

## CHAPTER 14

### DAIRY PRODUCT REGULATION

Article  
14-01           Soft Serve Freezing/Dispensing Machines

#### ARTICLE 14-01

#### SOFT SERVE FREEZING/DISPENSING MACHINES

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14-0101. Definitions:

1. “Commissary” means any place, premise or establishment in which soft serve freezing/dispensing machines manufacture, store, and sell soft serve dairy and nondairy frozen dessert products.

2. “Dispensing only machine” means a machine that does not mix or freeze a mixture but which only dispenses a prepackaged ready-to-use soft serve dessert product.

3. “Laboratory” means a biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

4. “License” means a written authorization to operate issued by the public health department.

5. “Manufacturer” means any establishment operating a soft serve freezing/dispensing machine.

6. “Public health department” shall mean Fargo Cass Public Health, or any name by which such department shall be known hereafter, and its authorized representatives.

7. “Soft serve” means the frozen combination of two or more ingredients used in the manufacture of soft serve dairy or nondairy dessert products, with or without fruit, fruit juices, candy, nuts, meats, flavoring, or coloring.

8. “Soft serve freezing/dispensing machine” means any mechanically operated freezing/dispensing machine used to produce a partially frozen dairy or nondairy dessert product combination of two or more of the following: milk or milk products, edible oil or fat, eggs or egg products, sugar, water, fruit or fruit juices, flavoring, candy, coloring, or stabilizer, and includes, but is not limited to, soft serve desserts, ices, novelties, or other similar products.

9. “Soft serve mix” means the unfrozen combination of two or more ingredients used in the manufacture of soft serve dairy and nondairy dessert products.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0102. Sanitizing machines and examination of product.—Soft serve freezing/dispensing machines must be cleaned and sanitized as often as required. Soft serve dairy and nondairy dessert product shall be sampled yearly by the public health department from each soft serve freezing/dispensing machine operated by the license holder. Each sample will be submitted to an approved laboratory for bacteriological analysis of its contents.

Fig. 1 BACTERIA AND TEMPERATURE STANDARDS FOR SOFT SERVE DAIRY/NONDAIRY DESSERTS

Frozen Desserts	Temperature	Standard Plate Count	Total Coliform
Frozen desserts	41°F	50,000/ml	10/ml
Novelties	41°F	50,000/ml	10/ml
Soft serve	41°F	50,000/ml	10/ml

If any of the samples collected from a soft serve freezing/dispensing machine are not within the standards in Fig. 1 of this section, additional samples will be collected along with an inspection of the equipment to determine the reason, if any, for the violation of the standards. Three consecutive samples which laboratory analysis determines to be not within the standards will result in suspension of the license to operate the soft serve freezing/dispensing machine.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0103. Labeling.—All soft serve dairy/nondairy products that are not sold at the point of manufactured origin must be properly labeled according to the current Food and Drug Administration guidelines.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0104. License.—It shall be unlawful for any person who does not possess a valid license from the public health department to sell, store, or offer for sale any soft serve machine dairy/nondairy dessert product.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0105. License revocation or suspension.—A license, as required by this chapter, may be suspended by the public health department upon the violation by the holder of any part of this chapter. Any person whose license has been suspended shall immediately discontinue operation of the soft serve machine until the defects that caused the suspension have been corrected. Following correction, the applicant may request reinstatement of the license by the public health department.

The public health department may require the license holder to demonstrate proper cleaning procedures and maintenance of the soft serve freezing/dispensing machine before reinstating the license.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0106. Sale of nonconforming products prohibited.--No mix or soft serve dairy/nondairy dessert shall be sold within the city unless such mix or soft serve dairy/nondairy dessert product has been manufactured and frozen in conformity with the requirements of this article. Milk and any milk product that is used in the manufacture of ice cream, frozen dairy dessert, frozen dessert, or sherbet shall be pasteurized. Ice cream mix, frozen dairy dessert mix, and frozen dessert mix are unfrozen products that are used in the manufacture of ice cream, frozen dairy dessert, or frozen dessert. They shall comply with all requirements for ice cream, frozen dairy dessert, or frozen dessert, respectively.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0107. Exemptions.—The soft serve freezing/dispensing machine program is concerned with the manufacture and freezing of soft serve frozen desserts, including both dairy and nondairy products. The public health department has determined that establishments freezing/dispensing nondairy ice beverage products exclusively, such as water ices, slush, frozen cappuccino, etc., or serving hard hand-dipped ice cream, or dispensing only machines which dispense a prepackaged ready-to-use frozen dessert do not require a soft serve freezing/dispensing machine license.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).

14-0108. License fees.--Any person, firm or corporation that operates a soft serve freezing/dispensing machine shall pay a yearly license fee in an amount which shall be established by resolution of the board of city commissioners. All such fees shall be paid to the city treasurer by the person, firm, or corporation licensed to operate a soft serve freezing/dispensing machine as defined in this ordinance, said fees to be paid before the license is issued.

Source: 1952 Rev. Ord. 14-0101, 1952 Rev. Ord. 14-0104, 1952 Rev. Ord. 1012 (1957), 1952 Rev. Ord. 1144 (1963), 1965 Rev. Ord. 14-0102, 1965 Rev. Ord. 14-0103, 1965 Rev. Ord. 14-0203, 1965 Rev. Ord. 14-0302, 940 (1955), 1025 (1958), 1240 (1967), 1267 (1968), 1449 (1972), 1534 (1973), 1533 (1973), 1535 (1973), 4375 (2004).