

WASHINGTON COUNTY CODE

CHAPTER 8

HEALTH CODE

SUBCHAPTER I - HUMAN HEALTH HAZARDS

- 8.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND TITLE**
- 8.02 GENERAL PROVISIONS**
- 8.03 DEFINITIONS**
- 8.04 HUMAN HEALTH HAZARDS**
- 8.05 COMPLIANCE AND ENFORCEMENT**
- 8.06 ABROGATION, SEVERABILITY AND REPEAL**

SUBCHAPTER II - LICENSURE AND REGULATION

- 8.07 AUTHORITY AND PURPOSE**
- 8.08 APPLICABILITY**
- 8.09 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE**
- 8.10 DEFINITIONS**
- 8.11 RESTAURANTS, MOBILE RESTAURANTS AND TEMPORARY RESTAURANTS**
- 8.12 HOTELS, MOTELS, BED AND BREAKFASTS AND TOURIST ROOMING HOUSES**
- 8.13 TATTOO AND BODY PIERCING ESTABLISHMENTS**
- 8.14 PUBLIC SWIMMING POOLS AND WATER ATTRACTIONS**
- 8.15 CAMP GROUNDS, CAMPING RESORTS, RECREATIONAL CAMPS AND EDUCATIONAL CAMPS**
- 8.16 PERMITS; APPLICATION PROCESS; INSPECTIONS**
- 8.17 ENTRY UPON PREMISES**
- 8.18 FEES AND TRANSFERS**
- 8.19 SUSPENSION OR REVOCATION OF PERMIT**
- 8.20 APPEAL HEARING**
- 8.21 ADMINISTRATION, ENFORCEMENT AND PENALTIES**
- 8.22 CHANGES IN LAW**
- 8.23 APPLICABILITY OF OTHER LAWS AND REGULATIONS**
- 8.24 DEPARTMENT ORDERS AND DECISIONS**
- 8.25 OPTIONAL PLAN REVIEW AVAILABLE**

CHAPTER 8

HEALTH CODE

SUBCHAPTER I - HUMAN HEALTH HAZARDS

8.01(CR 02-20) STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE. (1)(CR 02-20) **Statutory Authorization.** This Chapter is authorized by Chapters 250 through 254 of the Wisconsin Statutes and the associated rules promulgated therefrom.

(2)(CR 02-20) **Findings of Fact.** The existence of unhealthy environmental conditions in Washington County may adversely impact the public health, safety and general welfare of those who live, work or engage in leisure activities in the county. The Wisconsin Legislature has delegated responsibility to counties to attempt to protect citizens from unhealthy conditions. To the extent permitted under current law, Washington County acknowledges this responsibility.

(3)(CR 02-20) **Statement of Purpose.** For the purpose of protecting the public health, safety and general welfare of the people of the County in cooperation with local, State and Federal government, this chapter is established to:

- (a) Prevent the spread of communicable diseases;
- (b) Prevent the continuation of human health hazards;
- (c) Assure that citizens are protected from hazardous, unhealthy or unsafe conditions.

(4)(CR 02-20) **Title.** This ordinance shall be referred to as the "Washington County Human Health Hazard Ordinance".

8.02(CR 02-20) GENERAL PROVISIONS. (1) **Duties.** The Health Department, under the direction of the Board of Health, and to the extent permitted by law, shall have the duties as set forth in §6.04 of the Washington County Code for the prevention, surveillance and control of human disease that is associated with animal-borne and vector-borne disease transmission.

(2)(CR 02-20)(AM 06-16) **Administration.** This ordinance shall be administered by the legally designated county health officer in cooperation with the appropriate State agencies and other local units of government. The health officer shall have the power to insure compliance with the intent and purpose of this ordinance by any appropriate means permitted by law.

- (a) Responsibilities of the Health Officer:
 - 1. To insure compliance with the purpose and intent of this ordinance.
 - 2. To maintain records of all official actions taken.

3. To enforce the provisions of this ordinance and any State Statutes and rules related to public health, to the extent as permitted by law.

(b) Powers. The health officer or his/her designee shall have the power necessary to enforce the provisions of this ordinance without limitation by reason of enumeration and including the following:

1. To enter any structure or premises at a reasonable time for the purpose of performing his/her duties and to secure a court order to accomplish this purpose, if deemed necessary.

2. To order abatement or correction of any human health hazard in non-compliance with this ordinance or State statute.

3. To delegate the responsibilities of administration and enforcement of this ordinance to another person qualified in the field of public health.

4. To seek the technical assistance of the Planning and Parks Department relating to enforcement of Chapters 16 and 25 of the Washington County ordinances.

5. Any other action authorized under the law or this ordinance to insure compliance with the purpose and intent of this ordinance and the requirements of this ordinance.

(3)(CR 02-20) **Interpretation.** The provisions of this ordinance shall be interpreted to be the minimum requirements and shall be liberally translated in favor of Washington County and shall not be deemed a limitation of any power granted by the State of Wisconsin Statutes.

8.03(CR 02-20) DEFINITIONS. Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.

(1)(CR 02-20) **"County."** Washington County, Wisconsin.

(2)(CR 02-20) **"Dwelling."** Any structure used for human habitation.

