

Menasha aldermen occasionally attend meetings of this body. It is possible that a quorum of Common Council, Board of Public Works, Administration Committee, Personnel Committee may be attending this meeting. (No official action of any of those bodies will be taken).

**CITY OF MENASHA
BOARD OF HEALTH
Menasha Health Department
100 Main Street, Menasha
February 11, 2022
Board of Health Meeting
AGENDA**

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Board of Health

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CALL TO ORDER

- A. ROLL CALL/EXCUSED ABSENCES
- B. MINUTES TO APPROVE
 - 1. BOH Meeting Minutes January 14, 2022
- C. REPORT OF DEPT HEADS/STAFF/CONSULTANTS
 - 1. Administrative
 - a. Health Department
 - i. COVID-19 Update
 - ii. Budget and Contracts Updates
 - b. Personnel
 - i. LTE PHN Position
 - c. Academic Affiliation Updates
 - i. University of Wisconsin Green Bay
 - ii. University of Wisconsin Oshkosh
 - iii. Fox Valley Technical College
 - 2. Employee Safety
 - 3. Sealer of Weights and Measures
 - 4. Environmental Health
 - 5. Public Health Department
 - a. Communicable Disease Report: January 2022
 - b. Public Health Nursing Updates
 - c. School Nursing Updates
 - 6. Health Screening 60+
 - 7. Prevention
 - 8. School Health Aides

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha Health Department at 967-3520 at least 24-hours in advance of the meeting for the City to arrange special accommodations."

Board of Health Members: Kristine Hutter, Kristene Stacker, Teresa Rudolph, Candyce Rusin

9. Dental Program (screening, fluoride varnish, children and youth with special healthcare needs)
10. Communicable Disease
11. Lead Prevention
12. Immunization
 - a. VFC Clinics 2022
13. Maternal and Child Health
14. Dental Sealants
15. Overdose Data to Action (MCAAP)
16. Bioterrorism/Emergency Preparedness
17. Twenty Four/Seven
18. Senior Center
19. COVID-19 Projects
 - a. Disease Investigation/Contact Tracing
 - b. COVID-19 Vaccine Clinics
 - i. Health Department Clinic
 - ii. Community Clinic Update

D. ACTION ITEMS

Environmental Health Ordinance Revisions

- Human Health Hazard/Nuisance
- Retail Food, Recreational Licensing and Registration

- E. ADJOURNMENT - Next Meeting: March 11, 2022 8:00 AM – Virtual Option
Menasha Health Department 100 Main Street, Suite 100 Menasha, WI

CITY OF MENASHA BOARD OF HEALTH
Minutes
January 14, 2022

CALL TO ORDER

Meeting called to order by Candyce Rusin at 8:05 AM

A. ROLL CALL

Present: Kristine Hutter, Candyce Rusin, Kristene Stacker

Staff Present: Claire Holzschuh, Larissa Keller, Claire Opsteen, Linda Palmbach

B. MINUTES TO APPROVE

1. BOH Meeting Minutes December 10, 2021

Candyce Rusin moved to approve the December 10, 2021 minutes, seconded by Kristene Stacker. The motion passed.

C. REPORT OF DEPT HEADS/STAFF/CONSULTANTS

1. Administrative

a. Health Department

- i. COVID-19 Presentation – Kristine Hutter led a review of the City of Menasha COVID-19 Pandemic Resilient Plan. Case counts remain in the “critically high” burden class, with the highest case count ever seen in the City. The FDA, CDC, and Wisconsin Department of Health Services are now recommending booster doses for anyone age 12 and over. Booster doses can now be administered 5 months after completing the Pfizer or Moderna 2-dose series. 60.3% of the eligible population in the City have received at least one dose of vaccine, with 57.3% completing the vaccine series.
- ii. Budget and Contracts Updates – Kristine Hutter reported that the consolidated contracts were signed for 2022 and year end reporting for 2021 is in progress.

b. Personnel

- i. LTE PHN Position – Kristine Hutter reported that a position was approved for a limited term, full time Public Health Nurse. This position will be funded by Covid-19 grants for a period of three years spanning 2022-2024 and will focus primarily on Covid-19 efforts.
- ii. Dental Assistant Position – This position will assist Claire Opsteen with the school dental programs.

c. Academic Affiliation Updates

- i. University of Wisconsin Green Bay – Meghan will have a new student starting the week of January 24th.
- ii. University of Wisconsin Oshkosh – 8 new UWO students will be starting February 1st.
- iii. Fox Valley Technical College – Dental students will be assisting Claire Opsteen starting in February.

