

WAUPACA COUNTY CODE OF ORDINANCES
Chapter 52
Public Health

52.02	Title	52.07	Regulations of Food, Recreation, Body Art, and Manufactured Homes
52.02	Administration	52.08	Enforcement
52.03	Purpose	52.09	Violations-Penalties
52.04	Regulations, Rules, and Laws Adopted by Reference	52.10	Appeals
52.05	Human Health Hazards	52.11	Effective Date
52.06	Public Nuisances Affecting Health		

52.01 TITLE

This ordinance shall be referred to as the Waupaca County Public Health Ordinance.

52.02 ADMINISTRATION

This ordinance shall be administered by the Waupaca County Department of Health and Human Services.

52.03 PURPOSE

The purpose of this ordinance is to protect public health, safety, environment, and general welfare of the people of Waupaca County. This ordinance shall be read in harmony with other ordinances to promote the public health, safety, environment, and general welfare of the people of Waupaca County.

52.04 REGULATIONS, RULES, AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules, and regulations set forth in sections 97.01, 97.12, 97.30, 97.41, Chapter 97 Subchapter III inclusive, Chapter 97 Subchapter IV inclusive, Chapter 97 Subchapter, V inclusive, sections 145.245, 254.01, 254.55, 254.56, 254.59, and 254.593, and 463, Wis. Stats. and as are from time to time amended are incorporated in this ordinance by reference and they shall be construed, read, and interpreted as though fully set forth herein.

52.05 HUMAN HEALTH HAZARDS

Wisconsin Statutes Chapters 250, 251, and 254 authorizes the Waupaca County Department Health and Human Services to adopt regulations that it considers necessary to protect and improve public health. The purpose of this ordinance is to protect public health in Waupaca County by addressing unhealthy or dangerous conditions which may result from a human health hazard.

A. Definitions

1. **Dwelling-** any structure, all or part of which is designed or used for human habitation.
2. **Health Officer-** means the Public Health Officer or his/her authorized Designee.

3. **Human Health Hazard** - means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
4. **Owner** - (a) A person who has the legal title to a dwelling. (b) A person who has charge, care, or control of a dwelling or unit of a dwelling as an agent of or as executor, administrator, trustee, or guardian of the estate of a person under par.(a).
5. **Person**- an individual, partnership, association, firm, company, corporation, organization, municipality, county, town, or state agency, whether tenant, owner, lessee, or licensee, or the agent, heir, or assignee of any of these.

B. Responsibility For Human Health Hazards

It shall be the responsibility of the owner to maintain his/her property in a human health hazard-free manner and also to be responsible for the abatement and/or correction of any human health hazard that the Health Officer has determined to exist on his/her property.

C. Human Health Hazards Prohibited

No person shall erect, construe, cause, continue, maintain, or permit any human health hazard within Waupaca County. Any person who shall cause, create, or maintain a human health hazard or who shall in any way 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 necessary to remove and correct the human health hazard and to the penalty provided in section 52.09 of this chapter.

D. Human Health Hazards Enumerated

Human health hazard is defined in section 52.05 A (3) of this ordinance. More specifically but not limited by enumeration, the following are human health hazards if determined by the Health Officer to meet the human health hazard definition in subsection 52.05 A (3).

1. **Adulterated Food:** All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
2. **Unburied Carcasses:** Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
3. **Breeding Places for Vermin, Etc.:** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed.

