

1 **WASHINGTON COUNTY, WISCONSIN**

2
3 Date of enactment: **10/27/09**
4 Date of publication: _____

5 **VOTE**

6 **2009 ORDINANCE 9**

7
8 AN ORDINANCE to **amend** Chapter 8 **relating to:** Health Code; to **create** Subchapter I -
9 Human Health Hazards and Subchapter II - Licensure and Regulation; and **to create**
10 Sections 8.07 through 8.25 **relating to:** Authority and Purpose; Applicability;
11 Regulations, Rules and Laws Adopted by Reference; Definitions; Restaurants, Mobile
12 Restaurants and Temporary Restaurants; Hotels, Motels, Bed and Breakfasts and Tourist
13 Rooming Houses; Tattoo and Body Piercing Establishments; Public Swimming Pools and
14 Water Attractions; Camp Grounds, Camping Resorts, Recreational Camps and
15 Educational Camps; Permits; Application Process; Inspections; Entry upon Premises;
16 Fees and Transfers; Revocation of Permit, Reinspection After Notice and Correction;
17 Appeal Hearing; Administration, Enforcement and Penalties; Changes in Law;
18 Applicability of Other Laws and Regulations; Department Orders and Decisions;
19 and Optional Plan Review Available; and **to amend** Section 14.42 **relating to:**
20 Uniform Citation Method Adopted.
21

22 *The people of the County of Washington, represented in the Board of Supervisors, do*
23 *ordain as follows:*

24
25 **SECTION 1.** Chapter 8 of the code is amended to read:

26 **CHAPTER 8**(AM 09-9) ~~**HUMAN HEALTH HAZARDS**~~ **HEALTH CODE**

27
28 Subchapter I – Human Health Hazards

29 * * *

30
31
32 Subchapter II – Licensure and Regulation

33
34 **SECTION 2.** Section 8.07 of the code is created to read:

35 **8.07**(CR 09-9) **AUTHORITY AND PURPOSE.** (1)(CR 09-9) Authority. Subchapter
36 II of Chapter 8 of the Washington County Code is adopted pursuant to the authorities provided in
37 §§97.41, 251.04, 252.23, 252.24, 252.241, 252.245, 252.25, 254.47 and 254.69 and by
38 Wisconsin Administrative Code Chapters 172, 173, 175, 178, 192, 195, 196, 197, and 198 and
39 Comm 90.
40

41 (2)(CR 09-9) Purpose. The purpose of Subchapter II of Chapter 8 of the Washington
42 County Code is to protect and improve public health and safety and to authorize the Washington
43 County Health Department to become the designated agent of the State Department of Health
44 Services for the purpose of issuing licenses, permits and conducting inspections and
45 investigations of hotels, motels, restaurants (temporary, mobile and permanent), tourist rooming
46 houses, bed and breakfast establishments, campgrounds (special event and permanent) and
47 camping resorts, recreational and educational camps, public swimming pools, water attractions,
48 food vending machines, food vending machine operations and vending machine commissaries,
49 tattoo and body piercing establishments and establishing fees therefor.
50

1 **SECTION 3.** Section 8.08 of the code is created to read:

2 **8.08(CR 09-9) APPLICABILITY.** The provisions of Subchapter II of this
3 Chapter shall apply to any hotel, motel, tourist rooming house, restaurant (temporary,
4 mobile and permanent), bed and breakfast establishment, campground (special event and
5 permanent) and camping resort, recreational and educational camp, public swimming
6 pools, water attractions, vending machine commissary or vending machines, tattoo
7 establishments and body piercing establishments in Washington County as defined
8 herein and the owner, operator or agent of any such establishments.

9
10 **SECTION 4.** Section 8.09 of the code is created to read:

11 **8.09(CR 09-9) REGULATIONS, RULES AND LAWS ADOPTED BY**
12 **REFERENCE.** The applicable laws, rules and regulations as set forth in Wisconsin
13 Statutes Chapters 97, 251, 252 and 254; Wisconsin Administrative Code Chapter HFS 172,
14 173, 175, 178, 192, 195, 196, 197 and 198 and COMM 90 and any appendices associated
15 with said chapters are incorporated in this Subchapter II of Chapter 8 of the Washington
16 County Code by reference and shall be construed, read, interpreted and administered as if
17 fully set forth herein until amended and then shall apply as amended. The provisions of this
18 Ordinance shall control where more restrictive than the State laws.
19

20 **SECTION 5.** Section 8.10 of the code is created to read:

21 **8.10(CR 09-9) DEFINITIONS.** Unless specifically defined below, words and phrases
22 used in these subchapters shall be interpreted so as to give them the same meaning as they have at
23 common law and to give this chapter its most reasonable application.
24