2. **Employee Safety:** Kristine Hutter reported on behalf of Todd Drew. CVMIC (Cities and Villages Mutual Insurance Company) held recognition awards and the Menasha Police Department received funding for its drone program.
3. **Sealer of Weights and Measures:** No report.
4. **Environmental Health:** No report.
5. **Public Health Department**
 - a. Communicable Disease Report: December 2021 – Kristine Hutter shared the report from December.
 - b. Public health nursing updates – Linda Palmbach reported that the nurses are assisting with the Covid cases.
 - c. School nursing updates – Kristine Hutter reported that Menasha schools have adopted new quarantine guidelines and are continuing mandatory masking requirements. They are experiencing a shortage of rapid antigen tests and are supplementing testing efforts with PCR tests.
6. **Health Screening 60+:** Kristine Hutter reported on behalf of Meghan Pauly. Meghan provided 19 services to 18 people in the month of December. December service offerings included blood pressure checks/wellness room, Lunch and Learn, and memory screening. Year to date, Meghan provided 218 services to 147 people.
7. **Prevention** – No report.
8. **School Health Aides** – Linda Palmbach reported that all aides continue to assist with COVID management and quarantine.
9. **Dental Program** (screening, fluoride varnish, children and youth with special healthcare needs) – Claire Opsteen reported that she has completed approximately 100 fluoride varnishes and has the oral health presentations scheduled. She is working on the United Way grant.
10. **Communicable Disease** – Claire Holzschuh reported that she updated Facebook and the Health Department website with the CDC’s updated Covid quarantine guidelines.
11. **Lead Prevention** – No report.
12. **Immunization**
 - a. Vaccines For Children Clinics 2021 – 2021 clinics are complete.
 - b. VFC Clinics 2022 – The schedule for January to June 2022 has been finalized.
13. **Maternal and Child Health** – Kristine Hutter reported that Covid-19 and breastfeeding were selected as 2022 objectives.
14. **Dental Sealants** – No report.
15. **Overdose Data to Action (MCAAP)** – Kristine Hutter reported that we are currently within year 3 of this grant and have been notified of a fourth year with the same level of funding.
 - a. Carry Over Budget – Kristine and Todd Vander Galien of Unity Recovery Services have identified funds to be used for an outreach report.
16. **Bioterrorism/Emergency Preparedness** – Claire Holzschuh reported that she has been working mainly on Covid response and vaccine clinics.
17. **Twenty Four/Seven** – No report.
18. **Senior Center** – Kristine Hutter reported that the Menasha Senior Center operating hours have changed to Monday, Wednesday, Thursday from 8am-4pm, Tuesday and Friday from 8am-1pm. The Center currently has a job posting for an LTE clerk position.
19. **COVID-19 Projects**

- a. Disease Investigation/Contact Tracing – Kristine Hutter reported that contact tracing is unable to take place currently due to the high case load. Disease investigators have been unable to reach all positive cases by phone, so letters are being sent to all positive cases as well.
- b. COVID-19 Vaccine Clinics
 - i. Health Department Clinic –Turnout remains high for our Wednesday clinics.
 - ii. Community Clinic Update – A clinic event was held on January 12th at the Library and was coordinated by Red Shoes and other community organizations. There was a large turnout with over 100 doses delivered in all age groups. A second dose event will take place on February 3rd.

D. ACTION ITEMS

None

E. ADJOURNMENT

Candyce Rusin moved to adjourn the meeting at 8:45am, seconded by Kristine Hutter. The motion passed.

Next Meeting: February 11, 2022 8:00 AM – Virtual Option

Menasha Health Department 100 Main Street, Suite 100 Menasha, WI

Cumulative Report

Date Type: Create

Date Range: 01/01/2022 to 01/31/2022

Incident Jurisdiction: Menasha

Health Jurisdiction: Health Jurisdiction

Outbreak Jurisdiction:

Transmission Status:

Resolution Status: Confirmed, Probable, Suspect

Process Status:

Prepared By: WEDSS (Preparer's Title)

Telephone: 9885297959

Fax: 9848999801

All diseases except HIV and Lead

<u>Disease Name</u>	<u>Number of Incidents</u>
CAMPYLOBACTERIOSIS	1
CHLAMYDIA TRACHOMATIS INFECTION	4
CORONAVIRUS, NOVEL 2019 (COVID-19)	1,230
GONORRHEA	2
HEPATITIS A	1
HEPATITIS C, CHRONIC	1
SYPHILIS, SECONDARY	1

Information contained on this form or report which would permit identification of any individual has been collected with a guarantee that it will be held in strict confidence, will be used only for surveillance purposes, and will not be disclosed or released without the consent of the individual in accordance with Section 308(d) of the Public Health Service Act (42 U.S.C. 242m).

