

INSPECTIONS DIVISION
CHAPTER 30
FOOD AND CONSUMER SAFETY

481—30.1(10A,137C,137D,137F) Food and consumer safety bureau. The food and consumer safety bureau inspects food establishments and food processing plants including food storage facilities (warehouses), home food establishments, food and beverage vending machines, and hotels and motels. The food and consumer safety bureau is also responsible for targeted small business certification, social and charitable gambling, and amusement devices. Separate chapters have been established for the administration of targeted small business certification (481—Chapter 25), social and charitable gambling (481—Chapters 100 to 103, 106, and 107), and amusement devices (481—Chapters 104 and 105).

This rule is intended to implement Iowa Code sections 10A.104 and 22.11 and Iowa Code chapters 137C, 137D and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.2(10A,137C,137D,137F) Definitions. If both the 2009 Food and Drug Administration Food Code with Supplement and rule 481—30.2(10A,137C,137D,137F) define a term, the definition in rule 481—30.2(10A,137C,137D,137F) shall apply.

“*Baked goods*” means breads, cakes, doughnuts, pastries, buns, rolls, cookies, biscuits and pies (except meat pies).

“*Bed and breakfast home*” means a private residence which provides lodging and meals for guests, in which the host or hostess resides, and in which no more than four guest families are lodged at the same time. The facility may advertise as a bed and breakfast home but not as a hotel, motel or restaurant. The facility is exempt from licensing and inspection as a hotel or as a food establishment. A bed and breakfast home may serve food only to overnight guests, unless a food establishment license is secured.

“*Bed and breakfast inn*” means a hotel which has nine or fewer guest rooms.

“*Commissary*” means a food establishment used for preparing, fabricating, packaging and storage of food or food products for distribution and sale through the food establishment’s own outlets.

“*Contractor*” means a municipal corporation, county or other political subdivision that contracts with the department to license and inspect under Iowa Code chapter 137C, 137D or 137F. A list of contractors is maintained on the department’s Web site.

“*Criminal offense*” means a public offense, as defined in Iowa Code section 701.2, that is prohibited by statute and is punishable by fine or imprisonment.

“*Critical violation*” means a foodborne illness risk factor and public health intervention and the violations defined as such by the Food Code adopted in rule 481—31.1(137F) and pursuant to Iowa Code section 137F.2.

“*Department*” means the department of inspections and appeals.

“*Farmers market*” means a marketplace which operates seasonally, principally as a common market for Iowa-produced farm products on a retail basis for consumption elsewhere.

“*Farmers market potentially hazardous food license*” means a license for a temporary food establishment that sells potentially hazardous foods at farmers markets. A separate annual farmers market potentially hazardous food license is required for each county in which the licensee sells potentially hazardous foods at farmers markets. The license is only applicable at farmers markets and is not required in order to sell wholesome, fresh shell eggs to consumer customers.

“*Food establishment*” means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a salvage or distressed food operation, nutrition program operated pursuant to Title III-C of the Older Americans Act, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school and the Iowa juvenile home. Assisted living programs and adult day services are included in the definition of food establishment to

the extent required by 481—subrules 69.28(6) and 70.28(6). “Food establishment” does not include the following:

1. A food processing plant.
 2. An establishment that offers only prepackaged foods that are not potentially hazardous.
 3. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.
 4. Premises which are a home food establishment pursuant to Iowa Code chapter 137D.
 5. Premises which operate as a farmers market.
 6. Premises of a residence in which food that is not potentially hazardous is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. This exception does not apply to resale goods. This exception applies only to sales made from the residence in person and does not include mail order or Internet sales.
 7. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.
 8. A private home that receives catered or home-delivered food.
 9. Child day care facilities and other food establishments located in hospitals or health care facilities that serve only patients and staff and are subject to inspection by other state agencies or divisions of the department.
 10. Supply vehicles or vending machine locations.
 11. Establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to Iowa Code section 189A.3.
 12. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:
 - Premises covered by a current Class “A” beer permit, including a Class “A” native beer permit as provided in Iowa Code chapter 123;
 - Premises covered by a current Class “A” wine permit, including a Class “A” native wine permit as provided in Iowa Code chapter 123; and
 - Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.
 13. Premises covered or regulated by Iowa Code section 192.107 with a milk or milk products permit issued by the department of agriculture and land stewardship.
 14. Premises or operations which are regulated by or subject to Iowa Code section 196.3 and which have an egg handler’s license.
 15. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.
 16. Premises regularly used by a nonprofit organization which engages in the serving of food on the premises as long as the nonprofit organization does not exceed the following restrictions:
 - The nonprofit organization serves food no more than one day per calendar week and not on two or more consecutive days;
 - Twice per year, the nonprofit organization may serve food to the public for up to three consecutive days; and
 - The nonprofit organization may use the premises of another nonprofit organization not more than twice per year for one day to serve food.
- “*Food processing plant*” means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. “Food processing plant” does not include any of the following:
1. The following premises, provided they are exclusively engaged in the sale of alcoholic beverages in a prepackaged form:
 - Premises covered by a current Class “A” beer permit, including a Class “A” native beer permit as provided in Iowa Code chapter 123;
 - Premises covered by a current Class “A” wine permit, including a Class “A” native wine permit as provided in Iowa Code chapter 123; and
 - Premises of a manufacturer of distilled spirits under Iowa Code chapter 123.

2. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; or labeled or from which honey is distributed.

“Food service establishment” means a food establishment where food is prepared or served for individual portion service intended for consumption on the premises or is subject to Iowa sales tax as provided in Iowa Code section 423.3.

“Home food establishment” means a business on the premises of a residence that is operating as a home-based bakery where potentially hazardous bakery goods are prepared for consumption elsewhere. Annual gross sales of these products cannot exceed \$20,000. “Home food establishment” does not include a residence where food is prepared to be used or sold by churches, fraternal societies, or charitable, civic or nonprofit organizations. Residences which prepare or distribute honey, shell eggs or nonhazardous baked goods are not required to be licensed as home food establishments.

“Hotel” means any building equipped, used or advertised to the public as a place where sleeping accommodations are rented to temporary or transient guests.

“License holder” means an individual, corporation, partnership, governmental unit, association or any other entity to whom a license was issued under Iowa Code chapter 137C, 137D or 137F.

“Mobile food unit” means a food establishment that is self-contained, with the exception of grills and smokers, and readily movable, which either operates up to three consecutive days at one location or returns to a home base of operation at the end of each day.

“Pushcart” means a non-self-propelled vehicle food establishment limited to serving nonpotentially hazardous foods or commissary-wrapped foods maintained at proper temperatures or precooked foods that require limited assembly, such as frankfurters.

“Retail food establishment” means a food establishment that sells to consumer customers food or food products intended for preparation or consumption off the premises.

“Revoke” means to void or annul by recalling or withdrawing a license issued under Iowa Code chapter 137C, 137D or 137F. The entire application process, including the payment of applicable license fees, must be repeated to regain a valid license following a revocation.

“Suspend” means to render a license issued under Iowa Code chapter 137C, 137D, or 137F invalid for a period of time, with the intent of resuming the validity of a license at the end of that period.

“Temporary food establishment” means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration. An “event or celebration” is a significant occurrence or happening sponsored by a civic, business, educational, government, community, or veterans’ organization and may include athletic contests. For example, an event does not include a single store’s grand opening or sale.

“Transient guest” means an overnight lodging guest who does not intend to stay for any permanent length of time. Any guest who rents a room for more than 31 consecutive days is not classified as a transient guest.

“Vending machine” means a food establishment which is a self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation. Vending machines that dispense only prepackaged, nonpotentially hazardous foods, panned candies, gumballs or nuts are exempt from licensing but may be inspected by the department upon receipt of a written complaint. “Panned candies” are those with a fine, hard coating on the outside and a soft candy filling on the inside. Panned candies are easily dispensed by a gumball-type machine.

This rule is intended to implement Iowa Code sections 10A.104, 137C.8, and 137D.2 and chapter 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.3(137C,137D,137F) Licensing and postings. A license to operate any food establishment or food processing plant defined in rule 481—30.2(10A,137C,137D,137F) must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; locations of buildings; and other data relative to the license requested. Applications are available from the Department

of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, or from contractors. An application for licensure shall be submitted 30 days in advance of the opening of the food establishment or food processing plant. Temporary food establishment license applications shall be submitted a minimum of 3 business days prior to opening.

30.3(1) *Transferability.* A license is not transferable to a new owner or location. Any change in business ownership or business location requires a new license. Vending machines, mobile food units and pushcarts may be moved without obtaining a new license. A farmers market potentially hazardous food license may be used in the same county at different individual locations without obtaining a new license. However, if the different individual locations are operated simultaneously, a separate license is required for each location. Nutrition sites for the elderly licensed under Iowa Code chapter 137F may change locations in the same city without obtaining a new license.