25 (1)(CR 09-9) All definitions set forth in Chapters 97, 251, 252 and 254 of the Wisconsin
26 Statutes, Chapters DHS 172, 173, 175, 178, 192, 195-198 and Comm 90 of the Wisconsin
27 Administrative Code are incorporated herein by reference and shall be applied, construed and
28 interpreted as if fully set forth herein until amended and then shall apply as amended.
29

30 (2)(CR 09-9) "**Bed and Breakfast or Bed and Breakfast Establishment.**" Any
31 place of lodging that provides eight (8) or fewer rooms for rent to no more than a total of
32 20 tourists or transients; provides no meals other than breakfast and provides the breakfast
33 only to renters of the place; is the owner's personal residence; is occupied by the owner at
34 the time of rental; was originally built and occupied as a single family residence or, prior to
35 use as a place of lodging, was converted to use and occupied as a single family residence; and
36 has had completed before May 11, 1990, any structural additions to the dimensions of the
37 original structure, including by renovation, except that this limit does not apply to any of
38 the following:
39

40 (a) A structural addition, including a renovation, made to a structure
41 after May 11, 1990, within the dimensions of the original structure; and
42

43 (b) A structural addition, made to a structure that was originally
44 constructed at least 50 years before an initial or renewal application for a permit under
45 §254.64(1)(b), Wis. Stats., is made and for which no use other than as a bed and breakfast
46 establishment is proposed. The structural addition under this subdivision shall comply with
47 the requirements of §101.63(1), Wis. Stats.
48

49 (3)(CR 09-9) "**Body Piercer.**" A person who performs body piercing on another
50 person at that person's request. Body piercing refers to the perforation of any human body

1 part or tissue, except an ear, and to place a foreign object in the perforation to prevent the
2 perforation from closing.

3
4 (4)(CR 09-9) "**Body Piercing Establishment.**" The premises where a body piercer
5 performs body piercing.

6
7 (5)(CR 09-9) "**Campground.**" Any parcel or tract of land owned by a person,
8 firm, corporation, partnership, organization, the state or a local government, which is
9 designed, maintained, intended or used for the purpose of providing sites for non-
10 permanent overnight use by four (4) or more camping units, or by one to three (3) camping
11 units if the parcel or tract of land is represented as a campground.

12
13 (6)(CR 09-9) "**Concession Stand.**" A food stand that serves meals and is operated
14 exclusively for the benefit of a participating youth sports team or program or the
15 governing youth sports organization.

16
17 (7)(CR 09-9) "**Duplicate Permit Fee.**" A fee for the replacement of an original
18 permit.

19
20 (8)(CR 09-9) "**Food processing.**" has the meaning given under §97.29(1)(g), Wis.
21 Stats.

22
23 (9)(CR 09-9) "**Hotel.**" All places wherein sleeping accommodations are offered for
24 pay to transients in five (5) or more rooms and all common places and areas used in
25 connection therewith.

26
27 (10)(CR 09-9) "**Mobile Food Establishment or Mobile Restaurant.**" A
28 restaurant or place where food is served or sold from a movable vehicle, push cart,
29 trailer, or boat which periodically or continuously changes location and requires a
30 service base to accommodate the unit for servicing, cleaning, inspection and maintenance
31 or except as specified in Wisconsin Administrative Code Section DHS 9-103.11(D).
32 "**Mobile Food Establishment**" **does not include** a vehicle which is used solely to
33 transport or deliver food or a common carrier regulated by the state or federal
34 government or a movable concession stand designed to operate as a temporary food
35 establishment or a traveling food establishment.

36
37 (11)(CR 09-9) "**Motel.**" A hotel that furnishes on premise parking for motor
38 vehicles of guests as part of the room charge without extra cost and that is identified as a
39 motel rather than a hotel at the request of the operator.

40
41 (12)(CR 09-9) "**Pool and Water Attraction Area.**" In an outdoor facility, the
42 pool or water attraction and the area within the basin's enclosure. In an indoor facility, the
43 pool or water attraction and the required deck as specified in Comm 90.09 of the
44 Wisconsin Administrative Code.

45
46 (13)(CR 09-9) "**Potentially Hazardous Food.**" Any food that can support rapid and
47 progressive growth of infectious or toxigenic micro organisms.