Human Health Hazard / Nuisance

GENERAL REFERENCES

Wis. Stats 66

Wis. Stats. 823

Wis. Stats. S 254

Wis. Stats. 251

Wis Stats. 252

NR 415

NR 447

ATCP 134

CHAPTER

Human Health Hazards/Nuisance Ordinance

This chapter shall be titled the "City of Menasha Human Health Hazard / Nuisance Ordinance."
§ Authority; when effective.

The City of Menasha Common Council adopts this chapter pursuant to the authority granted in § 66, Wis. Stats., in conjunction with Chs. 251 and 254, Wis. Stats. The effective date of this chapter shall be the day following adoption by the City of Menasha Board of Supervisors and its publication.

SEC. 11- PUBLIC NUISANCES PROHIBITED.

- (a) **PURPOSE.** The purpose and intent of this chapter, in cooperation with local, state and federal agencies, is to protect the public health, safety and general welfare of the people of the City and:
 - (1) Prevent the spread of communicable diseases.
 - (2) Prevent the continuation of human health hazards.
 - (3) Assure that citizens are protected from hazardous, unhealthy or unsafe conditions.
 - (4) Prevent the accumulations of trash and debris.
- (b) **POWERS OF HEALTH OFFICER.** This chapter shall be administered by the legally designated City Health Officer or designee in cooperation with the City of Menasha Board of Health and the appropriate State agencies. The Health Officer shall have the power to ensure compliance with the intent and purpose of this chapter by any appropriate means under the law.
- (c) **INTERPRETATION.** The provisions of this chapter shall be liberally interpreted in favor of the public health of the citizens of City of Menasha and shall not be deemed a limitation of any power granted by the Wisconsin Statutes.
- (d) **APPLICABILITY.** The provisions of this chapter shall apply to all areas of the City of Menasha. Pursuant to § 251.08, Wis. Stats.
- (e) **DEFINITIONS.** As used in this chapter, the following terms shall have the meanings indicated:
 - (1) Communicable Disease. Any disease that the Wisconsin Department of Health and Family Services determines, by rule, to be communicable in fact.
 - (2) City. The City of Menasha.
 - (3) Code Enforcement - City of Menasha Community Development, Health Department, Police Department

- (4) Communicable Disease – any illness that result from infection, presence and growth of a pathogenic biological agent which is capable of being spread from insects, animals or people to individuals in the general public.
- (5) Health Officer. Health Officer of City of Menasha and his/her designated agent(s) shall work under the direction and supervision of the City of Menasha Board of Health.
- (6) Designee. Individual authorized by the Health Officer to assess and conduct inspections of suspected Human Health Hazards.
- (7) Human Health Hazard. Any situation or condition which adversely affects or has the potential to adversely affect the health of a person and/or the general public.
- (8) Immediate Human Health Hazard. A condition that exists or has the potential to exist which should be abated or corrected immediately to prevent imminent or ongoing danger of serious illness or damage to the environment.
- (9) Person. Any individual, corporation, society, institution or other singular entity.
- (10) Pollution. The contamination or rendering unclean or impure the air, land or waters of the State or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.
- (11) Public. Affecting or having the potential to affect the people and/or environment outside the limits of an individual's personally occupied structure.
- (12) Solid Waste. 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 wastewater effluent or other common water pollutants.
- (13) State. The State of Wisconsin.
- (14) Toxic and Hazardous Materials. Any chemical and/or biological materials that are or have the potential to create a human health hazard.

All other words not specifically defined in this chapter 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.

SEC. 8- HUMAN HEALTH HAZARDS.

No person shall erect, create, cause, continue, maintain or permit any human health hazard within the City. Any person who shall cause, create or maintain a human health hazard or who shall aid or contribute to the causing, creating or maintenance thereof shall be guilty of a violation of this Chapter and shall be liable for all costs and expenses attendant upon the removal and correction of such Human Health hazard.