30.3(2) *Refunds.* License fees are refundable only if the license is surrendered to the department prior to the effective date of the license and only as follows:

- a. License fees of \$67.50 or less are an application processing fee and are not refundable.
- b. If an on-site visit has not occurred, license fees of more than \$67.50 will be refunded less the \$67.50.
- c. If an on-site visit has occurred, the entire license fee is nonrefundable.

30.3(3) *License expiration.* A license is renewable and expires after one year, with the exception of a temporary food establishment license, which is event- and location-specific and is valid for a period not to exceed 14 consecutive days.

30.3(4) *Posting of inspection reports, licenses, and registration tags.* A valid license and the most recent inspection report, along with any current complaint or reinspection reports, shall be posted no higher than eye level where the public can see them. The report shall not be posted in such a manner that the public cannot reasonably read the report. For example, the posting of a report behind a service area where the report can be seen but not easily read is not allowed. Vending machines shall bear a tag to affirm the license. For the purpose of this subrule, only founded complaint reports shall be considered complaints. Founded complaints shall be posted until either the mail-in recheck form has been submitted to the regulatory authority or a recheck inspection has been conducted to verify that the violations have been corrected.

30.3(5) *Documentation of gross sales.* The regulatory authority shall require from a license holder documentation of the annual gross sales of food and drink sold by a licensed food establishment or a licensed food processing plant unless the establishment is paying the highest license fee required by rule 481—30.4(137C,137D,137F). The documentation submitted by the license holder will be kept confidential and will be used to verify that the license holder is paying the appropriate license fee based on annual gross sales of food and drink. For food processing plants that are food storage facilities and food establishments whose sales are included in a single rate with lodging or other services, the value of the food handled should be used. Documentation shall include at least one of the following:

- a. A copy of the firm's business tax return;
- b. Quarterly sales tax data;
- c. A letter from an independent tax preparer;
- d. Other appropriate records.

30.3(6) *License eligibility for renewal limited to 60 days after expiration.* A delinquent license shall only be renewed if application for renewal is made within 60 days of expiration of the license. If a delinquent license is not renewed within 60 days, an establishment must apply for a new license and meet all the requirements for licensure. Establishments that have not renewed the license within 60 days of the expiration of the license shall be closed by the department or a contractor. The establishment shall not be reopened until a new license application has been submitted and approved.

This rule is intended to implement Iowa Code sections 10A.104, 137C.8, and 137D.2 and chapter 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.4(137C,137D,137F) License fees. The license fee is the same for an initial license and a renewal license. License applications are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083, or from a contractor. License fees are set by the Iowa Code sections listed below and are charged as follows:

30.4(1) Retail food establishments. License fees for retail food establishments are based on annual gross sales of food or food products to consumer customers and intended for preparation or consumption off the premises (Iowa Code section 137F.6) as follows:

- a. For annual gross sales of less than \$10,000—\$40.50.
- b. For annual gross sales of \$10,000 to \$250,000—\$101.25.
- c. For annual gross sales of \$250,000 to \$500,000—\$155.25.
- d. For annual gross sales of \$500,000 to \$750,000—\$202.50.
- e. For annual gross sales of \$750,000 or more—\$303.75.

30.4(2) Food service establishments. License fees for food service establishments are based on annual gross sales of food and drink for individual portion service intended for consumption on the premises (Iowa Code section 137F.6) or subject to Iowa sales tax as provided in Iowa Code section 423.3 as follows:

- a. For annual gross sales of less than \$50,000—\$67.50.
- b. For annual gross sales of \$50,000 to \$100,000—\$114.50.
- c. For annual gross sales of \$100,000 to \$250,000—\$236.25.
- d. For annual gross sales of \$250,000 to \$500,000—\$275.00.
- e. For annual gross sales of \$500,000 or more—\$303.75.

30.4(3) Vending machines. License fees for food and beverage vending machines are \$20 for the first machine and \$5 for each additional machine (Iowa Code section 137F.6).

30.4(4) Home food establishments. The license fee for home food establishments is \$33.75 (Iowa Code section 137D.2(1)).

30.4(5) Hotels. License fees for hotels are based on the number of rooms provided to transient guests (Iowa Code section 137C.9) as follows:

- a. For 1 to 15 guest rooms—\$27.00.
- b. For 16 to 30 guest rooms—\$40.50.
- c. For 31 to 75 guest rooms—\$54.00.
- d. For 76 to 149 guest rooms—\$57.50.
- e. For 150 or more guest rooms—\$101.25.