(3)(CR 02-20)(AM 06-16) **"Human Health Hazard."** A human health hazard shall be defined as any action, act, occupation, condition or use of property which shall continue for such length of time as to:

- public;
- (a) Substantially injure or endanger the comfort, health, repose or safety of the public;
 - (b) In any way render the public insecure in life or in the use of property;
 - (c) Create or prolong a condition detrimental to the natural environment or through direct negligence allow the introduction of materials which present a hazard to the environment as a whole.
 - (d) Any situation or condition which adversely affects or has the potential to adversely affect the health of the general public.
 - (e) Air Pollution. The escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust or other atmosphere pollutants within the county that endanger the human health or create non-compliance with applicable State regulations.
 - (f) Dilapidated Buildings. All buildings or structure so old, dilapidated, neglected or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for use and for which no appropriate precautions (i.e. posting, fencing, or closure of entryways) to prevent admittance have been taken.
 - (g) Food and Breeding Places for Vermin, Insects. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, rotting timber, bedding, packing materials, scrap metal, abandoned structures, animal and human fecal matter or any other substance or condition which promotes flies, mosquitoes, lice, disease-carrying insects, rats or other vermin or their reproduction and including areas in which such pests can live, nest or seek shelter.
 - (h) Holes or Openings. Any hole or opening caused by an improperly abandoned cistern, septic system, dug or drilled well, foundation, mine shaft, or tunnel, and including any improperly abandoned, sealed, barricaded or backfilled excavation for which no property precautions (i.e. posting and fencing) to prevent entry have been taken.
 - (i) Manure. Excessive accumulations of body wastes from any domestic animal or fowl that are handled, stored, or disposed of in any manner that creates a human health hazard, but exclusive of those wastes common to ordinary and approved agricultural practices.
 - (j) Abandoned Animal Waste Storage Facility. An animal waste storage facility that is no longer used for its intended purpose and where animal waste has not been added or removed from the facility for a period of 24 months; or when a livestock operation where the facility is located ceases operation. The owner or operator may retain the facility for a longer period of time by demonstrating to the county that the facility is warranted based on anticipated future use.

(k) Noxious Odors. Any negligent use of property, substance or device within the county which emits or causes any foul, offensive, noxious or disagreeable odor deemed repulsive to the physical senses or ordinary persons or to the public as a whole, but exclusive of those odors common to ordinary and approved agricultural practices.

(l) Open Dumps. The unauthorized disposal of any waste materials on private or public lands in a manner not in compliance with the requirements of Wisconsin State Statutes.

(m) Pollution. Contaminating or rendering unclean or impure the air, land or waters of the county or making the same injurious to the public health or harmful for commercial or recreational use or deleterious to fish, bird or animal life.

(n) Solid Waste. Meaning garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials from industrial, commercial and agricultural activities, but excluding solids or dissolved materials in waste water effluent or other common water pollutants.

(o) Toxic and Hazardous Materials. Any chemical or biological material including lead as defined in Chapter 254 of the Wisconsin Statutes that is stored, used or disposed of in such quantity or manner that it is, or has the potential to create, a human health hazard.

(p) Unburied Carcasses. The carcasses of any animals or fowl not intended for human consumption or food which are not buried or otherwise properly disposed of within a reasonable time period.

(q) Unhealthy or Unsanitary Conditions. Any condition or situation which renders a structure or any part of a structure unsanitary, unhealthy or unfit for human habitation, occupation or use or renders any property unsanitary or unhealthy.

(4)(CR 02-20) "**Health Officer.**" Director, Washington County Health Department or the legally designated health officer of Washington County and his/her designated agents shall work under the direction and supervision of the Washington County Board of Health.

(5)(CR 02-20) "**Immediate Human Health Hazard.**" Any condition which adversely affects or demonstrates the potential to adversely affect the community at large and which should, in the opinion of the health officer, be abated immediately or within a maximum of 24 hours to prevent possible severe damage to human health and to the environment.

(6)(CR 02-20) "**Person.**" Any individual, firm, corporation, society, institution or other singular entity.

(7)(CR 02-20) "**Public.**" Affecting or having the potential to affect the people and environment outside the limits of an individual's personally occupied structure or all persons outside of an individual's personally occupied structure.

(8)(CR 02-20) "**State.**" The State of Wisconsin.

(9)(CR 02-20) "**Structure.**" Any man made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled structures, decks, ice fishing shanties, gas or liquid storage tanks, bridges, dams and culverts.

(10)(CR 02-20) All other words not specifically defined in this ordinance shall be defined as set forth in any applicable State of Wisconsin Regulations, and if not defined otherwise, the standard dictionary definition of the word shall apply.

8.04(CR 02-20) HUMAN HEALTH HAZARDS. (1) **Prohibited.** No person shall erect, cause, continue, maintain or permit any human health hazard within the county. Any person who shall cause, create or maintain such a human health hazard or who shall in any way aid or contribute to the causing of maintenance thereof shall be guilty of a violation of this ordinance and shall be liable for all costs and expenses attendant upon the removal and correction of such a human health hazard and to the penalties provided within the ordinance and any related statutory provision.

(2)(CR 02-20) **Responsibility of Property Owner.** It shall be the responsibility of the property owner to maintain their property in a human health hazard-free manner and also to be responsible for the abatement or correction of any human health hazard that has been determined to exist on their property.

(3)(CR 02-20) **Elimination of Hazards.** (a) No action shall be taken under this ordinance to abate a human health hazard or public health nuisance unless the health officer or Health Department designee shall have inspected or caused to be inspected the premises where the public health nuisance or human health hazard is alleged to exist and is satisfied that a public health nuisance or human health hazard does in fact exist. In the event an owner or occupant shall refuse entry for inspection purposes, a special warrant under §66.0119, Wis. Stats., shall be obtained.

(b) If the health officer or designee finds a human health hazard on private premises it shall be ordered abated or removed within a reasonable time period not to exceed 30 days. If the owner or occupant fails to comply, the health officer may enter to abate or remove the human health hazard pursuant to the procedures of this chapter or any applicable State Statutes.