- (a) The following acts, omissions, places, conditions and things, excluding approved agricultural practices, and are specifically declared to be human health hazards coming within the definition of "Human Health Hazard".
 - (1) Food and breeding places for vermin, insects, etc. Accumulations of decayed animal or vegetable matter, trash, yard waste, 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.
 - (2) Stagnant water. Any untreated water found on residential or commercial property in which mosquitos may breed. This section does not include navigable waters of the State, retention ponds, drainage ditches or other permanent basins used for storm water run-off.
 - (3) Water pollution. The pollution of any well or cistern, stream, lake, canal or other body of water by sewage, industrial wastes, fertilizers, toxic pesticides or other substances harmful to human beings.

- (4) **Noxious odors.** Any negligent use of property, substance or device within the City which emits or causes any foul, offensive, noxious or disagreeable odor deemed repulsive to the physical senses of ordinary persons or to the public as a whole.
- (5)
- (6) **Nuisance** - public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (7) **Air pollution.** The escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust or other atmosphere pollutants within the City that endanger human health or create noncompliance with applicable state regulations.
- (8) **Animal waste.** Accumulations of the bodily waste from all domestic animals and fowl that are handled, stored or disposed of in a manner that creates a health hazard to any person within the City.
- (9) **Wastewater.** The presence of wastewater or sewage effluent from buildings on the ground surface, backing up into the building and or running into a surface water body, caused by a failed, damaged, malfunctioning, improperly constructed or inadequately maintained private sewer lateral connected to a public sewer system. Also any wastewater or sewage effluent that is not handled and disposed of in compliance with applicable City and state codes.
- (10) **Hazardous conditions.** All open and unguarded pits, wells, excavations, tunnels, cisterns, foundation, mine shafts, or unoccupied basements freely accessible from any public road which have not been properly abandoned, sealed, barricaded, backfilled or posted to prevent entry.
- (11) **Groundwater pollution.** Addition of any chemical or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include, but are not limited to, the chemical and/or biological substances listed in Ch. NR 809, Wis. Adm. Code, titled "Safe Drinking Water."
- (12) **Unfit building or structure.** All buildings or structures so, dilapidated, neglected or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for use. Reference 11-7-2 Menasha Municipal Code.
- (13) **Toxic and hazardous materials.** Any toxic chemical and/or biological material 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 as determined by the Health Officer or Designee. It shall also be a violation of this section to possess and/or use readily available products for other than their intended use or in quantities which are not consistent with residential use. This includes but is not limited to acetone, hydrogen peroxide, ammonium nitrate, black powder, smokeless gun powder, hexamine, hydrochloric acid, magnesium powder, aluminum powder, nitric acid, sulfuric acid, potassium permanganate, sulfur, castor beans or be in possession of cultures of pathogenic bacteria, viruses or parasites unless affiliated with a University or Medical facility and authorized to have those cultures outside of that facility.
- (14) **Unburied carcasses.** The carcasses of any animals or fowl not promptly processed for use as food and which are not buried or otherwise properly disposed of within 24 hours.
- (15) **Unfit Dwelling** – any structure found to be so unsafe, unsanitary as to pose a health and safety hazard to the occupants or general public
- (16) **Unhealthy or unsanitary conditions.** Any condition or situation which renders a structure or any adjoining property or part of a structure unsanitary, unhealthy or unfit for human habitation, occupation or use or renders any property unsanitary or unhealthy or endangers the general public welfare.
- (17) **Garbage.** Failure to keep waste, refuse, or garbage in an enclosed building or properly contained in a closed container designed or reasonably adapted for such purposes.

- (18) **Other.** Any other act or omission, situation or condition defined by Wisconsin Statutes or City of Menasha Municipal Code to be a human health hazard or which in fact meets the definition of "human health hazard" set forth in this chapter.

SEC. 11- PUBLIC NUISANCE.