4. **Other** - any other situation determined by the Health Officer to meet the definition of a human health hazard as per subsection 52.05 A (3) of this ordinance.
- E. Investigation of Possible Human Health Hazards
The Health Officer shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists. Investigation shall be conducted in accordance with procedures established by the Health Officer.
- F. Abatement for Dwellings Unfit for Human Habitation
1. Any dwelling or dwelling unit 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.
 2. No dwelling or dwelling unit which has been placarded shall again be used for human habitation until written approval is secured from and such placard is removed by the Health Officer. The Health Officer shall remove the placard whenever the defect(s) upon which the condemnation and placard were based have been eliminated as determined by the Health Officer.
 3. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.
- G. Whenever a violation of this ordinance is found, the Public Health Officer or his/her designee may take one or more of the following actions:
1. Order the violation corrected by the property owner by removal and proper disposal of the materials within a specified period ranging from one (1) to thirty (30) calendar days; or
 2. Request the Waupaca County Sheriff or his or her designee issue a citation for violation of this ordinance; or in the alternative, the Public Health Officer or Zoning Administrator or his/her designee may also issue a citation for a violation of this ordinance; or
 3. For citations issued by Public Health, proper legal action shall be brought by the Office of Corporation Counsel including but not limited to summons and complaint civil procedure for forfeitures, injunctive relief and abatement.
- H. The County may file a petition against the property owner for an order compelling compliance with this ordinance. In addition, the Court may order abatement of the nuisance and/or removal of the violating material, or order other appropriate relief. If the abatement or removal is at county expense, the county shall invoice the property owner for all such costs incurred. If the invoice is not paid within thirty (30) calendar days,

Waupaca County may take the action necessary to place the amount of the invoice on the tax roll as a special charge against the property.

52.06 REGULATION OF FOOD, RECREATION, BODY ART, AND MANUFACTURED HOMES

Sections 97.41 and 97.615, Wis. Stats. authorizes the Wisconsin Department of Agriculture, Trade and Consumer Protection to designate the Waupaca County Department of Health and Human Services as its agent for the purpose of collecting permit fees; issuing permits; making investigations or inspections of restaurants, retail food, vending machines, vending commissaries, tourist rooming houses, bed and breakfast establishments, campgrounds, camping resorts, recreational and educational camps, and public swimming pools; and enforcing state laws governing these establishments to protect and improve public health and safety. Sections 463.16, Wis. Stats. authorizes the Department to conduct the aforementioned activities as they apply to tattoo and body piercing establishments. Chapter 251, Wis. Stats. authorizes the Department to conduct the aforementioned activities as they apply to taverns.

The Waupaca County Department of Health and Human Services is an agent for the Wisconsin Department of Agriculture Trade & Consumer Protection and for the Wisconsin Department of Safety and Professional Service under the provisions as set forth in sections 97.41, 101.935, and Chapter 463, Wis. Stats. The duties of Waupaca County Department of Health and Human Services under this delegated authority are described in the listed statutes, Wisconsin Administrative Code Chapter DHS 192, Wisconsin Administrative Code ATCP 74, and the written Terms of Agreement Contract between Waupaca County Department of Health and Human Services and the respective state agency.

A. Definitions

1. **County** - means Waupaca County, Wisconsin.
2. **Conditional License** - means granting the temporary operation of an establishment and requires a signed agreement of compliance within a specific period of time to be determined by the county sanitarian and by policy.
3. **Department** - means the Waupaca County Department of Health and Human Services.
4. **Health Officer** - means the Public Health Officer of his/her authorized designee.
5. **License** - means the granting of permission in a written/certificate form from the appropriate authority to carry on an activity. In this chapter, it is synonymous with permit.

6. **Person** - means an individual, partnership, association, firm, company, corporation, organization, municipality, county, town or state agency, whether tenant, owner, lessee or licensee, or the agent, heir, or assignee of any of these.
7. **Sanitarian** - means the Waupaca County Wisconsin Registered Sanitarian and/or National Environmental Health Association Registered Environmental Health Specialist or his/her representative.
8. **Second and subsequent follow-up inspection** - means any re-inspection that becomes necessary because critical or multiple violation(s) governing an establishment continue(s) to exist, and after notification of same violation (s) and of appropriate time to correct the violations has been issued.