(c) When a human health hazard or a public health nuisance is found, the owner and the occupant of the property will be notified by registered mail with return receipt required, and specific orders concerning abatement or removal within 30 days of receipt of the notice shall be given. Notice may also be served in the manner provided for service of a summons in circuit court; however, if the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises.

8.05(CR 02-20) COMPLIANCE AND ENFORCEMENT. (1) **Compliance.** (a) Written Orders. Compliance with this ordinance shall include compliance with written orders issued under this ordinance or State health laws by the Washington County Health Officer to abate and correct a human health hazard or to bring any other situation or condition in non-compliance with this ordinance into compliance.

(b) Non-Compliance. Non-compliance with this ordinance or with a written order from the health officer shall be cause for appropriate enforcement action under provision of this ordinance.

(2)(CR 02-20) **Enforcement.** (a) If the existence of a human health hazard is confirmed, a written cleanup or abatement order will be issued specifying the action needed to correct the situation and including the following information:

1. The name, address and pertinent information on the noncompliant party.
2. The nature of the violation and the steps necessary to abate or correct it.
3. The reasonable time period in which the violation must be corrected or abated depending on the nature of the violation.
4. The penalties the violator will be subject to if the apparent violation is not abated or corrected within the given time period.

(b) Special Inspection Warrant. In the event that a property owner or occupant shall refuse entry by the local health officer for inspection purposes, the provisions of §66.0119, Wis. Stats., shall govern for purposes of obtaining a special inspection warrant.

(c) Non-compliance. If a person does not comply with a written order from the health officer or his/her designee, one or more of the following actions or penalties may be sought;

1. Commencement of legal action against the person seeking an injunction to abate the violation or correct the damage created by the violation.
2. Commencement of legal action against the person, seeking a court-imposed forfeiture.
3. Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the health officer.
4. The initiation of one action or penalty under this section does not exempt the violator from any additional actions or penalties prescribed by law.

(d) Ordered Abatement. Where human health hazards as defined in this ordinance or in the Wisconsin State Statutes are encountered which may require ordered abatement or correction, the health officer shall serve on the responsible person written order as per Section 8.05 of this ordinance. A copy of this order shall be forwarded to the local governing body. If the human health hazard is not abated or corrected within the time period specified in the order, the local governing body may enter upon the property and abate or correct the human health hazard or cause such action to be taken as permitted by law. If the local governing body fails to abate or correct the human health hazard, the county may enter the property and take necessary action. The cost of such abatement or correction is to be recovered by the local governing body, and if not by the local body then by the county, either directly from the responsible party or as a special tax assessment on the property.

(e) Initiation of Legal Action. Legal action shall be initiated against a violator as requested by the local health officer in concurrence with the Washington County Attorney, who shall be responsible for all cases where a court-imposed forfeiture is being sought or any case which arises from the use of county enforcement personnel.

(f) Coordination with State Agencies. Where a human health hazard involves non-compliance with a State-enforced Administrative Code, the health officer shall first refer the complaint to the appropriate agency for abatement or correction. If the human health hazard continues without adequate enforcement from the State agency to cause abatement or correction, then the health officer or his/her designee may initiate action under this section to bring about proper abatement or correction.

(g) Coordination with and Referral to Local Government Units. Where a human health hazard exists in any City, Village or Town in Washington County, the health officer shall first seek to work in cooperation with the local government unit to achieve compliance, including but not limited to referring the complaint to the appropriate local government unit for abatement or correction. If the human health hazard continues without adequate enforcement, then the county health officer may seek to obtain an intergovernmental agreement to enforce on behalf of the local government unit in accordance with the intergovernmental agreement.

(h) Declaration of Public Nuisance. Where a Human Health Hazard exists and constitutes a public nuisance, initiation of legal action may include commencement of the appropriate action to have the structure or location of the Human Health Hazard declared a public nuisance and have imposed the legal remedies available under public nuisance law.

8.06(CR 02-20) ABROGATION, SEVERABILITY AND REPEAL. (1) Abrogation. This ordinance is not intended to repeal, annul, abrogate, impair or interfere with any existing covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law.

(2)(CR 02-20) **Severability.** Each section, paragraph, sentence, clause, word and provision of this ordinance is severable, and if any portion shall be deemed unconstitutional or invalid for any reason, such decision shall not affect the remainder of the ordinance nor any part thereof other than the portion affected by such decision.

(3)(CR 02-20) **Repeal.** All other ordinances or parts of ordinances, to the extent of the inconsistency only, are hereby repealed.

8.07(CR 09-9) AUTHORITY AND PURPOSE. (1)(CR 09-9) Authority. Subchapter II of Chapter 8 of the Washington County Code is adopted pursuant to the authorities provided in §§97.41, 251.04, 252.23, 252.24, 252.241, 252.245, 252.25, 254.47 and 254.69 and by Wisconsin Administrative Code Chapters 172, 173, 175, 178, 192, 195, 196, 197, and 198 and Comm 90.

(2)(CR 09-9) Purpose. The purpose of Subchapter II of Chapter 8 of the Washington County Code is to protect and improve public health and safety and to authorize the Washington County Health Department to become the designated agent of the State Department of Health Services for the purpose of issuing licenses, permits and conducting inspections and investigations of hotels, motels, restaurants (temporary, mobile and permanent), tourist rooming houses, bed and breakfast establishments, campgrounds (special event and permanent) and camping resorts, recreational and educational camps, public swimming pools, water attractions, food vending machines, food vending machine operations and vending machine commissaries, tattoo and body piercing establishments and establishing fees therefor.