- (a) **DEFINED.** Violations of the following shall also be considered a public nuisance:
- (1) The exterior of every structure or accessory structure, residential and non-residential, including fences and stairs, shall be maintained in good repair and all surfaces thereof shall be kept painted where necessary for purposes of preservation and appearance. The same shall be maintained free of: broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.
 - (2) Any junk, abandoned vehicles or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, other household appliances, or other unsightly debris, such as may tend to depreciate property values in the area or create a nuisance or hazard shall not be allowed on any property, except when such materials are properly housed and out of public view.
 - (3) Any junk, wood, bricks, cement, concrete blocks, lumber, doors, windows, and/or other building materials that do not appear to be purchased for construction to commence on the property in the immediate future.
 - (4) Unlawfully interfere with, or obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable water or other public way or use of public property.
 - (5) Any junk, cardboard boxes, household items, bedding items (including box spring and/or mattress(es), pillows, etc.), furniture- household or outdoor, etc. and that appears in a disorganized and/or haphazard manner on any lot located in the City, shall be subjected to scrutiny and enforcement.
 - (6) Any additional junk etc. hereby not mentioned shall not be excluded from consideration.
 - (7) Determination of public nuisance shall be at the discretion of the Code Enforcement Specialist and/or Department. Determination shall be based on what any reasonable person would deem to be annoyance or nuisance-aesthetically, olfactory or otherwise, based on items' appearance in a disorganized and/or haphazard manner on any property located in the City. A nuisance involves an unreasonable or unlawful use of property that results in material annoyance, inconvenience, discomfort, or injury to another person or to the public

SEC. 8- DESIGNATION OF UNFIT BUILDINGS OR STRUCTURES.

- (a) **DEFINED.** Any building or structure found to have any of the following defects is a human health hazard and shall be condemned as unfit for human habitation and shall be so designated and placarded by the Health Officer:
- (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.
 - (2) One which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupants or of the public.
 - (3) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
 - (4) One which, because of its condition, has been identified as the source of a confirmed case of lead poisoning or asbestosis.

- (5) One which has been identified as the source of illicit drug activity or one that has been used as a clandestine drug lab. Specific drug activity including but not limited to Methamphetamine or opiates (heroin, fentanyl or any natural or synthetic opiates intended for illegal use). All houses placarded under this section shall be assumed contaminated unless otherwise proven at the expense of the building owner.
- (6) No person shall continue to occupy, rent or lease quarters for human habitation which are declared unfit for human habitation by the Health Officer or Designee.
- (7) Any building or structure condemned as unfit for human habitation and so designated and placarded by the Health Officer shall be vacated within a reasonable time, as specified by the Health Officer.
- (8) No building or structure which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Health Officer or Designee. The Health Officer or Designee shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.
- (9) No person shall deface or remove the placard from any building or structure which has been condemned as unfit for human habitation per Municipal Code 15-5-24 as defined in Wis. Stats Ch. 66.
- (10) Any person affected by any notice or order relating to the condemning or placarding of a building or structure as unfit for human habitation may request and shall be granted a hearing in the matter before the City of Menasha Board of Health.
- (11) Whenever the Health Officer or designee determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, or any rule or regulation adopted pursuant thereto, he/she shall give or cause to be given notice of such violation to the person or persons responsible therefor. Such notice shall be in writing, including a description of the real estate involved, a statement of violations and corrective actions required, and allow a reasonable time for the performance of any act required. Such notice shall be served upon the owner, operator or occupant, as the case may require, and may be served by certified mail or in the manner provided by Ch. 801, Wis. Stats., for service of summons.

SEC. 8- COMMUNICABLE DISEASE CONTROL.

- (a) **DEFINED.** The City of Menasha Health Officer shall enforce the provisions of Ch. 252, Wis. Stats., and Ch. HFS 145, Wis. Adm. Code, relating to control of communicable diseases.
- (b) **REPORTING.** The City of Menasha Health Officer shall report instances of communicable diseases to the Wisconsin Department of Health and Family Services within the time limits specified in Ch. HFS 145, Wis. Adm. Code, and shall also provide a monthly report regarding instances of communicable disease to the proper committee.
- (c) **ACCESS.** It shall be unlawful for any person to refuse access by the City of Menasha Health Officer or designee to any property, structure or vehicle in the investigation or treatment of any communicable disease. If necessary, the City of Menasha Health Officer may obtain a special inspection warrant, issued under § 66.0119, Wis. Stats., in order to carry out his/her duties.
- (d) **ENFORCEMENT.** The enforcement and penalty provisions contained in § 252.25, Wis. Stats., shall apply in the case of any person who fails to carry out an order by the City of Menasha Health Officer or appointed designee relating to the control of any communicable disease or in the case of any person who obstructs the City Health Officer in the performance of his/her duties.
- (e) **ADMINISTRATION AND ENFORCEMENT.**

SEC. 8- GENERAL PROVISIONS.