48
49 (14)(CR 09-9) "**Potluck Event.**" An event to which all of the following apply:
50

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

3
4 (b) No compensation is provided to any person who conducts or assists in
5 providing the event or who provides food and beverages to be shared at the event, and no
6 compensation is paid by any person for consumption of food or beverages at the event; and
7

8 (c) The event is sponsored by a church, religious, fraternal, youth, or
9 patriotic organization or service club, civic organization, parent-teacher organization,
10 senior citizen center or organization, or adult day care center.
11

12 (15)(CR 09-9) **"Pre-inspection Fee."** A fee for inspection and consultative
13 services provided prior to the issuance of a permit.
14

15 (16)(CR 09-9) **"Pre-packaged Restaurant."** A restaurant that serves only
16 individually wrapped, single food servings that are prepared and packaged off-premises by
17 a licensed processor with preparation on the premises limited to heating and serving.
18

19 (17)(CR 09-9) **"Public Swimming Pool."** A pool that is installed in a place of
20 employment (as defined in §101.01, Wis. Stats.), or in a public building (as defined in
21 §101.01, Wis. Stats.) or if it serves or is installed for use by the state, a political subdivision
22 of the state, a motel, a hotel, a tourist rooming house, a bed and breakfast establishment, a
23 resort, a camp, a campground, a club, an association, a housing development such as an
24 apartment complex, condominium complex, or housing complex having a homeowner's
25 association, a school, a religious, charitable or youth organization, or an educational or
26 rehabilitative facility. **A "Pool" is not a public pool** if it serves fewer than 3 individual
27 residences, unless it is used on a regular basis by persons other than the residents.
28

29 (18)(CR 09-9) **"Recreational Camps or Educational Camps."** A premises,
30 including temporary and permanent structures that is operated as an overnight living
31 quarters where both food and lodging or facilities for food and lodging are provided for
32 children or adults or both children and adults for a planned program of recreation or
33 education, and that is offered free of charge or for a fee by a person or by the state or a local
34 unit of government. **"Recreational Camps or Educational Camps" does not include**
35 an overnight planned program of recreation or education for adults or families at an
36 establishment holding a current hotel or motel or restaurant permit; an overnight
37 planned program of recreation or education for less than four (4) consecutive nights and
38 without permanent facilities for food and lodging; an overnight planned program for
39 credit at an accredited academic institution of higher education; or a tournament,
40 competition, visitation, recruitment, campus conference or professional sports team
41 training camp.
42

43 (19)(CR 09-9) **"Re-inspection Fee."** A fee for inspections required to verify
44 correction of violations or compliance with this ordinance's applicable administrative rules
45 or state statutes.
46

47 (20)(CR 09-9) **"Restaurant."** Any building, room or place where meals are
48 prepared, served or sold to transients or the general public, and all places used in
49 connection with the building, room or place and includes any public or private school
50 lunchroom for which food service is provided by contract. **A "Restaurant" does not**

1 **include** taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels,
2 cold sausage, cured fish or bread and butter, churches, religious, fraternal, youth, or
3 patriotic organizations, service clubs and civic organizations that occasionally prepare,
4 serve or sell meals to transients or the general public, bed and breakfast
5 establishments that serve breakfasts only to its lodgers; a private individual selling food
6 from a movable or temporary stand at a public farm sale; the serving of food or beverage
7 through a licensed vending machine; any public or private school lunchroom for which
8 food service is directly provided by the school; any college campus as defined in
9 §36.05(6m), Wis. Stats., institution as defined in §36.51, Wis. Stats., or technical college
10 that serves meals only to the students enrolled in the college campus, institution, or
11 school or to authorized elderly persons under §§36.51 or 38.36, Wis. Stats.; potluck
12 events; and concession stands at locally sponsored sporting events.

13
14 (21)(CR 09-9) **"Special Organizations Serving Meals."** A restaurant permitted
15 under §254.64, Wis. Stats., operated by a church or a religious, fraternal, youth or patriotic
16 organization or a service club or civic organization that prepares, serves or sells meals to
17 which members of the general public are invited, for at least four (4) but not more than 12
18 days during any 12 month period. **"Meals" as used in this subsection does not include** a
19 meal that is incidental to normal activities intended exclusively for members of the particular
20 special organization nor does it include a meal served in conjunction with a church worship
21 service, such as a funeral or wedding or to persons who attended that service.

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

26
27 (23)(CR 09-9) **"Tattoo Establishment."** The premises where a tattooist
28 performs tattoos.

29
30 (24)(CR 09-9) **"Tattooist."** A person who tattoos another.

31
32 (25)(CR 09-9) **"Temporary Food Establishment or Temporary Restaurant."** A
33 food establishment or restaurant that operates at a fixed location for a period of no more than 14
34 consecutive days in conjunction with a single event or celebration such as a fair, carnival,
35 circus, public exhibition, anniversary sale or occasional sales promotion.

