



LICENSING FOR LETTUCE

A Guide to the Model Licensing Ordinance for Healthy Food Retailers



ChangeLab Solutions
Law & policy innovation for the common good.



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INTRODUCTION: A New Strategy To Create Healthy Communities



Small markets carrying the staples of a healthy diet used to be commonplace in neighborhoods across America, making it easy for residents to buy seasonal fruits and vegetables, locally raised dairy and meat, and other basic ingredients. But over the last century, changes in the food industry have created a new landscape of larger but fewer grocery stores, leaving some communities with limited options for buying healthy food. For the millions of Americans living in food deserts – where access to stores selling healthy food is severely limited – the only food retailers within easy reach may be restaurants, fast food outlets, and corner stores where snack foods, soda, and candy are far easier to find than fresh or frozen produce.

Even if storeowners in these communities are interested in selling healthier products, they might not

have the technical know-how and equipment to store and promote fresh produce, or they may have difficulty accessing distributors who can sell at quantities small enough to meet their needs. They also might operate in neighborhoods where people generally don't have the time or cooking skills it takes to prepare healthy meals.

A number of communities have established programs to encourage food retailers, especially corner stores, to stock healthier products. To build on and strengthen efforts like these, ChangeLab Solutions has developed a **Model Licensing Ordinance for Healthy Food Retailers**. The ordinance changes business licensing policies to require all food stores (not including restaurants) to carry a minimum selection of healthy food and meet other basic operating standards.

In short, it sets a “healthy baseline” to improve food quality and accessibility at food stores across an entire community.

Food stores provide an essential neighborhood service. This model ordinance gives local governments, health professionals, and community organizations an opportunity to partner with retailers to develop strategies that benefit both the business owners *and* the community members they serve. This guide describes how the model ordinance works and provides tips on how to implement it successfully in your community. You should consult an attorney in your state to discuss whether this policy is legally feasible and to explore ways to adapt it to local circumstances.

BUSINESS LICENSING: The Basics



Nearly all business owners are required to apply for a county or city license of some type, in addition to any applicable state or federal licenses. But most local business licenses have very limited requirements. Under a basic licensing program the business owner pays a fee and files information with the local government, such as the legal business name, location, and tax ID number.

In many communities, certain types of businesses require a special license that serves more of a regulatory purpose - businesses like cosmetologists, tobacco retailers, or restaurants. In these cases, governments have determined that these businesses need to be held to specific standards of operation, for public health or other reasons. Restaurants, for example, need to comply with food safety practices, and they need to have certain equipment for storing and preparing food. A business license is issued only to restaurants that have passed inspection.

A standard business licensing program generally involves:

Contact with the agency

Storeowners ask their local government to determine what licenses, permits, and other requirements apply. Cities and counties often have a small business center or business assistance office that can help them navigate this process; these offices may also consult on other topics, such as business planning, staff training, and accessing loans or grants.

Application & fees

Once a business submits an application for a license, the issuing agency reviews it for compliance. Some agencies may require a site visit prior to approval. Most licenses require applicants to pay a fee, which is typically used to support administration and enforcement.

Maintenance

Businesses are responsible for complying with current license requirements and paying any ongoing fees or renewal costs.

When a business transfers ownership, the license may or may not be transferrable, depending on the terms of the license.

Enforcement

Stores may be subject to periodic inspections by the local public health department or other relevant agencies. Community members can also report violations. Stores that fail to comply with requirements may have to pay fines, or may have their license suspended or revoked.

Licensing or zoning: Which is right for my community?

Zoning is another policy tool frequently used to support healthy eating. For instance, zoning can be used to restrict new fast food outlets in a neighborhood, or to encourage new grocery stores and farmers' markets. Depending on your specific circumstances, either zoning or licensing might be appropriate for your community. For more information on how to use each policy tool, download our guide [Licensing & Zoning: Tools for Public Health](#).

Adopting licensing requirements to improve access to healthy food has a number of key advantages over other policy and program options: it can apply to all food retailers in a community (existing and future), it can build upon existing licensing policies, and it can provide opportunities for meaningful and ongoing enforcement. In communities disproportionately burdened with obesity, diabetes, and other diet-related chronic diseases, licensing can help ensure that the local food environment provides the

basic resources needed to support a healthy diet.

