00
Group 2 Scales 1-20 lbs. PLU	\$60.00
Group 3 Scales 31-550 lbs.	\$60.00
Group 4 Scales 351-10,000 lbs.	\$65.00

Group 5 Scales – Hi Accuracy (Grams)	\$60.00
Group 6 Scales – 10,000-200,000 lbs.	\$75.00
Pharmacy Weights (Per Set)	\$75.00
Wire & Cordage Measures	\$40.00
Linear Measures	\$20.00
Fabric Measuring Devices	\$40.00
Timing Devices	\$25.00
Liquid Measuring Devices	\$55.00
High Speed Measuring Devices	\$75.00
Vehicle Tank Meters	\$70.00

Reverse Vending	\$55.00
POS Scanners 3 or <	\$150.00
POS Scanners 4 or <	\$240.00
Package checking	\$75.00

SECTION 29-28 LATE FEES/RE-INSPECTION FEE

The license year shall commence on July 1 and licenses shall expire on June 30th of the following year. If the annual renewal fee has not been paid as of July 1, an additional late payment fee of Seventy-five Dollars (\$75.00) per establishment shall be required. In addition to any late fee authorized by this section, establishments operating on July 1 without proper licenses will be subject to citation.

Establishments are subject to a re-inspection fee of Fifty Dollar (\$50.00) for all subsequent re-inspections needed to address compliance issues related to the statutes and administrative codes that govern their operation. The re-inspection fee is payable when the re-inspection is completed or is due upon demand from the Health Services Division.

SECTION 29-29 DISPLAY

All persons licensed under the provisions of this article shall immediately post their license upon some conspicuous part of the premises on which the business is conducted and the license shall remain posted for the period the license is in force.

SECTION 29-30 NON-ISSUANCE OR REVOCATION OF PERMITS

- (A) Unless otherwise specifically provided, licenses and permits required under the provisions of this chapter shall not be issued:
 - 1) Premises. For any premises for which taxes, assessments, or special charges are delinquent and unpaid.
 - 2) Persons. To any person who is delinquent in the payment of taxes, assessments or special charges related to the business or property for which the license or permit is sought.
- (B) Appeal. Alleged errors in the determination of non-issuance of the license may be appealed to the Finance Director within 5 days of notice of the non-issuance of the license or permit. The Finance Director shall issue a notice setting forth a date and time for hearing on the matter, not less than three (3) days nor more than fifteen (15) days after the date of the notice of hearing. At the hearing, the complainant and a representative of the City may be represented by counsel, may present evidence and call and examine witnesses and cross examine witnesses of another party. Such witnesses shall be sworn or affirmed by the person conducting the hearing. The Finance Director

shall act as the decision maker. If the Finance Director is unable to so act, a decision maker shall be appointed by the City Manager.

A written determination shall be made directing the continued holding of the license or permit or the issuance of such license or permit. Within ten (10) days of the hearing, the written determination shall be mailed to all interested parties and shall be placed on file with the City Clerk by the decision maker. The written decision shall specify the reasons for the decision made.

Within ten (10) days of the date of posting of the written decision, any person aggrieved thereby may appeal such decision to the Common Council. Appeals shall be taken by filing a notice of appeal specifying the grounds therefor with the City Clerk. On Appeal the Finance Director or other decision maker shall forthwith transmit all papers relating to such appeal to the City Clerk. The Clerk shall give notice of the appeal to the Common Council at its next regular meeting. The Council shall then fix a reasonable time for hearing of the same and give public notice thereof, as well as notice to the parties interested, and shall promptly decide the appeal. Any party to the proceeding as well as any person who may be adversely affected by a decision of the Council may appear at the hearing and may produce witnesses and be represented by counsel. In addition to any other witnesses presented, the Council may subpoena and examine such other persons as it may deem necessary for a fair and impartial hearing of the appeal. The Clerk shall swear or affirm all persons testifying before the council in regard to the appeal, and shall maintain a record of all testimony and other evidence as may be presented.