36
37 (26)(CR 09-9) **"Tourist Rooming House."** Any lodging place or tourist cabin or
38 cottage where sleeping accommodations are offered for a fee to tourists or transients. **A**
39 **"tourist rooming house" does not include** a private boarding or rooming house, ordinarily
40 conducted as such, not accommodating tourists or transients; a hotel, and bed and breakfast
41 establishments.

42
43 (27)(CR 09-9) **"Vending Machine."** Any self-service device offered for public use
44 which, upon insertion of a coin or token or by other means dispenses unit servings of food or
45 beverage either in bulk or in package, without the necessity of replenishing the device
46 between each vending operation. **"Vending Machine" does not include** a device which
47 dispenses only bottled, prepackaged or canned softdrinks, a one-cent vending device, a
48 vending machine dispensing only candy, gum, nuts, nut meat, cookies or crackers or a
49 vending machine dispensing only prepackaged grade A milk or milk products.

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

5
6 (29)(CR 09-9) **"Vending Machine Operator or Operator."** A person maintaining
7 a place of business in the state and responsible for the operation of one or more vending
8 machines.

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

17
18 **SECTION 6.** Section 8.11 of the code is created to read:

19 **8.11(CR 09-9) RESTAURANTS, MOBILE RESTAURANTS AND TEMPORARY**
20 **RESTAURANTS.** (1)(CR 09-9) No person, party, firm, partnership, corporation,
21 organization, or other entity shall operate, manage, maintain, or conduct a restaurant, pre-
22 packaged food establishment, temporary restaurant, mobile restaurant or vending
23 commissary/vending operation in Washington County without first obtaining a permit
24 from the Washington County Health Department.

25
26 (2)(CR 09-9) No special organizations serving meals as defined in §8.10 shall
27 serve food without first obtaining a permit from the Washington County Health
28 Department.

29
30 (3)(CR 09-9) No person may conduct, maintain, manage or operate a restaurant unless
31 the operator or manager of the restaurant holds a current valid certificate of food
32 protection practices issued by the State of Wisconsin Department of Health Services as
33 required by §254.71(1), Wis. Stats.

34
35 **SECTION 7.** Section 8.12 of the code is created to read:

36 **8.12(CR 09-9) HOTELS, MOTELS, BED AND BREAKFASTS AND TOURIST**
37 **ROOMING HOUSE.** (1)(CR 09-9) No person, party, firm, partnership, corporation,
38 organization, or other entity shall operate, manage, maintain, or conduct a hotel, motel, bed and
39 breakfast establishment or tourist rooming house in Washington County without first obtaining a
40 permit from the Washington County Health Department.

41
42 (2)(CR 09-9) Every hotel and motel with sleeping accommodations with more than 12
43 bedrooms above the first story shall, between the hours of 12 midnight and 6:00 a.m., shall
44 provide a system of security personnel patrol, or of mechanical and electrical devices, or both,
45 adequate, according to standards established by the Wisconsin Department of Commerce, to
46 warn all guests and employees in time to permit their evacuation in case of fire.

47
48 (3)(CR 09-9) Every hotel and motel shall offer to every guest, at the time of registration
49 for accommodation and of making a reservation for accommodation, an opportunity to identify
50 him or herself as a person needing assistance in an emergency because of a physical condition

1 and shall keep a record at the registration desk of where each person so identified is lodged. No
2 hotel or motel may lodge any persons so identified in areas other than those designated by the
3 local fire department as safe for persons so identified, based on the capabilities of apparatus
4 normally available to the fire company or companies assigned the first alarm.

5
6 (4)(CR 09-9) The notices required by §§254.76 and 254.83, Wis. Stats., shall be posted
7 in each sleeping room of all hotels, motels, and tourist rooming houses.

8
9 **SECTION 8.** Section 8.13 of the code is created to read:

10 **8.13(CR 09-9) TATTOO AND BODY PIERCING ESTABLISHMENTS.** (1)(CR
11 09-9) No person, firm, partnership, corporation or other organization may operate a
12 tattoo establishment in Washington County without first obtaining a tattoo establishment
13 permit from the Washington County Health Department.

14
15 (2)(CR 09-9) No person may tattoo or attempt to tattoo another, designate or
16 represent himself or herself as a tattooist or use or assume the title "tattooist" in
17 Washington County without first obtaining a tattooist practitioner's permit from the State of
18 Wisconsin.

19
20 (3)(CR 09-9) No person, firm, partnership, corporation or other organization shall
21 operate a body piercing establishment in Washington County without first obtaining a
22 body piercing establishment permit from the Washington County Health Department.

23
24 (4)(CR 09-9) No person may pierce the body of or attempt to pierce the body of
25 another, designate or represent himself or herself as a body piercer or use the title, "body
26 piercer", unless the person obtains a body piercer practitioner's permit from the State of
27 Wisconsin.