Although the idea of using licensing to increase access to nutritious food is new, the tobacco control movement has used this strategy effectively to improve public health. Communities have used licensing to limit the sale of tobacco to minors and to regulate the density of tobacco retailers.

Health professionals working in tobacco control can be useful partners for communities interested

in improving nutrition in small stores; in fact, the ordinance helps align work in these two fields by requiring stores to comply with all applicable federal, state, and local tobacco laws. It is worth noting that local governments, health professionals, and community-based organizations played a key role in working with businesses to make tobacco retailer licensing successful. Adopting a healthy food licensing program would almost certainly require the same level of collaboration across sectors.

What if we're not ready for a policy?

You might find that the model ordinance is not viable in your community for a variety of reasons, such as cost or opposition. If so, there are other steps that you can take to educate stakeholders on the importance of healthier food systems. Some of these ideas could also be a good complement to the **Healthy Food Retail Model Licensing Ordinance**.

- Conduct a community food assessment.
- Create a program that provides incentives for store owners to carry healthy food.
- Create a healthy food store certification or award program.
- Publicize success stories of healthy food stores in your and other communities.
- Create an interagency task force to discuss the food retail environment.
- Create a food policy council to research and create policy recommendations on issues affecting the food system.



What Is the Model Licensing Ordinance for Healthy Food Retailers?



At its essence, the model ordinance requires all stores that sell food to offer a basic selection of healthy items and rewards retailers who meet additional standards. The ordinance is organized into the following sections:

Findings

Cites statistics and other evidence to demonstrate why this type of policy is needed in the community. (See Appendix A of the model ordinance for details.)

Definitions

Defines terms and concepts used throughout the model ordinance.

Requirements & prohibitions

Details the main licensing requirements applicable to all food retailers, establishing minimum amounts of healthy foods that must be offered, what unhealthy foods will be limited or restricted, and what business practices will be required.

Additional incentives

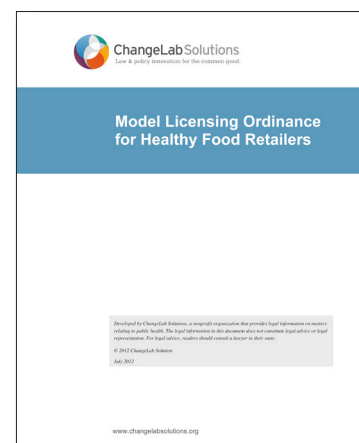
Includes additional options to increase access to healthy food, which retailers may choose to meet in order to be eligible for additional incentives.

Retailer education & outreach

Outlines what actions the issuing agency will undertake to educate retailers about the new requirements and help them comply.

Enforcement & penalties

Describes penalties for retailers who fail to comply with the law.



The following chart describes the main requirements food retailers will need to meet to obtain a food retailer license, or to be eligible for an additional incentive (see the sidebar in the following section for more on incentives). The requirements and incentives are designed to vary depending on the size of the retailer, reflecting the fact

that business practices and needs differ. Store categories are broken down into three sizes: small food retailers (stores with more than 200 ft² of selling area), food retailers (more than 5,000 ft² of selling area), and grocery stores (more than 20,000 ft² of selling area).

Given the tremendous variation in neighborhood food environments,

the actual amounts of required staple foods and produce are meant to be determined locally. Your community will need to balance political and economic feasibility with the need to set regulations that are strong enough to result in healthy changes to local stores.