B. Issuance of a License

1. License Application
License application shall be made to the Waupaca County Department of Health and Human Services using forms approved and supplied by the Department and accompanied with the appropriate license fee and pre-inspection fee. Licenses hereunder shall not be granted or issued by the Department unless and until the sanitarian determines and certifies the premises to be licensed is in compliance with all the applicable terms and conditions of all Wisconsin Administrative Codes under contract. Conditional licenses may be issued per policy.

Applications for licenses required in this chapter shall contain, but not be limited to, the following information:

- a. The name, home address and date of birth of the entity requesting the privilege of operating said business/conducting the activity.
- b. The trade name and address of the establishment.
- c. Whether the applicant is a person, corporation, or partnership:
 - i. If the applicant is a corporation, the application shall contain the registered agent's name, home address and date of birth.

- ii. If the applicant is a partnership, the applicant shall include the names, home addresses and date of births of the partners.
 - iii. The mailing address of the legal licensee.
 - iv. The registered agent for Service of Process.
- d. The signature of all applicants and their agents to confirm that all information on the application is correct, and to acknowledge that any change in the information on the application shall be reported to the sanitarian within 30 calendar days of the change.

C. License Issuance

1. The sanitarian shall issue a license to the applicant only after compliance with the requirements of this chapter and upon payment to the department of all required fees. The Department's decision to grant or withhold a license shall not exceed thirty (30) calendar days, unless application is for a retail food establishment, in which case a decision shall not exceed fifteen (15) calendar days. The decision of withhold shall accompany written inspection or documentation of justification or cause. (See Section 3C on Denial of Permit).
2. No license may be issued until all applicable fees have been paid.
3. License Period
The license period for licenses issued per the Department of Health Services contract shall be from July 1 through June 30, except for a conditional license. Those licenses initially issued during the period beginning on April 1 and ending on June 30, expire on June 30 of the following year.
4. Display of License
All licensees shall post their license in plain public view on the premise for which the license is issued and shall be so posted for the duration that the license is in effect.

D. Fees

License fees will be adjusted annually by the Health and Human Services Board, through adoption of the Waupaca County budget, to reflect any cost increase in issuing licenses and conducting inspections.

1. Non-Proration of Fees. Permit fees and other applicable fees are not prorated for the fiscal year and must be paid in full at any time.

2. Pre-Inspections and their associated fees. Pre-inspections are required to be conducted for establishments within the scope of sec. 97.30, Wis. Stats. and Wis. Admin Code ATCP 75 Subchapter II.
3. Late Fees. Late fees shall be assessed to all establishment licensees for payment made after July 1.

E. Enforcement of Statutes and Rules

1. **Inspection by Public Health**
The Sanitarian, upon presenting proper identification, shall have the authority and duty to enter any licensed premises during regular business hours to inspect the same for compliance with incorporated codes with respect to a business open at least forty (40) hours per week. In the absence of regular business hours, inspections shall be made at any reasonable hour. In the event of an emergency, an inspection may be made at any time. The Sanitarian is not required to provide prior notice to licensee of the inspection.
2. **Temporary Orders**
Whenever, as a result of an inspection conducted pursuant to this Chapter, the Sanitarian has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition, operation or method of operation of the premises or equipment used on the premises creates an immediate danger to health of the public, the sanitarian may proceed as stated in sections 66.0417 or 97.12, Wis. Stat. to issue a temporary order to prohibit the sale or movement of food for any purpose, to prohibit the continued operation or method of operation of equipment, to require the premises to cease any other operation or method of operation which creates an immediate danger to public health. Section 66.0417, Wis. Stat. is incorporated herein by reference and made a part of this ordinance as if fully set forth herein.
3. **Denial, Suspension or Revocation of License**
The Health Officer or designee may deny any license application or suspend or revoke any license issued under this chapter for non-compliance with this Code or any other state statute or regulation or county ordinance. The following procedure shall be followed in the denial, suspension or revocation of any license issued under this Chapter:

- a. A decision to deny, suspend or revoke a license shall be in writing and shall state, with specificity, the reasons for the decision and shall state any and all applicable statutes, ordinances, rules, regulation or orders which may have been violated. The Health Officer or designee shall send to the licensee a copy of the written decision by US mail or by personal service. Said notice shall inform the licensee or applicant of the right to have this decision reviewed and the procedure for such review.
- b. A licensee or applicant aggrieved by a decision to deny, suspend or revoke a license must send a written Request and Reconsideration to the Health Officer and/or designee within ten (10) business days of receipt of the notice of the decision. The Request for Review and Reconsideration shall state the grounds upon which the person aggrieved asserts that the decision should be reversed or, modified.
- c. Within fifteen (15) business days of receipt of the Request for Review and Reconsideration, the Health Officer and/or designee shall review its initial written determination. The Health Officer and/or designee may affirm, reverse or modify the initial determination. The Health Officer or designee shall use US mail or deliver to the licensee or applicant a copy of the written decision on review which shall state the reasons for such a decision. The decision shall advise the licensee or applicant of the right to appeal the decision, the time within which appeal shall be taken and the office or person with whom Notice of Appeal shall be filed.
- d. A licensee or applicant who wishes to appeal a decision on review must file a notice of appeal within ten (10) business days of receipt of the Health Officer's and/or designee's decision on review. The Notice of Appeal shall be filed or mailed to the Health Officer and/or designee. The Health Officer and/or designee shall immediately file said Notice with the Waupaca County Health and Human Services Board.
- e. A licensee or applicant shall be provided a hearing on appeal within forty five (45) calendar days of receipt of the Notice of Appeal. The Health Officer and/or designee shall serve the licensee or applicant with notice of hearing by US mail or personal service at least five (5) business days before the hearing. The hearing shall be conducted before the Waupaca County Health and Human Services Board and

shall be conducted in accordance with the procedures outlined in sec. 68.11 (2) and (3), Wis. Stats.

- f. Within fifteen (15) days of the hearing, the Waupaca County Health and Human Services Board shall US mail or personally deliver to the applicant its written determination stating the reasons therefore. This is the final county determination.

F. Specific Incorporation of Codes

1. **Hotels, Motels and Tourist Rooming House Requirements**
No person, party, firm, or corporation shall operate a Hotel, Motel or Tourist Rooming House, as defined in Wisconsin Administrative Code Chapter ATCP 72, without first obtaining an annual license therefore from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter ATCP 72 and Chapter 97, Subchapter VII, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
2. **Bed and Breakfast Establishment Requirements**
No person, party, firm, or corporation shall operate a Bed and Breakfast Establishment as defined in Wisconsin Administrative Code Chapter ATCP 73 for more than ten (10) calendar nights in a year, without first obtaining a license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter DHS 197, and Chapter 97, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
3. **Retail Food Establishments, Restaurants, and Food Vending Requirements**
No person, party, firm or corporation shall operate a Retail Food Establishment, Restaurant, Temporary Restaurant, Mobile Restaurant, or Vending of Food as defined in Wisconsin Administrative Code Chapter ATCP 75, without first obtaining a license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter ATCP 75, and Chapter 97, Subchapter VII, Wis. Stats. provisions, which are incorporated herein by reference and made part of this ordinance as fully set forth herein.

4. **Public Pools and Water Attraction Requirements**
No person, party, firm, or corporation shall operate a Public Swimming Pool or Water Attraction, as defined in Wisconsin Administrative Code Chapters ATCP 76 and DSPS 390, without first obtaining an annual license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter ATCP 76, and Chapter 97, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
5. **Recreational and Educational Camp Requirements**
No person, party, firm, or corporation shall operate a Recreational and Educational Camp, as defined in Wisconsin Administrative Code Chapter ATCP 78, without first obtaining an annual license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter ATCP 78, and Chapter 97, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
6. **Campground Requirements**
No person, party, firm, or corporation shall operate a Campground, as defined in Wisconsin Administrative Code Chapter ATCP 79, without first obtaining an annual license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter ATCP 79, and Chapter 97, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
7. **Tattoo and Body Piercing Establishment Requirements**
No person, party, firm, or corporation shall operate a Tattooing and/or a Body Piercing Establishment, as defined in Wisconsin Administrative Code Chapter SPS 221, without first obtaining an annual license from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance or Wisconsin Administrative Code Chapter SPS 221, and Chapter 463, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as fully set forth herein.
8. **Manufactured Home Communities Requirements**
No person, party, firm, or corporation shall operate a Manufactured Home Community, as defined in Wisconsin Administrative Code