28
29 **SECTION 9.** Section 8.14 of the code is created to read:

30 **8.14(CR 09-9) PUBLIC SWIMMING POOLS AND WATER ATTRACTIONS.**
31 (1)(CR 09-9) No person, party, firm, partnership, corporation, organization, government, or
32 other entity shall operate, manage, maintain, or conduct a public swimming pool or water
33 attraction in Washington County without first obtaining a permit from the Washington
34 County Health Department.

35
36 (2)(CR 09-9) A separate permit is required for each public swimming pool and
37 water attraction.

38
39 **SECTION 10.** Section 8.15 of the code is created to read:

40 **8.15(CR 09-9) CAMP GROUNDS, CAMPING RESORTS, RECREATIONAL**
41 **CAMPS AND EDUCATIONAL CAMPS.** (1)(CR 09-9) No person, party, firm,
42 partnership, corporation, organization, government, or other entity shall operate, manage,
43 maintain, or conduct a campground (temporary and permanent), camping resort,
44 recreational camp, or educational camp in Washington County without first obtaining a
45 permit from the Washington County Health Department.

46
47 (2)(CR 09-9) Operators shall submit plans and specifications for a new or expanded
48 campground to the state for review and approval before commencing construction or
49 modification. No permit can be issued under this ordinance until the plans and
50 specifications have been approved by the State of Wisconsin and evidence of said

1 approval is supplied to the Washington County Health Department with the application for
2 a permit.

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

7
8 **SECTION 11.** Section 8.16 of the code is created to read:

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

11
12 (2)(CR 09-9) Application Process. (a) An applicant for a permit required by this
13 subchapter shall complete an application form furnished by the Washington County Health
14 Department.

15
16 (b) The Washington County Health Department shall notify the applicant
17 in writing within thirty (30) days of receipt of the completed application and associated fees
18 of its decision, to issue a permit, conditionally issue a permit or to deny issuance of the
19 permit.

20
21 (c) Pre-inspection. All applicants, except those transferring a permit
22 under §254.64(4)(d) or (e), Wis. Stats., require a pre-inspection of the establishment
23 sought to be permitted prior to the issuance of a permit to confirm that the establishment
24 sought to be permitted is in compliance with the applicable statutes, administrative rules
25 and this ordinance. The Washington County Health Department may condition the
26 issuance or renewal of a permit on correction by the applicant of violation(s) identified.
27 If the applicant fails to correct the violation(s) within the specified period of time, the permit
28 shall be revoked.

29
30 (d) If the permit is denied, the applicant shall be given written notice of
31 the denial including the reasons and the notice of the right to appeal said decision within
32 fifteen (15) days of the date of the decision by filing a written request for an appeal
33 hearing with the Washington County Health Department. The appeal hearing shall be
34 heard before the Washington County Board of Health and conducted in accordance with
35 this ordinance.

36
37 **SECTION 12.** Section 8.17 of the code is created to read:

38 **8.17(CR 09-9) ENTRY UPON PREMISES.** Employees of the Washington County
39 Health Department shall be permitted to enter, at any reasonable hour and upon the
40 presentation of proper identification, any establishment in Washington County for which
41 a permit is required under this subchapter to inspect the premises, secure samples or
42 specimens, examine, and copy relevant documents and records, or obtain photographs or
43 other evidence needed to enforce this ordinance.

44
45 **SECTION 13.** Section 8.18 of the code is created to read:

46 **8.18(CR 09-9) FEES AND TRANSFERS.** (1)(CR 09-9) Permit, pre-inspection, re-
47 inspection, and duplicate permit fees are as set forth consistent with the fee schedule
48 approved annually by Washington County through the County's annual budget process as
49 to County fees and the State of Wisconsin as to state fees.

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

3
4 (b) Annual fee. The permit fees shall be paid annually. Permits issued
5 under this Subchapter shall expire on June 30, except that permits initially issued during
6 the period beginning on April 1 and ending June 30 shall expire as of June 30 of the
7 following year.

8
9 (c) State of Wisconsin Administrative Fee. An applicant shall also pay the
10 state administrative fee established by the State of Wisconsin as listed on the state
11 approved fee schedule as amended from time to time. The state fee is collected and
12 processed by Washington County as a part of the application process.

13
14 (d) Re-inspection fee. The applicant or operator shall pay a re-
15 inspection fee upon re-inspection of the establishment by the Washington County
16 Health Department whenever an establishment is deemed by the Washington County
17 Health Department to require a re-inspection to verify correction of violation(s) of this
18 subchapter.