Requirements, prohibitions, and incentives in the model licensing ordinance		
Note: "[_]" indicates a value to be determined by the community passing the ordinance		
ISSUE	REQUIREMENT/PROHIBITION All food retailers must meet these criteria:	INCENTIVE Food retailers are eligible for incentives if they meet these criteria:
Staple foods (defined as dairy products, proteins, and whole grains)	At least [_]% of selling area shall be devoted to staple foods, at least [_]% of which are perishable	Exceed stocking requirement by an additional [_]%
Produce	At least [_]% of selling area shall be devoted to produce, of at least [_] different varieties No more than [_]% of selling area devoted to produce may consist of frozen produce	Exceed stocking requirement by an additional [_]%
Sugar-sweetened beverages	No more than [_]% of bottled beverages offered for sale may be sugar-sweetened beverages	Not sell a single serving of a fountain drink that is larger than [_] ounces, and not provide free refills
Tobacco & alcohol	Must comply with applicable tobacco, alcohol, and signage laws	Not sell tobacco products OR reduce the amount of tobacco products offered for sale by [_]% Not sell alcoholic beverages OR reduce the amount of alcohol products so that they do not exceed [_]% of beverages for sale
Participation in federal food programs	Must accept Supplemental Nutrition Assistance Program (SNAP) benefits* Must apply to become a certified WIC vendor (Supplemental Nutrition Program for Women, Infants, & Children)	None
Other business practices	Maintain the exterior and interior of their store to ensure adequate lighting, prevent loitering, provide trash/recycling receptacles, remove graffiti, and maintain cleanliness	Display staple foods and produce in high-visibility, high-traffic locations throughout the store, accompanied by easy-to-read signage

*To become a SNAP authorized vendor, retailers must maintain a license from the U.S. Department of Agriculture's Food Nutrition Services division, and meet minimum requirements for stocking staple foods. Visit www.fns.usda.gov/snap/retailers/merchants.htm for more information.



Community Spotlight: Minneapolis

In 2008, Minneapolis became the first city in the nation to use licensing to regulate nutritional standards in food stores. The Staple Foods Ordinance (Minneapolis Code of Ordinances, Title 10, Ch 203) amends city codes to require that all small food stores and grocery stores (with some exceptions) stock a minimum number of perishable and non-perishable “staple foods” from the following categories: vegetables and fruits; meat, poultry, fish and/or vegetable proteins; bread and/or cereal; and dairy products and/or substitutes. Interestingly, although policymakers recognized that nutrition is important, the main motivation for passing the legislation was to protect public safety, as small convenience and corner stores that sell mostly alcohol, tobacco, and junk food can promote neighborhood crime and blight.

In Minneapolis, the City Regulatory Services Department is the agency responsible for inspecting stores for compliance with other health and safety laws and issuing business licenses. License inspectors were trained on the additional requirements and now check for compliance during their regular visits to each store, roughly three times a year. Through its Healthy Corner Store Program, the Minneapolis Health Department provides additional support and technical assistance to store owners to increase their capacity to sell healthy foods and comply with the ordinance.

City officials have been pleased with the healthier offerings in some outlets, but compliance across all stores remains a challenge. Health department staff and license inspectors have observed that support is very important to help owners comply with the law: in addition to needing help with stocking produce, many would benefit from assistance with marketing and business planning. The city is exploring additional supports that can help owners make these changes part of a sustainable, profitable business model.

Tailoring the Model Licensing Ordinance



The model ordinance includes many opportunities to customize the law appropriately. Here are some key decisions you will have to make:

Lead agencies

Communities will need to assign a primary agency to oversee implementation, in addition to deciding which agency (or agencies) will be responsible for outreach and education, processing applications, store inspections, technical assistance to store owners, and enforcement. Ideally, you will have partners on board who already have experience working with food retailers. Local health departments or environmental health departments, who already inspect food businesses for compliance with licensing programs, may be a good

partner. You'll also want to identify who will enforce penalties (which may mean partnering with local law enforcement), and who will assist with outreach and education (which could include economic & business development agencies).

Retailer types

The ordinance definitions include three retail types (grocery stores, food stores, and small food stores), but it can be tailored so the categories are relevant to the types of food retail in your jurisdiction. It is important to think through the logistics of working with each retail type. Corner and convenience stores may pose a particular challenge if there are many that are widely dispersed in the community. Yet they are perhaps one of the most

important groups to reach – particularly because they may be less likely to stock healthy options and may be prevalent in areas where full-service grocery stores are lacking.

Food stocking requirements

For each retailer type, communities need to think both about what minimum nutritional requirements they want to impose and what foods, other products (such as tobacco and alcohol), and business practices they wish to limit. Setting the bar too low may mean improvements are minimal. On the other hand, setting the bar too high could mean more resistance among store operators and other stakeholders, lower compliance, and increased enforcement costs, ultimately threatening the policy's success.