- (a) **DEFINED.** This chapter shall be interpreted, administered and enforced by the City of Menasha Health Officer, or a designee of the Health Officer.
- (1) It shall be the responsibility of the Health Officer to:
- a. Ensure compliance with the purpose and intent of this chapter.
 - b. Maintain records of all official actions taken.
 - c. Enforce with local, State, Federal government officials the provisions of this chapter.
 - d. Powers. The Health Officer of his/her designee shall have the power necessary to enforce the provisions of this chapter and including the following, without limitation by reason of enumeration:
 - i. To enter any structure or premises at a reasonable time for the purpose of performing his/her duties and to secure an inspection warrant in order to accomplish this purpose, if deemed necessary.
 - ii. To order abatement and/or correction of any human health hazard in noncompliance with this chapter or state statute.
 - iii. To delegate the responsibilities of administration and enforcement of this chapter to another person qualified in the field of public health.
 - iv. To perform any other action authorized under the law or this chapter to ensure compliance with the purpose and intent of this chapter and the requirements of this chapter
 - v. To issue citations for any violation of this chapter.

SEC. 8- ABATEMENT ORDERS; VIOLATIONS AND PENALTIES.

- (a) If the existence of a human health hazard is confirmed, a written cleanup and/or abatement order will be issued specifying the action needed to correct the situation and including the following information:
- (1) The name and address of the owner, operator and/or occupant and description of the real estate involved.
 - (2) The nature of the violation and the steps necessary to abate or correct it.
 - (3) The time period in which the violation must be corrected and/or abated, which will be one to five days for immediate health hazards or up to 30 days for health hazards, depending on the nature of the violation. Allowance for a one time extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Health Officer.
 - (4) Immediate health hazards must be abated in 1-5 days at the discretion of the Health Officer.
- (b) The order of abatement shall be served upon the person committing or maintaining the human health hazard by either certified mail or in the manner set forth for services of a summons in Ch. 801, Wis. Stats. A copy of the order shall also be sent to the recorded property owner, at the last known address. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the human health hazard. Whenever an investigation hereunder involves a search of private premises and another owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that officer shall apply to the

Circuit Court of Winnebago or Calumet County for a special inspection warrant pursuant to § 66.0119, Wis. Stats.

- (c) **EXCEPTIONS TO WRITTEN ORDERS.** In cases where a violation poses an immediate health hazard as determined by the Health Officer or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under Subsection D of this section with verbal order followed up by written abatement order.
- (d) **NONCOMPLIANCE WITH WRITTEN ORDERS.**
 - (1) If a person does not comply with a written order from the Health Officer or his/her designee, the violator may be subject to one or more of the following actions and/or penalties:
 - (2) The issuance of an enforceable citation.
 - (3) Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the damage created by the violation.
 - (4) Commencement of legal action against the person seeking a court-imposed forfeiture and/or the costs of abatement.
 - (5) Any other action authorized by this chapter or by other applicable laws as deemed necessary by the Health Officer.
 - (6) The initiation of one action or penalty under this section does not exempt the violator from any additional actions and/or penalties prescribed by law.

SEC. 8- ABATEMENT OF HUMAN HEALTH HAZARDS.

- (a) **DEFINED.** Where human health hazards as defined in this chapter or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Health Officer shall serve on the responsible person a written order as per Subsection A of this section. If the hazard is not abated and/or corrected within the time period specified in the order, the Health Officer, Designee and individuals necessary to abate the hazard may enter upon the property and abate and/or correct the hazard or cause such action to be taken as set forth in § 254.59, Wis. Stats. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or as a special tax assessment on the property.
- (b) **PENALTIES.** In case of a conviction for a violation of the provisions of this chapter, judgment shall be entered against the violator by a forfeiture and/or recorded property owner, of not more than \$300 for the first violation offense and not more than \$1000 for all subsequent offenses, together with applicable court costs and penalty assessments. The court may also grant injunctive relief. Failure to comply with an order for abatement issued under this chapter in the time allowed shall constitute a separate violation of this chapter, and each day of continued violation shall constitute a separate offense.
- (c) **INITIATION OF LEGAL ACTION.** In default of compliance with an order for abatement, legal action shall be initiated against a violator(s) by issuance of a citation by the Health Officer or his/her designated agent or a referral to the City of Menasha Attorney for the appropriate action. The Menasha City Attorney is hereby delegated the duty of prosecuting violations of this chapter and enforcing this chapter.
- (d) **ABROGATION AND GREATER RESTRICTIONS.** This chapter 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 rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions the provisions of this chapter shall govern.