30.4(6) Mobile food units or pushcarts. The license fee for a mobile food unit or a pushcart is \$27 (Iowa Code section 137F.6).

30.4(7) Temporary food service establishments. The fee for a temporary food service establishment license issued for up to 14 consecutive days in conjunction with a single event or celebration is \$33.50 (Iowa Code section 137F.6).

30.4(8) Food processing plants including food storage facilities (warehouses). For food processing plants, the annual license fee is based on the annual gross sales of food and food products handled at that plant or food storage facility (warehouse) (Iowa Code section 137F.6) as follows:

- a. Annual gross sales of less than \$50,000—\$67.50.
- b. Annual gross sales of \$50,000 to \$250,000—\$135.00.
- c. Annual gross sales of \$250,000 to \$500,000—\$202.50.
- d. Annual gross sales of \$500,000 or more—\$337.50.

30.4(9) Farmers market. A person selling potentially hazardous food at a farmers market must pay an annual license fee of \$100 for each county of operation. Persons who operate simultaneously at more than one location within a county are required to have a separate license for each location.

30.4(10) Discount. If an establishment renews its license as a retail food establishment or food service establishment and has had a person in charge for the entire previous 12-month period who holds an active certified food protection manager certificate from a program approved by the Conference on Food Protection and the establishment has not been issued a critical violation during the previous

12-month period, the establishment's license fee for the current renewal period shall be reduced by \$50 but no more than the establishment's total license fee(s).

30.4(11) *Voluntary inspection fee.* The department shall charge a voluntary inspection fee of \$100 when a premises that is not a food establishment requests a voluntary inspection.

This rule is intended to implement Iowa Code sections 137C.9, 137D.2(1), and 137F.6.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.5(137F) Penalty and delinquent fees.

30.5(1) *Late penalty.* Food establishment licenses and food processing plant licenses that are renewed by the licensee after the license expiration date shall be subject to a penalty of 10 percent of the license fee per month. A license shall be renewed only if the license holder has provided documentation pursuant to subrule 30.3(5).

30.5(2) *Penalty for opening or operating without a license.* A person who opens or operates a food establishment or food processing plant without a license is subject to a penalty of up to twice the amount of the annual license fee.

30.5(3) *Civil penalty for violations.* A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of \$100 for each violation. Prior to assessment of the penalty, the license holder shall have an opportunity for a hearing using the process outlined in rule 481—30.11(10A,137C,137D,137F).

This rule is intended to implement Iowa Code sections 137F.4, 137F.9 and 137F.17.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.6(137C,137D,137F) Returned checks. If a check intended to pay for any license provided for under Iowa Code chapter 137C, 137D, or 137F is not honored for payment by the bank on which it is drafted, the department will attempt to redeem the check. The department will notify the applicant of the need to provide sufficient payment. An additional fee of \$25 shall be assessed for each dishonored check. If the department does not receive cash to replace the check, the establishment will be operating without a valid license. Furthermore, any late penalties assessed pursuant to rule 481—30.5(137F) will accrue and must be paid.

This rule is intended to implement Iowa Code sections 137C.9, 137D.2(1), and 137F.6.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.7(137F) Double licenses.

30.7(1) Any establishment which holds a food service establishment license and has gross sales over \$20,000 annually in packaged food items intended for consumption off the premises shall also be required to obtain a retail food establishment license. The license holder shall keep a record of these food sales and make it available to the department upon request.

30.7(2) A retail food establishment and a food service establishment which occupy the same premises must be licensed separately, and the applicable fees must be paid for each. The license fee for each is based on only the annual gross sales of food and drink covered under the scope of that particular type of license.

30.7(3) A food establishment that is licensed both with a food service establishment license and a retail food establishment license shall pay 75 percent of the license fees required in subrules 30.4(1) and 30.4(2).

30.7(4) Licensed retail food establishments serving only coffee, soft drinks, popcorn, prepackaged sandwiches or other food items manufactured and packaged by a licensed establishment need only obtain a retail food establishment license.

30.7(5) A temporary food establishment license is not required when the temporary food establishment is owned and operated on the premises of a licensed food establishment.

30.7(6) The dominant form of business in annual gross sales shall determine the type of license for establishments which engage in operations covered under the definitions of both a food establishment and a food processing plant. Sale of products at wholesale to outlets not owned by a commissary owner requires a food processing plant license. Food establishments that process low-acid food in hermetically

sealed containers or process acidified foods are required to have a food processing plant license. Regardless of the license, food processing facilities shall be inspected pursuant to food processing inspection standards and food establishments shall be inspected pursuant to the Food Code.