8.08(CR 09-9) APPLICABILITY. The provisions of Subchapter II of this Chapter shall apply to any hotel, motel, tourist rooming house, restaurant (temporary, mobile and permanent), bed and breakfast establishment, campground (special event and permanent) and camping resort, recreational and educational camp, public swimming pools, water attractions, vending machine commissary or vending machines, tattoo establishments and body piercing establishments in Washington County as defined herein and the owner, operator or agent of any such establishments.

8.09(CR 09-9) REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE. The applicable laws, rules and regulations as set forth in Wisconsin Statutes Chapters 97, 251, 252 and 254; Wisconsin Administrative Code Chapter HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198 and COMM 90 and any appendices associated with said chapters are incorporated in this Subchapter II of Chapter 8 of the Washington County Code by reference and shall be construed, read, interpreted and administered as if fully set forth herein until amended and then shall apply as amended. The provisions of this Ordinance shall control where more restrictive than the State laws or regulations.

8.10(CR 09-9) DEFINITIONS. Unless specifically defined below, words and phrases used in these Subchapters shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application.

(1)(CR 09-9) All definitions set forth in Chapters 97, 251, 252 and 254 of the Wisconsin Statutes, Chapters DHS 172, 173, 175, 178, 192, 195-198 and Comm 90 of the Wisconsin

Administrative Code are incorporated herein by reference and shall be applied, construed and interpreted as if fully set forth herein until amended and then shall apply as amended.

(2)(CR 09-9) "**Bed and Breakfast or Bed and Breakfast Establishment.**" Any place of lodging that provides eight (8) or fewer rooms for rent to no more than a total of 20 tourists or transients; provides no meals other than breakfast and provides the breakfast only to renters of the place; is the owner's personal residence; is occupied by the owner at the time of rental; was originally built and occupied as a single family residence or, prior to use as a place of lodging, was converted to use and occupied as a single family residence; and has had completed before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that this limit does not apply to any of the following:

(a) A structural addition, including a renovation, made to a structure after May 11, 1990, within the dimensions of the original structure; and

(b) A structural addition, made to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under §254.64(1)(b), Wis. Stats., is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the requirements of §101.63(1), Wis. Stats.

(3)(CR 09-9) "**Body Piercer.**" A person who performs body piercing on another person at that person's request. Body piercing refers to the perforation of any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.

(4)(CR 09-9) "**Body Piercing Establishment.**" The premises where a body piercer performs body piercing.

(5)(CR 09-9) "**Campground.**" Any parcel or tract of land owned by a person, firm, corporation, partnership, organization, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four (4) or more camping units, or by one to three (3) camping units if the parcel or tract of land is represented as a campground.

(6)(CR 09-9) "**Concession Stand.**" A food stand that serves meals and is operated exclusively for the benefit of a participating youth sports team or program or the governing youth sports organization.

(7)(CR 09-9) "**Duplicate Permit Fee.**" A fee for the replacement of an original permit.

(8)(CR 09-9) "**Food processing.**" has the meaning given under §97.29(1)(g), Wis. Stats.

(9)(CR 09-9) "**Hotel.**" All places wherein sleeping accommodations are offered for pay to transients in five (5) or more rooms and all common places and areas used in connection therewith.

(10)(CR 09-9) "**Mobile Food Establishment or Mobile Restaurant.**" A restaurant or place where food is served or sold from a movable vehicle, push cart, trailer, or boat which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in Wisconsin Administrative Code Section DHS 9-103.11(D). "**Mobile Food Establishment**" **does not include** a vehicle which is used solely to transport or deliver food or a common carrier regulated by the state or federal government or a movable concession stand designed to operate as a temporary food establishment or a traveling food establishment.

(11)(CR 09-9) "**Motel.**" A hotel that furnishes on premise parking for motor vehicles of guests as part of the room charge without extra cost and that is identified as a motel rather than a hotel at the request of the operator.

(12)(CR 09-9) "**Pool and Water Attraction Area.**" In an outdoor facility, the pool or water attraction and the area within the basin's enclosure. In an indoor facility, the pool or water attraction and the required deck as specified in Comm 90.09 of the Wisconsin Administrative Code.

(13)(CR 09-9) "**Potentially Hazardous Food.**" Any food that can support rapid and progressive growth of infectious or toxigenic micro organisms.

(14)(CR 09-9) "**Potluck Event.**" An event to which all of the following apply:

(a) Attendees of the event provide food and beverages to be shared with other attendees and consumed at the event;

(b) No compensation is provided to any person who conducts or assists in providing the event or who provides food and beverages to be shared at the event, and no compensation is paid by any person for consumption of food or beverages at the event; and

(c) The event is sponsored by a church, religious, fraternal, youth, or patriotic organization or service club, civic organization, parent-teacher organization, senior citizen center or organization, or adult day care center.

(15)(CR 09-9) "**Pre-inspection Fee.**" A fee for inspection and consultative services provided prior to the issuance of a permit.

(16)(CR 09-9) "**Pre-packaged Restaurant.**" A restaurant that serves only individually wrapped, single food servings that are prepared and packaged off-premises by a licensed processor with preparation on the premises limited to heating and serving.

(17)(CR 09-9) "**Public Swimming Pool.**" A pool that is installed in a place of employment (as defined in §101.01, Wis. Stats.), or in a public building (as defined in §101.01, Wis. Stats.) or if it serves or is installed for use by the state, a political subdivision of the state, a motel, a hotel, a tourist rooming house, a bed and breakfast establishment, a resort, a camp, a campground, a club, an association, a housing development such as an apartment complex,

condominium complex, or housing complex having a homeowner's association, a school, a religious, charitable or youth organization, or an educational or rehabilitative facility. A **"Pool"** is **not a public pool** if it serves fewer than 3 individual residences, unless it is used on a regular basis by persons other than the residents.