TITLE 7 – Licensing and Regulation

CHAPTER 6

Retail Food and Recreational Licensing

SEC. 7-6-1 RETAIL FOOD, RECREATIONAL LICENSING AND REGISTRATION

The City of Menasha shall hold Agent Status with the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) pursuant to the provisions of ATCP 74. City of Menasha Environmental Health Sanitarian shall act as Program Standard.

- (a) **PERMITS AND LICENSES REQUIRED.** Upon the authority and scope of Chapters 97, 101 and 254 of the Wisconsin State Statutes, this regulation adopts by reference Wisconsin Administrative Code Sections ATCP 72 Hotels, Motels and Tourist Rooming Houses, ATCP 73 Bed and Breakfast, ATCP 74 Designation of Agents, ATCP 76 Swimming Pools and Water Attractions, ATCP 78 Recreational Educational Camps, ATCP 79 Campgrounds, ATCP 75 Retail Food and Appendices (Wisconsin Food Code), SPS 221 Tattooing and Body Piercing, SPS 326 Regulation of Manufactured Home Communities and the most recent edition of the United States Food and Drug Administration (FDA) Food Code and appendices.
- (b) **RETAIL FOOD ESTABLISHMENTS AND RECREATIONAL ESTABLISHMENTS**
- (1) No person shall conduct a business of or operate a retail food or recreational establishment without obtaining a license therefor from the Menasha Health Department.
 - (2) Retail Food Establishment shall mean an operation that stores, prepares, vends, sells or otherwise provides food for human consumption based on a fee. Retail Food establishment refers to restaurants, mobile restaurants, temporary restaurants, vending and retail food establishments as defined by Wisconsin Administrative Code, Section ATCP 75.
 - (3) Recreational Establishment includes all swimming pools and water attractions covered by Wisconsin Administrative Code, Section ATCP 76, ATCP 72 Hotels, Motels and Tourist Rooming Houses, ATCP 73 Bed and Breakfast, ATCP 78 Recreational Educational Camps, ATCP 79 Campgrounds, ATCP 75 Retail Food and Appendices (Wisconsin Food Code), SPS 221 Tattooing and Body Piercing, and SPS 326 Regulation of Manufactured Home Communities.
- (c) **APPLICATION FOR LICENSES**
- (1) Applications for all licenses shall be made upon such forms supplied and prescribed by the Menasha Health Department.
 - (2) Prior to approval of an application for a license, the Menasha Health Department shall inspect the retail food establishment or recreational establishment to determine compliance with this regulation.
 - (3) The fee for licenses required by this regulation shall be payable before the issuance of a license and annually before July 1 every year. An additional penalty fee shall be assessed for license renewals received on or after July 1. Applications post marked before July 1 shall be accepted regardless of the date of receipt.
 - (4) A pre-inspection fee shall be collected at the time of application from an operator of a new retail food or recreational establishment or a new operator of an existing at change of operator.
- (d) **REGISTRATION AND LICENSE ISSUANCE AND REQUIREMENTS**
- (1) License Issuance.