Chapter DSPS 326, without first obtaining an annual license therefore from the Waupaca County Department of Health and Human Services, or contrary to the terms and conditions of this ordinance, or Wisconsin Administrative Code Chapter DSPS 326, and Chapter 101 Subchapter V, Wis. Stats. provisions, which are incorporated herein by reference and made a part of this ordinance as if fully set forth herein.

52.8 ENFORCEMENT

The provisions of this ordinance shall be administered by or under the direction of the Health Officer, who in person or by duly authorized representatives shall have the right to enter, at reasonable hours, upon premises affected by this ordinance to inspect the premises, secure samples or specimens, exam and copy relevant documents and records, and/or obtain photographic or other evidence needed to enforce this ordinance. Enforcement actions which order abatement and/or correction of human health hazards will be initiated as follows:

- (1) If the existence of a human health hazard is confirmed, a written abatement order will be issued by the Health Officer specifying the action needed to abate and/or correct the human health hazard, the compliance period, the penalty if the human health hazard is not abated and/or corrected and notice of the right to appeal.
- (2) In cases of an immediate danger to health or in extreme cases where the person responsible for abating and/or correcting a human health hazard refuses to comply with the time period specified in the written order, the county or the local governing body may cause to have the human health hazard abated and/or corrected with the cost of such abatement and/or correction to be recovered directly from the responsible person or as a special assessment on the property as per section 254.59, Wisconsin Statutes.

Pursuant to sections 252.25, 97.72, and 97.73 Wis. Stats., applicable Wisconsin Administrative Code Chapters incorporated by reference, and Waupaca County Code of Ordinance Chapter 25, the Department is authorized to enforce this ordinance through the use of County citations and/or petitions for injunctive relief and abatement.

1. Waupaca County Corporation Counsel may in his/her discretion, commence legal action and may proceed pursuant to the provisions outlined in sections 66.0113 or 66.0114, Wis. Stats., or pursuant to the issuance of a summons and complaint.
2. Waupaca County adopts by reference the following chapters of the Wisconsin Administrative Codes: ATCP 72, ATCP 73, ATCP 74, ATCP 75, ATCP 76, ATCP 78, ATCP 79, SPS 221, and SPS 326

all as are from time to time amended, and all other state and federally referenced rules and Memorandums of Understanding.

3. Waupaca County recognizes and adopts the same exemptions for inspections and licensure as contained in the aforementioned Wisconsin Statutes, Administrative Codes and the State of Wisconsin Department of Health Services and Wisconsin Department of Agriculture, Trade and Consumer Protection policies.

52.9 VIOLATION-PENALTIES

Any person who violates this ordinance may be fined not less than \$100.00, nor more than \$1,000.00. Any person who fails to comply with an order of the Department under this ordinance, shall forfeit \$50.00 for each day of non-compliance after the order is served upon or directed to him/her per sec. 254.59 and 97.41, Wis. Stats.

52.10 APPEALS

Appeals from Department orders shall be pursuant to Department policy adopted in conformance with the procedures for conducting appeals enumerated in Chapter 68, Wis. Stats. Copies of the appeal procedures shall be available at the Department of Health and Human Services, 811 Harding Street, Waupaca, Wisconsin 54981.

EFFECTIVE DATE: Upon adoption of and publication by the County Board of Supervisors, this Ordinance will be in full force and effect within Waupaca County