30.7(7) A licensed mobile food unit that operates as a licensed mobile food unit at a farmers market is not required to obtain a separate farmers market potentially hazardous food license.

This rule is intended to implement Iowa Code sections 10A.104 and 137F.6.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.8(137C,137D,137F) Inspection frequency.

30.8(1) *Food establishments.* Food establishments shall be inspected based upon risk assessment and shall have routine inspections at least once every 24 months and no more than once every 3 months.

30.8(2) *Food processing plants.* Food processing plants that process foods shall be inspected based upon risk assessment and shall have routine inspections at least once every 24 months and no more than once every 6 months.

30.8(3) *Food processing plants that store foods.* Food processing plants that store foods shall be inspected based upon risk assessment and shall be inspected at least once every 36 months.

30.8(4) *Hotels.* Hotels shall be inspected at least once biennially.

30.8(5) *Home food establishments and vending machines.* Home food establishments and vending machines shall be inspected at least once every 24 months.

30.8(6) *Farmers market potentially hazardous food.* Farmers market potentially hazardous food licensees shall be inspected at least once annually.

This rule is intended to implement Iowa Code sections 137C.11, 137D.2, and 137F.10.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.9(22) Examination of records.

30.9(1) *Public information.* Generally, information collected by the food and consumer safety bureau and contractors is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director. Inspection reports are available for public viewing at <http://www.food.dia.iowa.gov>.

30.9(2) *Confidential records.* The following are examples of confidential records:

- a. Trade secrets and proprietary information including items such as formulations, processes, policies and procedures, and customer lists;
- b. Health information related to foodborne illness complaints and outbreaks; and
- c. Other state or federal agencies' records.

For records of other federal or state agencies, the department shall refer the requester of such information to the appropriate agency.

This rule is intended to implement Iowa Code chapters 137C, 137D, 137F and 22.
[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.10(17A,137C,137D,137F) Denial, suspension, or revocation of a license to operate. Notice of denial, suspension or revocation of a license will be provided by the department and shall be effective 30 days after mailing or personal service of the notice.

30.10(1) *Immediate suspension of license.* To the extent not inconsistent with Iowa Code chapters 17A, 137C, 137D, and 137F and rules adopted pursuant to those chapters, chapter 8 of the Food Code shall be adopted for food establishments and home food establishments. The department or contractor may immediately suspend a license in cases of an imminent health hazard. The procedures of Iowa Code section 17A.18A and Food Code chapter 8 shall be followed in cases of an imminent health hazard. The appeal process in rule 481—30.11(10A,137C,137D,137F) is available following an immediate suspension. The department may immediately suspend the license of a food processing plant or hotel if an imminent health hazard finding is made and the procedures of Iowa Code section 17A.18A are followed.

30.10(2) Criminal offense—conviction of license holder.

a. The department may revoke the license of a license holder who:

- (1) Conducts an activity constituting a criminal offense in the licensed food establishment; and
- (2) Is convicted of a felony as a result.

b. The department may suspend or revoke the license of a license holder who:

- (1) Conducts an activity constituting a criminal offense in the licensed food establishment; and
- (2) Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.

c. A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

d. The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of rule 481—30.11(10A,137C,137D,137F).

This rule is intended to implement Iowa Code chapters 17A, 137C, 137D and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.11(10A,137C,137D,137F) Formal hearing. All decisions of the food and consumer safety bureau may be contested by an adversely affected party. A request for a hearing must be made in writing to the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 10, “Contested Case Hearings.”

For contractors, license holders shall have the opportunity for a hearing before the local board of health. If the hearing is conducted before the local board of health, the license holder may appeal to the department and shall follow the process for review in rule 481—10.25(10A,17A).

This rule is intended to implement Iowa Code section 10A.104 and Iowa Code chapters 137C, 137D, and 137F.

[ARC 1190C, IAB 11/27/13, effective 1/1/14]

481—30.12(137F) Primary servicing laboratory. The primary servicing laboratory for the food and consumer safety bureau is the State Hygienic Laboratory at the University of Iowa created under Iowa Code section 263.7. If the laboratory is unable to perform laboratory services, the laboratory will assist in finding another laboratory with a preference toward laboratories that are in the FERN (Food Emergency Response Network) and have achieved ISO 17025 accreditation.

This rule is intended to implement Iowa Code sections 10A.104 and 22.11 and Iowa Code chapters 137C, 137D, and 137F.

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