19
20 (2)(CR 09-9) Permit Transfers. Permits issued pursuant to this subchapter are not
21 transferable, except:

22
23 (a) The holder of a permit may transfer the permit to an individual who
24 is an immediate family member as defined in §254.64(4)(a)2., Wis. Stats., upon the
25 transfer of operation of the establishment;

26
27 (b) A business entity may transfer the permit to a reorganized business
28 entity if the establishment remains at the same location and at least one member of the
29 new business entity continues an ownership interest.

30
31 **SECTION 14.** Section 8.19 of the code is created to read:

32 **8.19(CR 09-9) SUSPENSION OR REVOCATION OF PERMIT.** (1)(CR 09-9) The
33 Washington County Health Department may suspend or revoke a permit issued to any
34 establishment or operator under this ordinance in the event the Washington County
35 Health Department discovers violations of this ordinance, the applicable regulations
36 contained in the Wisconsin Statutes or the applicable regulations contained in the
37 Wisconsin Administrative Code.

38
39 (2)(CR 09-9) Suspension. The Washington County Health Department shall
40 by written order notify the owner and operator of the violations specifying the changes
41 required to make the permitted establishment conform to the rules and regulations
42 contained in this ordinance, the applicable Wisconsin Administrative Code Chapters,
43 and applicable Wisconsin Statutes and suspend the permit until such time as the violations
44 are corrected.

45
46 (a) The order shall set forth the time period within which the
47 compliance shall take place.

48
49 (b) Failure to comply with the order to correct the violations within
50 the time period stipulated in the order, or any extension of time issued, may result in

1 the issuance of a written order permanently revoking the permit to operate the
2 establishment.

3
4 (c) The revocation order shall notify the operator that the owner and
5 operator can request a hearing within fifteen (15) days of the date of the revocation
6 order by sending a written request for an appeal hearing to the Washington County
7 Health Department. The appeal hearing shall be conducted in accordance with this
8 ordinance.

9
10 (d) Any revocation order issued hereunder shall take effect fifteen
11 (15) days after the date of issuance, unless the operator requests a hearing within fifteen
12 (15) days of the date of the revocation order.

13
14 (3)(CR 09-9) Revocation Due To Immediate Danger To Health. Where reasonable
15 cause exists to believe that any construction, sanitary condition, operation or method of
16 operation of an establishment permitted under any section of this Subchapter creates an
17 immediate danger to health, the Washington County Health Department may, without
18 advance written notice and without advance hearing, issue a verbal order immediately
19 revoking the permit and requiring the removal of the immediate danger to health.

20
21 (a) The order shall take effect upon personal delivery to the operator
22 or other person in charge of the establishment.

23
24 (b) Verbal orders shall be confirmed in writing as soon as practicable.

25
26 (c) The order shall be limited to prohibiting the sale or movement of
27 food (if food is sold or served on the premises), prohibiting the continued operation or
28 method of operation of specific equipment, requiring the premises to cease other
29 operations or methods of operation, or a combination of the prohibitions and
30 requirements except that if a more limited order will not remove the immediate
31 danger to health caused by a violation of this ordinance or any State of Wisconsin
32 statute or regulation, the order may direct that all operations authorized by the permit
33 shall cease and the establishment shall be closed down and may take any other action
34 it deems necessary to protect the public health.

35
36 (2)(CR 09-9) All orders, suspensions or revocations issued hereunder shall be in
37 writing and shall inform the owner/operator of the right to request an appeal hearing
38 within fifteen (15) days of issuance of said order, suspension or revocation which request
39 shall be in writing and conducted pursuant to §8.20 of this ordinance.

40
41 **SECTION 15.** Section 8.20 of the code is created to read:

42 **8.20(CR 09-9) APPEAL HEARING.** (1)(CR 09-9) Any applicant or permit holder
43 aggrieved by an order or decision of the Washington County Health Department under
44 this subchapter may request a hearing before the Washington County Board of Health
45 or its designee to challenge the order or decision of the Washington County Health
46 Department.

47
48 (a) The applicant or permit holder shall submit a written request for a
49 hearing not later than fifteen (15) days after the issuance of the Washington County
50 Health Department order or decision.

1
2 (b) The hearing shall be held no later than fifteen (15) days after the
3 Washington County Health Department receives the written request for a hearing unless
4 both parties agree to a later date.

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

9
10 (d) The hearing shall be recorded.

11
12 (e) The operator and the County may be represented by counsel, provide
13 testimony and cross examine witnesses.

14
15 (f) Witnesses shall be sworn under oath.

16
17 (g) A final written decision shall be issued within ten (10) days of the
18 conclusion of the hearing.

19
20 (2)(CR 09-9) The final decision of the Board of Health may be appealed to the
21 Washington County Circuit Court within thirty (30) days of the date of the decision.