Additional performance standards & incentives

Alternatively, a community could increase health gains even further by creating additional, optional criteria that incentivize retailers to go above and beyond the basic requirements. This works best when there are attractive incentives, such as financing, tax abatement, expedited permitting, or access to other business development programs. For more information on funding sources and incentives that could be used to support the model ordinance, see the sidebar at right and the resources listed on page 13.

Enforcement & penalties

The model ordinance includes options for penalizing retailers who repeatedly violate the policy. But ultimately the goal of the policy is to increase access to healthy food, not to put stores out of business. The enforcement process is meant to be an opportunity for local government to interact with storeowners to help them meet policy requirements. In Minneapolis (profiled on page 6), store inspectors responsible for enforcing the staple foods ordinance are also charged with working with owners to help them comply. Stores receive multiple warnings before they have to pay any fines, and the city acknowledges that it is responsible for providing support to help stores make the necessary changes, particularly during the rollout period.



GETTING MORE FOR YOUR MONEY Pairing requirements with incentives

One of the best ways to reinforce the licensing policy is through incentives that make it easier and more attractive for business owners to comply. A great way for communities to do this is by leveraging existing programs, adapting them to better support the ordinance. Examples of incentives listed in the model ordinance include:

- Reduced fees and expedited processing of applications for the food retailer license or other required licenses/permits
- Loans or grants to help retailers comply with the ordinance requirements
- Tax exemptions
- Infrastructure or façade improvement
- Technical assistance

Many communities that have successfully used incentives to help retailers stock healthier foods have found that assistance was most helpful during the initial transition period. Ideally, as store owners tap into new markets they will find their new healthy business model to be even more profitable than their previous operation, so ongoing incentives will become less necessary.

For more information on how to use incentives to work with retailers, download our toolkit [Putting Business to Work for Health: Incentive Policies for the Private Sector](#).

RECIPE FOR SUCCESS: Adopting the Model Licensing Ordinance in Your Community



When considering policies or programs, it is critical to engage local stakeholders in the process of tailoring solutions to meet the community's needs. These conversations can allow you to explore whether a particular approach is a good fit, and help build relationships and support for the implementation process.

The model ordinance should be considered within your existing policy context. It will likely need to be paired with supportive programs and strategies: for instance, local storeowners may not follow the new policy if they don't understand the requirements, have difficulty accessing distributors of healthier food, or find that meeting the standards is not financially sustainable. Programs that provide training, technical assistance and resources to upgrade stores could all increase the likelihood of success. You will want to discuss these and other potential strategies with local

stakeholders to determine what will be most useful. Here are some next steps:

Understand food retail & policy environments

What are the biggest concerns about your food retail landscape? Are you worried about a few unhealthy stores or all stores? Do you have food deserts, where there are few places to buy healthy food - or food swamps, flooded with unhealthy options? Public health and community partners may already have data on the local food environment that will help you adapt your policy to effectively address these issues.

During this scoping phase, it is important to think about the bigger picture and consider whether other programs or policies would be more appropriate or could work in tandem with the licensing ordinance. See the chart on page 10 and the resources

section on page 13 for information on other policies and programs to support healthy food retail.

Similarly, it is critical to understand how current regulations for food businesses operate. For more information on the legal issues, see the introduction to the model ordinance on page 1.



If your food environment looks like...	Potential impact of the licensing ordinance
Many corner stores with few healthy options	Makes basic healthy food choices more accessible to all. Creates baseline for incentive program for additional improvements.
Most stores currently carry a minimum selection of healthy foods	Requirements could be made more stringent to set a standard for future retail. Also creates a baseline for an incentive program to encourage more healthy foods.
Few food retail outlets of any kind	Ordinance may be difficult to pass and enforce. Consider working with individual retailers - perhaps through a healthy corner store certification program - or explore grocery store attraction and other economic and business development strategies.
Proliferation of fast food restaurants	Ordinance may be less effective. Consider a healthy restaurant certification program or zoning regulations to limit new fast food restaurants.