(18)(CR 09-9) **"Recreational Camps or Educational Camps."** A premises, including temporary and permanent structures that is operated as an overnight living quarters where both food and lodging or facilities for food and lodging are provided for children or adults or both children and adults for a planned program of recreation or education, and that is offered free of charge or for a fee by a person or by the state or a local unit of government. **"Recreational Camps or Educational Camps"** **does not include** an overnight planned program of recreation or education for adults or families at an establishment holding a current hotel or motel or restaurant permit; an overnight planned program of recreation or education for less than four (4) consecutive nights and without permanent facilities for food and lodging; an overnight planned program for credit at an accredited academic institution of higher education; or a tournament, competition, visitation, recruitment, campus conference or professional sports team training camp.

(19)(CR 09-9) **"Re-inspection Fee."** A fee for inspections required to verify correction of violations or compliance with this Ordinance's applicable administrative rules or state statutes.

(20)(CR 09-9) **"Restaurant."** Any building, room or place where meals are prepared, served or sold to transients or the general public, and all places used in connection with the building, room or place and includes any public or private school lunchroom for which food service is provided by contract. A **"Restaurant"** **does not include** taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter, churches, religious, fraternal, youth, or patriotic organizations, service clubs and civic organizations that occasionally prepare, serve or sell meals to transients or the general public, bed and breakfast establishments that serve breakfasts only to its lodgers; a private individual selling food from a movable or temporary stand at a public farm sale; the serving of food or beverage through a licensed vending machine; any public or private school lunchroom for which food service is directly provided by the school; any college campus as defined in §36.05(6m), Wis. Stats., institution as defined in §36.51, Wis. Stats., or technical college that serves meals only to the students enrolled in the college campus, institution, or school or to authorized elderly persons under §§36.51 or 38.36, Wis. Stats.; potluck events; and concession stands at locally sponsored sporting events.

(21)(CR 09-9) **"Special Organizations Serving Meals."** A restaurant permitted under §254.64, Wis. Stats., operated by a church or a religious, fraternal, youth or patriotic organization or a service club or civic organization that prepares, serves or sells meals to which members of the general public are invited, for at least four (4) but not more than 12 days during any 12 month period. **"Meals"** **as used in this subsection does not include** a meal that is incidental to normal activities intended exclusively for members of the particular special organization nor does it include a meal served in conjunction with a church worship service, such as a funeral or wedding or to persons who attended that service.

(22)(CR 09-9) "**Tattoo.**" To insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

(23)(CR 09-9) "**Tattoo Establishment.**" The premises where a tattooist performs tattoos.

(24)(CR 09-9) "**Tattooist.**" A person who tattoos another.

(25)(CR 09-9) "**Temporary Food Establishment or Temporary Restaurant.**" A food establishment or restaurant that operates at a fixed location for a period of no more than 14 consecutive days in conjunction with a single event or celebration such as a fair, carnival, circus, public exhibition, anniversary sale or occasional sales promotion.

(26)(CR 09-9) "**Tourist Rooming House.**" Any lodging place or tourist cabin or cottage where sleeping accommodations are offered for a fee to tourists or transients. A "**tourist rooming house**" **does not include** a private boarding or rooming house, ordinarily conducted as such, not accommodating tourists or transients; a hotel, and bed and breakfast establishments.

(27)(CR 09-9) "**Vending Machine.**" Any self-service device offered for public use which, upon insertion of a coin or token or by other means dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation. "**Vending Machine**" **does not include** a device which dispenses only bottled, prepackaged or canned softdrinks, a one-cent vending device, a vending machine dispensing only candy, gum, nuts, nut meat, cookies or crackers or a vending machine dispensing only prepackaged grade A milk or milk products.

(28)(CR 09-9) "**Vending Machine Commissary.**" Any facility at which foods are prepared for the purpose of being dispensed in a vending machine except a place at which the operator is licensed to manufacture, distribute or sell food products under Chapter 97 of the Wisconsin Statutes.

(29)(CR 09-9) "**Vending Machine Operator or Operator.**" A person maintaining a place of business in the state and responsible for the operation of one or more vending machines.

(30)(CR 09-9) "**Water Attraction.**" A public facility with design and operational features that provide patrons recreational activity other than conventional swimming and involves partial or total immersion of the body. Types of water attractions include activity pools, interactive play attractions, leisure rivers, plunge pools, vortex pools, vanishing edge pools, waterslides, run out slides, drop slides, pool slides, wave pools, zero depth entry pools, and any public pool with play features except wading pools; all of which are defined in Wisconsin Administrative Code Section DHS 172.04.

8.11(CR 09-9) RESTAURANTS, MOBILE RESTAURANTS AND TEMPORARY RESTAURANTS. (1)(CR 09-9) No person, party, firm, partnership, corporation, organization, or other entity shall operate, manage, maintain, or conduct a restaurant, pre-packaged food establishment, temporary restaurant, mobile restaurant or vending commissary/vending operation in Washington County without first obtaining a permit from the Washington County Health Department.

(2)(CR 09-9) No special organizations serving meals as defined in §8.10 shall serve food without first obtaining a permit from the Washington County Health Department.

(3)(CR 09-9) No person may conduct, maintain, manage or operate a restaurant unless the operator or manager of the restaurant holds a current valid certificate of food protection practices issued by the State of Wisconsin Department of Health Services as required by §254.71(1), Wis. Stats.