- a. No person shall operate a retail food establishment, or recreational establishment covered by this regulation within the City of Menasha who does not have a valid license issued by the Menasha Health Department, or the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP), unless otherwise exempted.
 - b. City of Menasha Health Department shall issue a license to mobile, temporary or transient food establishments who operate within the City limits of Menasha. City of Menasha Health Department shall honor licenses issued by other Agent Health Departments or WDATCP. If the mobile food establishment service base is within the City limits of Menasha, the Menasha Health Department shall license that service base. The Menasha Health Department reserves the right to charge an inspection fee for inspections performed on mobile temporary or transient restaurants licensed by other Agent Health Departments or WDATCP while operating within the City limits of Menasha.
 - c. Only a person who complies with the requirements of this regulation shall be entitled to receive or retain such a license.
 - d. Transferability of licenses shall be pursuant to s.97 and ATCP 75.
 - e. A valid license shall be posted in plain view in every retail food establishment or recreational establishment as required by this ordinance.
 - f. At least one employee responsible for food safety shall be certified as a food manager through the State of Wisconsin as evidenced by an approved Certified Food Manager Exam certificate with ID# and expiration date. A Person in Charge (PIC) shall be designated at all times during hours of operation. Provided there is one certified food manager the alternate employees designated as PIC are not required to be certified by the State of Wisconsin. Enforcement of violations of this section shall be consistent with the most current guidance from WDATCP. Fee for the failure to employ a Certified Food Manager following required 90 day notification shall be \$125.00. Continued violation shall result in the temporary revocation of license.
 - g. Retail food establishments and Recreational establishments shall only be issued a license if the property taxes for that establishment are current as evidenced by the Winnebago or Calumet County Treasurer.
- (2) License Requirements. The City of Menasha Common Council respectfully shall establish all fees related to licensing facilities and/or establishments covered by this ordinance.
- (3) INSPECTIONS.
- (a) Inspection Frequency. An inspection of licensed facilities under the scope of this ordinance shall be performed at least once per year. Inspection frequency of Retail Food establishments shall be based on risk category where complex establishments and establishments with a history of chronic priority violations shall be prioritized for inspections over the annual inspection as required by the WDATCP agent contract.
 - (b) Report of Inspections. Whenever an inspection of a retail food or recreational establishment is conducted the findings shall be entered into the HealthSpace program. The inspection shall include observations and violations to this ordinance. A copy of the completed inspection shall be left with the PIC and a copy shall be provided to the Licensee at the conclusion of the inspection. A signed copy of the inspection shall be maintained in the permanent file for that establishment.

- (c) Correction of Violations. The completed inspection report shall specify a reasonable amount of time for the correction of the violations found during the inspection. It shall be the expectation that violations will be corrected during the inspection when possible at the discretion of the Sanitarian.
- (d) Access. Sanitarian, after providing proper identification, shall be permitted to enter the retail food establishment or recreational establishment at any reasonable time to determine compliance with this regulation.
- (e) Hours of Inspection. Inspections shall be made during the regular operating hours of the establishment and primarily during the regular office hours of the Menasha Health Department. In the event a mobile or temporary permit is issued to an operator conducting business only within the City of Menasha, an inspection shall be done in conjunction with the event including weekends or evenings.
- (4) LICENSE DENIAL. Licenses issued under this Section may be denied by the Menasha Health Department Sanitarian upon annual application for renewal for continued violations of this Code as it relates to payment for re-inspection fees levied in the previous license year or delinquent property taxes for that business address.
- (5) REINSTATEMENT OF LICENSE. The licensee of any establishment addressed in this Section whose license has been suspended may, at any time, make application for the reinstatement of the license within three (3) business days of the receipt of a written application accompanied by a written statement signed by the applicant to the effect that all violations have been corrected. Sanitarian shall conduct a re-inspection to determine if violations have been corrected and findings indicate compliance. The license may be reinstated pending payment of any re-inspection fees which may have been levied on the establishment.
- (6) LICENSE REVOCATION. Licenses issued under this Section may be revoked after an opportunity for hearing by the Menasha Board of Health. The Board of Health may determine that the license revocation is necessary if a license is suspended twice in any two (2) year period, if the health violations pose an immediate health risk or have resulted in serious injury or illness to person(s).
- (7) APPEAL. Whenever a license is suspended or revoked, the person to which the license is issued shall be afforded the opportunity of a hearing before the City of Menasha Common Council within fifteen (15) days of the receipt of a written request for such hearing, unless both parties agree to a later date. Opportunity for a hearing before the Common Council will be provided if the written request is submitted by the person issued the license and received by the Menasha Health Department within ten (10) days of the suspension or revocation.
- (8) REQUIREMENTS AND FEES. The application for license or the request for renewal of license or registration covered in this Section shall be accompanied with an appropriate fee to be established by the Common Council. A list of fees shall be maintained by the City Clerk and the Menasha Health Department.
 - (a) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a fee equal to twice the amount of the normal fee if the failure is due to a late payment, insufficient funds or account closed checks, or for any other reason the City has not received the proper payment.
 - (b) Any establishment required by this section to pay any fee may, in addition to any other penalties, also be required to pay a fee equal to twice the amount of the normal fee if such establishment opens for business without paying the required

fee. The Public Health Director, or designee, may also order such establishment to close until the fee is paid.