22
23 **SECTION 16.** Section 8.21 of the code is created to read:

24 **8.21(CR 09-9) ADMINISTRATION, ENFORCEMENT AND PENALTIES.** (1)
25 The Washington County Health Department shall administer and enforce this ordinance in
26 Washington County.

27
28 (2)(CR 09-9) Violations of this ordinance and enforcement of orders or decisions by the
29 Department or Board of Health issued in the manner described herein shall be prosecuted by the
30 Washington County Attorney. Each day of continued violation or noncompliance shall constitute
31 a separate offense.

32
33 (3)(CR 09-9) Citations. Department personnel authorized by the Washington County
34 Code may issue citations for violations of this subchapter. Citations issued to any violators of
35 this ordinance shall be issued using the procedure and in the format specified at §14.42 of this
36 Code.

37
38 (a) Any person, firm, partnership, or corporation or other organization that
39 violates an order or decision issued under §8.11 or §8.12 or any operator of an
40 establishment or facility for which a permit is required under this ordinance that
41 violates a revocation order or decision issued pursuant to this subchapter of this ordinance
42 shall pay a forfeiture of not less than \$250 and not more than \$10,000.00 plus court costs
43 and the cost of prosecution plus the retail value of any food moved, sold, or disposed of in
44 violation of the order or decision.

45
46 (b) Any person, firm, partnership or corporation or other organization that
47 violates any of the rules and regulations set forth in Wisconsin Administrative Code
48 Chapter DHS 196 or the DHS 196 appendix or any provisions under §8.11 of the
49 ordinance other than a violation of an order or decision of the Washington County Health
50 Department or Board of Health, shall pay a forfeiture of not less than \$100.00 nor more than

1 \$1,000.00. This includes operation of any type of restaurant, food establishment,
2 temporary restaurant, temporary food establishment, mobile restaurant, mobile food
3 establishment, special event food establishment, or special organizations serving meals
4 without having obtained a permit under this section.
5

6 (c) Any person, firm, partnership, or corporation or other organization that
7 violates a rule or regulation contained in this subchapter, Wisconsin Administrative Code
8 Chapters DHS 195 or DHS 197 as referenced in §8.12 shall pay a forfeiture of not less than
9 \$100.00 nor more than \$1,000.00 plus court costs, including the operation of a hotel, motel, bed
10 and breakfast or tourist rooming house without a permit.
11

12 (d) Any person, firm, partnership, or corporation or other organization that
13 violates §8.12(4) of this section by failing to post the required notice regarding room rates or
14 posts an inaccurate notice shall pay a forfeiture of not less than \$50.00 nor more than \$100.00
15 plus costs of prosecution and court costs.
16

17 (e) Any person, firm, partnership, or corporation or other organization
18 that violates §8.13 of this ordinance or any order issued thereunder or violates any of the
19 rules and regulations contained in this subchapter or the Wisconsin Administrative Code
20 Chapter DHS 173, including failure to obtain a permit for a tattoo establishment or body
21 piercing establishment, shall pay a forfeiture of not more than \$500 plus court costs.
22

23 (f) Any person, firm, partnership, or corporation or other organization
24 that violates §8.14 of the ordinance or violates any of the rules and regulations
25 contained in Wisconsin Administrative Code Chapters DHS 172 or Comm 90, including
26 failure to obtain a permit, shall pay a forfeiture of not less than \$25.00 nor more than
27 \$500.00 plus the costs of prosecution and court costs.
28

29 (g) Any operator of a public swimming pool or water attraction who fails
30 to comply with an order of the Washington County Department of Health under this
31 ordinance shall forfeit \$10.00, plus court costs, for each day of noncompliance after the
32 order is served upon the operator.
33

34 (h) Any person, firm, partnership, or corporation or other organization
35 that violates §8.15 of this ordinance or violates any of the rules and regulations
36 contained in Wisconsin Administrative Code Chapters DHS 175 or DHS 178 shall pay a
37 forfeiture of not less than \$25.00 nor more than \$250.00 plus court costs.
38

39 (i) Any person, firm, partnership, or corporation or other organization
40 who fails to comply with an order of the Washington County Department of Health issued
41 under this ordinance shall forfeit \$10.00 for each day of noncompliance after the order is
42 served upon the operator.
43

44 (j) Any person, firm, partnership, or corporation or other organization
45 operator who fails to obtain a permit for the operation of an establishment under §8.15 of
46 this ordinance, the operator shall be subject to a forfeiture of not less than \$25.00 nor
47 more than \$250.00 plus court costs.
48

49 (k) Any person who gives false information to an employee of the Washington
50 County Health Department engaged in the performance of his or her duties under this subchapter

1 of this ordinance, with the intent to mislead the employee or who assaults, threatens, intimidates,
2 impedes, interferes with or obstructs an employee of the Washington County Health Department
3 in the performance of his or her duties under this section of this ordinance shall be ordered to pay
4 a forfeiture of not more than \$5,000.00 plus court costs.