8.12(CR 09-9) HOTELS, MOTELS, BED AND BREAKFASTS AND TOURIST ROOMING HOUSE. (1)(CR 09-9) No person, party, firm, partnership, corporation, organization, or other entity shall operate, manage, maintain, or conduct a hotel, motel, bed and breakfast establishment or tourist rooming house in Washington County without first obtaining a permit from the Washington County Health Department.

(2)(CR 09-9) Every hotel and motel with sleeping accommodations with more than 12 bedrooms above the first story shall, between the hours of 12 midnight and 6:00 a.m., shall provide a system of security personnel patrol, or of mechanical and electrical devices, or both, adequate, according to standards established by the Wisconsin Department of Commerce, to warn all guests and employees in time to permit their evacuation in case of fire.

(3)(CR 09-9) Every hotel and motel shall offer to every guest, at the time of registration for accommodation and of making a reservation for accommodation, an opportunity to identify him or herself as a person needing assistance in an emergency because of a physical condition and shall keep a record at the registration desk of where each person so identified is lodged. No hotel or motel may lodge any persons so identified in areas other than those designated by the local fire department as safe for persons so identified, based on the capabilities of apparatus normally available to the fire company or companies assigned the first alarm.

(4)(CR 09-9) The notices required by §§254.76 and 254.83, Wis. Stats., shall be posted in each sleeping room of all hotels, motels, and tourist rooming houses.

8.13(CR 09-9) TATTOO AND BODY PIERCING ESTABLISHMENTS. (1)(CR 09-9) No person, firm, partnership, corporation or other organization may operate a tattoo establishment in Washington County without first obtaining a tattoo establishment permit from the Washington County Health Department.

(2)(CR 09-9) No person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title "tattooist" in Washington County without first obtaining a tattooist practitioner's permit from the State of Wisconsin.

(3)(CR 09-9) No person, firm, partnership, corporation or other organization shall operate a body piercing establishment in Washington County without first obtaining a body piercing establishment permit from the Washington County Health Department.

(4)(CR 09-9) No person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use the title, "body piercer", unless the person obtains a body piercer practitioner's permit from the State of Wisconsin.

8.14(CR 09-9) PUBLIC SWIMMING POOLS AND WATER ATTRACTIONS.
(1)(CR 09-9) No person, party, firm, partnership, corporation, organization, government, or other entity shall operate, manage, maintain, or conduct a public swimming pool or water attraction in Washington County without first obtaining a permit from the Washington County Health Department.

(2)(CR 09-9) A separate permit is required for each public swimming pool and water attraction.

8.15(CR 09-9) CAMP GROUNDS, CAMPING RESORTS, RECREATIONAL CAMPS AND EDUCATIONAL CAMPS. (1)(CR 09-9) No person, party, firm, partnership, corporation, organization, government, or other entity shall operate, manage, maintain, or conduct a campground (temporary and permanent), camping resort, recreational camp, or educational camp in Washington County without first obtaining a permit from the Washington County Health Department.

(2)(CR 09-9) Operators shall submit plans and specifications for a new or expanded campground to the state for review and approval before commencing construction or modification. No permit can be issued under this Ordinance until the plans and specifications have been approved by the State of Wisconsin and evidence of said approval is supplied to the Washington County Health Department with the application for a permit.

(3)(CR 09-9) A campground permit is not required for camping at a county or district fair at which 4-H Club members exhibit, for the 4 days preceding the county or district fair, the duration of the county or district fair, and the 4 days following the county or district fair.

8.16(CR 09-9) PERMITS; APPLICATION PROCESS; INSPECTIONS. (1)(CR 09-9) Permits.

(2)(CR 09-9) Application Process. (a) An applicant for a permit required by this Subchapter shall complete an application form furnished by the Washington County Health Department.

(b) The Washington County Health Department shall notify the applicant in writing within thirty (30) days of receipt of the completed application and associated fees of its decision, to issue a permit, conditionally issue a permit or to deny issuance of the permit.

(c) Pre-inspection. All applicants, except those transferring a permit under §254.64(4)(d) or (e), Wis. Stats., require a pre-inspection of the establishment sought to be permitted prior to the issuance of a permit to confirm that the establishment sought to be permitted is in compliance with the applicable statutes, administrative rules and this Ordinance. The Washington County Health Department may condition the issuance or renewal of a permit on correction by the applicant of violation(s) identified. If the applicant fails to correct the violation(s) within the specified period of time, the permit shall be revoked.

(d) If the permit is denied, the applicant shall be given written notice of the denial including the reasons and the notice of the right to appeal said decision within fifteen (15) days of the date of the decision by filing a written request for an appeal hearing with the Washington County Health Department. The appeal hearing shall be heard before the Washington County Board of Health and conducted in accordance with this Ordinance.

8.17(CR 09-9) ENTRY UPON PREMISES. Employees of the Washington County Health Department shall be permitted to enter, at any reasonable hour and upon the presentation of proper identification, any establishment in Washington County for which a permit is required under this Subchapter to inspect the premises, secure samples or specimens, examine, and copy relevant documents and records, or obtain photographs or other evidence needed to enforce this Ordinance.

8.18(CR 09-9) FEES AND TRANSFERS. (1)(CR 09-9) Permit, pre-inspection, re-inspection, and duplicate permit fees are as set forth consistent with the fee schedule approved annually by Washington County through the County's annual budget process as to County fees and the State of Wisconsin as to state fees.

(a) Pre-inspection fees. The applicant or operator shall be responsible for paying a pre-inspection fee at the time of application.

(b) Annual fee. The permit fees shall be paid annually. Permits issued under this Subchapter shall expire on June 30, except that permits initially issued during the period beginning on April 1 and ending June 30 shall expire as of June 30 of the following year.