The Council may reverse, affirm, or modify the decision of the Finance Director or other decision maker appealed from, and to this end may direct issuance or non-issuance of any license or permit. Within ten (10) days after the decision on any appeal, the City Clerk shall cause due notice thereof in writing to be mailed to all parties to the appeal as well as any other persons who may have appeared therein at their last known post office address. Such notice shall specify the grounds for the decision.

Any person aggrieved by the decision of the Common Council on appeal may seek such other legal relief as may be available.

- (C) The Health Director may suspend or revoke any license issued pursuant to this chapter for violations of ordinances or laws regulating the licensed activity and for other good cause.
 - 1) Within thirty (30) days after any decision of the Health Director to suspend or revoke a license or permit issued under this Chapter, any person aggrieved thereby may appeal from any such decision to the Common Council. Appeals shall be taken by filing with the Health Director a notice of appeal specifying the grounds therefor. On appeal the Health Director shall forthwith transmit all papers relating to such appeal to the City Clerk. The Clerk shall place the appeal before the Common Council at its next meeting. The Common Council shall fix a reasonable time for hearing of same and give public notice thereof, as well as due notice to the parties interested, and

shall promptly decide the appeal.

- 2) Any party to an appeal as well as any person who claims to be adversely affected by allowance of the variance permit may appear at the hearing of such appeal in person and may produce witnesses and be represented by counsel. In addition, the Common Council may examine such other persons as it may deem necessary for a fair and impartial hearing of the appeal. The Clerk shall swear all persons testifying before the Common Council in regard to the appeal, and shall maintain a record of all testimony and other evidence as may be presented.
 - 3) From the evidence before it, the Common Council, in conformity with the provisions of this section, may reverse, affirm or modify the decision of the Health Director appealed from, and, to this end, may direct the issuance of a license or permit.
 - 4) Within five (5) days after any decision on an appeal, the Clerk shall cause due notice thereof in writing to be mailed to all parties to the appeal as well as any other persons who may have appeared therein at their last known post office address. Such notice shall specify the grounds for the decision.
 - 5) Legal Recourse. Any applicant aggrieved by the decision of Common Council or any person so aggrieved may seek such other legal relief as may be available.
- (D) Automatic Revocation. The license of any establishment is automatically revoked when the business is not operated for thirty (30) days or longer, unless it is seasonal. Except for seasonal businesses, when an establishment is closed for a period of time more than thirty (30) days, the establishment shall be considered a new establishment and may not be reopened until granted a new license in accordance with this Ordinance.

SECTION 29-31 REINSTATEMENT OF PERMIT

Any establishment, the license of which has been suspended, may at any time make application for reinstatement of the license. After the receipt of a satisfactory application accompanied by a signed statement by the applicant that the violated provision or provisions of this Chapter have been conformed with, the Health Director shall make a reinspection of the premises. If the applicant is complying with the requirements of this Chapter, the Health Director shall reinstate the license. Thereafter the Health Director may make as many additional reinspections as necessary to assure that the applicant is complying with the requirements.

SECTION 29-32 PENALTY FEE FOR USE OF UNREGISTERED DEVICE

Failure to make notification to the City Sealer within seventy-two (72) hours of the addition or replacement

of any new or used weights and measures equipment, including any scale, pump, meter, etc., shall lead to a penalty of triple the device fee herein prescribed being assessed. Payment of any fee mentioned in this subsection, however, shall in no way relieve any person or firm of the penalties that may be imposed for violation of this Chapter.

ARTICLE VI. PENALTIES

SECTION 29-33 PENALTIES

Any person who shall violate any of the provisions of this Chapter or of any Section thereof, shall upon conviction thereof, be punished by a forfeiture of not less than Seventy-five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00) together with the costs of prosecution, and in default of payment thereof, by imprisonment in the County Jail for a period not to exceed sixty (60) days. Each day of violation shall constitute a separate offense.