5
6 (1) Any person, firm, partnership, or corporation or other organization
7 who violates any state statute or rule referred to herein or any part of this subchapter or any
8 departmental order issued under this subchapter relating to public health, for which no other
9 penalty is prescribed, shall be subject to the penalties set forth in §1.07 of the Washington
10 County Code.

11
12 (4)(AM 09-9) Injunctions. In case of continuing violations, department personnel,
13 may in addition to other enforcement actions, refer such violations to the Washington
14 County Attorney for the commencement of appropriate legal action or proceeding to enjoin
15 continuing violations of this subchapter.

16
17 **SECTION 17.** Section 8.22 of the code is created to read:

18 **8.22(CR 09-9) CHANGES IN LAW.** In the event the Wisconsin Legislature or
19 Department of Health Services amends any of its statutes, rules or regulations which are
20 adopted in this ordinance, said amendments shall automatically become part of this
21 ordinance without further action by the Washington County Board of Supervisors.

22
23 **SECTION 18.** Section 8.23 of the code is created to read:

24 **8.23(CR 09-9) APPLICABILITY OF OTHER LAWS AND REGULATIONS.**
25 In addition to the laws and regulations set forth herein or adopted by reference, all
26 applicants for a permit under this ordinance shall comply with all applicable federal, state
27 or local laws or regulations.

28
29 **SECTION 19.** Section 8.24 of the code is created to read:

30 **8.24(CR 09-9) DEPARTMENT ORDERS AND DECISIONS.** All orders, notices
31 and decisions issued by the Washington County Health Department or the Board of Health
32 shall be in writing and served on the operator by mailing a copy to the operator at the last
33 known address or by personal delivery to the operator of the establishment or by
34 personal delivery to an employee working at said establishment who is in charge of the
35 establishment at said time. Immediate orders for revocation issued under §8.19 shall
36 be personally served on the operator or an employee working at said establishment
37 who is in charge of said establishment at the time. If an immediate order for
38 revocation is served on an employee who is in charge of said establishment, said order
39 for immediate revocation shall also be mailed to the operator by the Washington
40 County Health Department.

41
42 **SECTION 20.** Section 8.25 of the code is created to read:

43 **8.25(CR 09-9) OPTIONAL PLAN REVIEW AVAILABLE.** Prior to the
44 commencement of any new construction or any remodeling construction by any
45 person, firm, partnership, corporation or other entity operating or planning to operate
46 an establishment regulated by this subchapter, said person, firm, partnership,
47 corporation or other entity may submit building plans and the fee set forth herein to
48 the Washington County Health Department for a plan review based on Public Health
49 Statutes and Codes and obtain recommendations and guidance relating to same prior to
50 beginning construction or remodeling.

1
2 **SECTION 21** Section 14.42 of the code is amended to read:

3 **14.42 UNIFORM CITATION METHOD ADOPTED.** (5)(AM 09-) **Issuance of**
4 **Citation.** (a) Any law enforcement officers may issue citations authorized under this section.

5
6 (b) The following County officials may issue citations with respect to those
7 specific sections of this code which relate to their official responsibilities:

8
9 * * *

10 ~~6. Deputy Director (Fair Park) or designee.~~

11
12 6. County Health Officer or designee.

13
14 **SECTION 22. EFFECTIVE DATE.** This ordinance shall become effective upon
15 passage by the Board of Supervisors and publication as provided by law.

16
17 **SECTION 23. SUMMARY.** The adoption of Subchapter II – Licensure and
18 Regulation, implements the Food Safety and Recreational Licensing Program in Washington
19 County to be operated by the Washington County Health Department as authorized by 2009
20 Resolution 18 adopted on June 9, 2009.

21
22
23 VOTE REQUIREMENT FOR PASSAGE: Majority

24
25 APPROVED:
26 **(signed by Kimberly A. Nass)**

27 Kimberly A. Nass, County Attorney

28 Dated **10/28/09**

29 Considered **10/27/09**

30 Adopted **10/27/09**

31 Ayes **27** Noes **0** Absent **3**

32 Voice Vote _____

33 Countersigned:

34 _____
35 Herbert J. Tennies

36 County Board Chairperson

37 (No fiscal effect.)

Introduced by members of the BOARD OF
HEALTH as filed with the County Clerk.

(signed by Charlene S. Brady)

Charlene S. Brady, Chairperson