(c) State of Wisconsin Administrative Fee. An applicant shall also pay the state administrative fee established by the State of Wisconsin as listed on the state approved fee schedule as amended from time to time. The state fee is collected and processed by Washington County as a part of the application process.

(d) Re-inspection fee. The applicant or operator shall pay a re-inspection fee upon re-inspection of the establishment by the Washington County Health Department whenever an establishment is deemed by the Washington County Health Department to require a re-inspection to verify correction of violation(s) of this subchapter.

(2)(CR 09-9) Permit Transfers. Permits issued pursuant to this Subchapter are not transferable, except:

(a) The holder of a permit may transfer the permit to an individual who is an immediate family member as defined in §254.64(4)(a)2., Wis. Stats., upon the transfer of operation of the establishment;

(b) A business entity may transfer the permit to a reorganized business entity if the establishment remains at the same location and at least one member of the new business entity continues an ownership interest.

8.19(CR 09-9) SUSPENSION OR REVOCATION OF PERMIT. (1)(CR 09-9) The Washington County Health Department may suspend or revoke a permit issued to any establishment or operator under this Ordinance in the event the Washington County Health Department discovers violations of this Ordinance, the applicable regulations contained in the Wisconsin Statutes or the applicable regulations contained in the Wisconsin Administrative Code.

(2)(CR 09-9) Suspension. The Washington County Health Department shall by written order notify the owner and operator of the violations specifying the changes required to make the permitted establishment conform to the rules and regulations contained in this Ordinance, the applicable Wisconsin Administrative Code Chapters, and applicable Wisconsin Statutes and suspend the permit until such time as the violations are corrected.

(a) The order shall set forth the time period within which the compliance shall take place.

(b) Failure to comply with the order to correct the violations within the time period stipulated in the order, or any extension of time issued, may result in the issuance of a written order permanently revoking the permit to operate the establishment.

(c) The revocation order shall notify the operator that the owner and operator can request a hearing within fifteen (15) days of the date of the revocation order by sending a written request for an appeal hearing to the Washington County Health Department. The appeal hearing shall be conducted in accordance with this Ordinance.

(d) Any revocation order issued hereunder shall take effect fifteen (15) days after the date of issuance, unless the operator requests a hearing within fifteen (15) days of the date of the revocation order.

(3)(CR 09-9) Revocation Due To Immediate Danger To Health. Where reasonable cause exists to believe that any construction, sanitary condition, operation or method of operation of an establishment permitted under any section of this Subchapter creates an immediate danger to health, the Washington County Health Department may, without advance written notice and without advance hearing, issue a verbal order immediately revoking the permit and requiring the removal of the immediate danger to health.

(a) The order shall take effect upon personal delivery to the operator or other person in charge of the establishment.

(b) Verbal orders shall be confirmed in writing as soon as practicable.

(c) The order shall be limited to prohibiting the sale or movement of food (if food is sold or served on the premises), prohibiting the continued operation or method of operation of specific equipment, requiring the premises to cease other operations or methods of operation, or a combination of the prohibitions and requirements except that if a more limited order will not remove the immediate danger to health caused by a violation of this Ordinance or any State of Wisconsin statute or regulation, the order may direct that all operations authorized by the permit shall cease and the establishment shall be closed down and may take any other action it deems necessary to protect the public health.

(2)(CR 09-9) All orders, suspensions or revocations issued hereunder shall be in writing and shall inform the owner/operator of the right to request an appeal hearing within fifteen (15) days of issuance of said order, suspension or revocation which request shall be in writing and conducted pursuant to §8.20 of this Ordinance.

8.20(CR 09-9) APPEAL HEARING. (1)(CR 09-9) Any applicant or permit holder aggrieved by an order or decision of the Washington County Health Department under this Subchapter may request a hearing before the Washington County Board of Health or its designee to challenge the order or decision of the Washington County Health Department.

(a) The applicant or permit holder shall submit a written request for a hearing not later than fifteen (15) days after the issuance of the Washington County Health Department order or decision.

(b) The hearing shall be held no later than fifteen (15) days after the Washington County Health Department receives the written request for a hearing unless both parties agree to a later date.

(c) The Washington County Health Department shall mail a notice of hearing to the operator at least five (5) days prior to the hearing; which notice shall set forth the date, time, and place of the hearing.

(d) The hearing shall be recorded.

(e) The operator and the County may be represented by counsel, provide testimony and cross examine witnesses.

(f) Witnesses shall be sworn under oath.

(g) A final written decision shall be issued within ten (10) days of the conclusion of the hearing.

(2)(CR 09-9) The final decision of the Board of Health may be appealed to the Washington County Circuit Court within thirty (30) days of the date of the decision.

8.21(CR 09-9) ADMINISTRATION, ENFORCEMENT AND PENALTIES. (1) The Washington County Health Department shall administer and enforce this Ordinance in Washington County.

(2)(CR 09-9) Violations of this Ordinance and enforcement of orders or decisions by the Department or Board of Health issued in the manner described herein shall be prosecuted by the Washington County Attorney. Each day of continued violation or noncompliance shall constitute a separate offense.

(3)(CR 09-9) Citations. Department personnel authorized by the Washington County Code may issue citations for violations of this Subchapter. Citations issued to any violators of this ordinance shall be issued using the procedure and in the format specified at §14.42 of this Code.

(a) Any person, firm, partnership, or corporation or other organization that violates an order or decision issued under §8.11 or §8.12 or any operator of an establishment or facility for which a permit is required under this Ordinance that violates a revocation order or decision issued pursuant to this Subchapter of this Ordinance shall pay a forfeiture of not less than \$250 and not more than \$10,000.00 plus court costs and the cost of prosecution plus the retail value of any food moved, sold, or disposed of in violation of the order or decision.