Solicit input from diverse stakeholders

This could take many forms: it could be a series of workshops with local stakeholders, a task force that meets regularly to discuss the topic, or an opportunity to raise the issue before a relevant decision-making body, such as a food policy council. The more inclusive you are of those who will be affected by the policy, the more likely you are to see it implemented successfully. See box below for some questions to consider. Relevant partners to include in the process:

- Agencies that might be responsible for implementation and enforcement
- Local economic development institutions
- Retailers who will be subject to the new requirements
- Business associations & chambers of commerce
- Public health departments

- Department of agriculture & farmers / farming organizations
- Community-based organizations and residents

Develop a strong yet flexible policy tailored to your needs

Drafting clear, strong, and enforceable policy language will ultimately lay the foundation for success. Here are some general criteria you will want to consider when writing your local policy. Stakeholders will likely have their own priorities and concerns.

Enforceability: If compliance with existing local licensing requirements is low, you should discuss what types of standards will be most realistic. Talk with the agency currently charged with enforcement to learn more about the barriers to compliance and opportunities for improvement.

Cost: Many will want to strive toward making the policy cost-neutral or low-cost. Depending on your state's laws, you may be able to set the licensing fees to cover all of the regulatory costs of the licensing policy.

Rationale: The "findings" section of the ordinance is a great place to include evidence explaining how this policy addresses local needs. This may be very important for legal enforceability and overcoming opposition.

Responsibilities: The policy language should explicitly state who would be accountable for outreach, administration, monitoring, enforcement, and technical assistance.

Impact on health disparities: To the extent possible, you will want to consider how the policy could best address those with the greatest health needs.

Questions to ask stakeholders during the policy adoption process

What are our priorities? Which food requirements are most/least important to us?

What resources or systems need to be in place for this to be successful?

How can we incorporate existing programs into this policy? Who should be responsible for outreach, administration, and enforcement?

Who can help us navigate the policymaking process? Do we have the political capital to pass this policy?

Who is likely to oppose this policy and why? How can we address their concerns?



What if the community is concerned that the burden on stores is too great?

Some stakeholders may be wary of introducing changes they believe could hinder jobs and economic development. You may need to think about how to “message” the benefits of healthy food retail, such as increased business for storeowners, revitalized neighborhood commercial corridors, and support for local or regional agriculture.

To further ease these concerns, it is important to have a deep and realistic understanding of what stores truly need in order to make changes, and to work across departments and sectors to ensure that everyone is committed to the goals of the policy. Previous healthy corner store efforts have shown that it is possible for food stores to substantially increase their profits through a business model based on selling more fresh produce – but only when the necessary support, resources, and coordination are in place. The Healthy Corner Stores Network (www.healthycornerstores.org) has a range of resources and case studies that can provide a starting point for planning a successful program.



Follow through to ensure implementation & enforcement

Passing the policy is just the beginning. To make sure the law results in meaningful changes, build upon the relationships you established during this process so that stakeholders can integrate the changes into their current practice. It is also important to create periodic opportunities to evaluate what is and is not working; expectations for ongoing monitoring can be clearly defined in the language of the policy.



Resources



Food retailers are vital members of any community, and it is ultimately in their best interest to support the health and well-being of their customers. The **Model Licensing Ordinance for Healthy Food Retailers** provides an opportunity for local government to work closely with the business community, as well as with community organizations, residents, and other stakeholders, to help make healthier food environments a reality.

ChangeLab Solutions provides resources, trainings, and technical assistance on this and other policy tools designed to improve community health. For more information or to contact us, visit www.changelabsolutions.org.

Resources

Health on the Shelf: Healthy Food Retailer Certification Programs
changelabsolutions.org/publications/health-on-the-shelf

Green for Greens: Finding Public Financing for Healthy Food Retail
changelabsolutions.org/publications/green-for-greens

Healthy Corner Stores: State of the Movement
changelabsolutions.org/publications/healthy-corner-stores

Licensing & Zoning: Tools for Public Health
changelabsolutions.org/publications/licensing-zoning

Putting Business to Work for Health: Incentive Policies for the Private Sector
changelabsolutions.org/publications/incentives-guide

Getting to Grocery: Attracting Healthy Food Retail to Underserved Neighborhoods
changelabsolutions.org/publications/getting-grocery

Putting Health on the Menu: Creating Healthy Restaurant Programs
changelabsolutions.org/publications/healthy-menus

Healthy Corner Stores Network
healthycornerstores.org

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