(b) Any person, firm, partnership or corporation or other organization that violates any of the rules and regulations set forth in Wisconsin Administrative Code Chapter DHS 196 or the DHS 196 appendix or any provisions under §8.11 of the Ordinance other than a violation of an order or decision of the Washington County Health Department or Board of Health, shall pay a forfeiture of not less than \$100.00 nor more than \$1,000.00. This includes operation of any type of restaurant, food establishment, temporary restaurant, temporary food establishment, mobile restaurant, mobile food establishment, special event food establishment, or special organizations serving meals without having obtained a permit under this section.

(c) Any person, firm, partnership, or corporation or other organization that violates a rule or regulation contained in this Subchapter, Wisconsin Administrative Code Chapters DHS 195 or DHS 197 as referenced in §8.12 shall pay a forfeiture of not less than \$100.00 nor more than \$1,000.00 plus court costs, including the operation of a hotel, motel, bed and breakfast or tourist rooming house without a permit.

(d) Any person, firm, partnership, or corporation or other organization that violates §8.12(4) of this section by failing to post the required notice regarding room rates or posts an inaccurate notice shall pay a forfeiture of not less than \$50.00 nor more than \$100.00 plus costs of prosecution and court costs.

(e) Any person, firm, partnership, or corporation or other organization that violates §8.13 of this Ordinance or any order issued thereunder or violates any of the rules and regulations contained in this Subchapter or the Wisconsin Administrative Code Chapter DHS 173, including failure to obtain a permit for a tattoo establishment or body piercing establishment, shall pay a forfeiture of not more than \$500 plus court costs.

(f) Any person, firm, partnership, or corporation or other organization that violates §8.14 of the Ordinance or violates any of the rules and regulations contained in Wisconsin Administrative Code Chapters DHS 172 or Comm 90, including failure to obtain a permit, shall pay a forfeiture of not less than \$25.00 nor more than \$500.00 plus the costs of prosecution and court costs.

(g) Any operator of a public swimming pool or water attraction who fails to comply with an order of the Washington County Department of Health under this Ordinance shall forfeit \$10.00, plus court costs, for each day of noncompliance after the order is served upon the operator.

(h) Any person, firm, partnership, or corporation or other organization that violates §8.15 of this Ordinance or violates any of the rules and regulations contained in Wisconsin Administrative Code Chapters DHS 175 or DHS 178 shall pay a forfeiture of not less than \$25.00 nor more than \$250.00 plus court costs.

(i) Any person, firm, partnership, or corporation or other organization who fails to comply with an order of the Washington County Department of Health issued under this Ordinance shall forfeit \$10.00 for each day of noncompliance after the order is served upon the operator.

(j) Any person, firm, partnership, or corporation or other organization operator who fails to obtain a permit for the operation of an establishment under §8.15 of this Ordinance, the operator shall be subject to a forfeiture of not less than \$25.00 nor more than \$250.00 plus court costs.

(k) Any person who gives false information to an employee of the Washington County Health Department engaged in the performance of his or her duties under this Subchapter of this Ordinance, with the intent to mislead the employee or who assaults, threatens, intimidates, impedes, interferes with or obstructs an employee of the Washington County Health Department in the performance of his or her duties under this section of this Ordinance shall be ordered to pay a forfeiture of not more than \$5,000.00 plus court costs.

(l) Any person, firm, partnership, or corporation or other organization who violates any state statute or rule referred to herein or any part of this Subchapter or any departmental order issued under this Subchapter relating to public health, for which no other penalty is prescribed, shall be subject to the penalties set forth in §1.07 of the Washington County Code.

(4)(AM 09-9) Injunctions. In case of continuing violations, department personnel, may in addition to other enforcement actions, refer such violations to the Washington County Attorney for the commencement of appropriate legal action or proceeding to enjoin continuing violations of this Subchapter.

8.22(CR 09-9) CHANGES IN LAW. In the event the Wisconsin Legislature or Department of Health Services amends any of its statutes, rules or regulations which are adopted in this Ordinance, said amendments shall automatically become part of this Ordinance without further action by the Washington County Board of Supervisors.

8.23(CR 09-9) APPLICABILITY OF OTHER LAWS AND REGULATIONS. In addition to the laws and regulations set forth herein or adopted by reference, all applicants for a permit under this Ordinance shall comply with all applicable federal, state or local laws or regulations.

8.24(CR 09-9) DEPARTMENT ORDERS AND DECISIONS. All orders, notices and decisions issued by the Washington County Health Department or the Board of Health shall be in writing and served on the operator by mailing a copy to the operator at the last known address or by personal delivery to the operator of the establishment or by personal delivery to an employee working at said establishment who is in charge of the establishment at said time. Immediate orders for revocation issued under §8.19 shall be personally served on the operator or an employee working at said establishment who is in charge of said establishment at the time. If an immediate order for revocation is served on an employee who is in charge of said establishment, said order for immediate revocation shall also be mailed to the operator by the Washington County Health Department.

8.25(CR 09-9) OPTIONAL PLAN REVIEW AVAILABLE. Prior to the commencement of any new construction or any remodeling construction by any person, firm, partnership, corporation or other entity operating or planning to operate an establishment regulated by this Subchapter, said person, firm, partnership, corporation or other entity may submit building plans and the fee set forth herein to the Washington County Health Department for a plan review based on Public Health Statutes and Codes and obtain recommendations and guidance relating to same prior to beginning construction or remodeling.