

ENROLLED ORDINANCE 173-O93

REPEAL AND RECREATE THE TEXT OF CHAPTER 14, ARTICLE X OF THE CODE OF ORDINANCES, HEALTH-RELATED REGULATIONS AND LICENSES, TO UPDATE ADMINISTRATIVE CODE REFERENCES AND TO MODERNIZE VARIOUS CODE PROVISIONS

WHEREAS, Waukesha County Department of Parks and Land Use serves as an agent under contract with the Wisconsin Department of Agriculture, Trade and Consumer Protection (the “Department”) to administer the retail food and recreational establishment program; and

WHEREAS, as an agent of the Department, Waukesha County Department of Parks and Land Use is authorized to protect public health and safety under § 97.30, Wis. Stats. and Subchapters III. and IV. of Chapter 97 of the Wisconsin Statutes, and Wis. Admin. Code Chapter ATCP 74; and

WHEREAS, as an agent, Waukesha County Department of Parks and Land Use agrees to issue licenses to inspect and regulate retail food establishments, campgrounds, recreational and educational camps, public swimming pools and water attractions, hotels, motels, tourist rooming houses, and bed and breakfast establishments; enforcing all applicable provisions of the Wisconsin Statutes and Administrative Codes; and

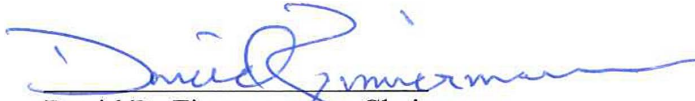
WHEREAS, the existing Waukesha County Code Chapter 14, Article X of the Waukesha County Code of Ordinances, Health-Related Regulations and Licenses, needs to be amended and updated to recognize changes to the Administrative Code references since the merger of the Department of Health Services Food Safety and Recreational Licensing into the Department of Agriculture, Trade, and Consumer Protection; and

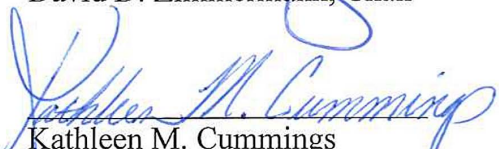
WHEREAS, the proposed amendments to the text of the Waukesha County Health-Related Regulations and Licenses Ordinance are available for viewing on the Waukesha County website at <https://www.waukeshacounty.gov/landandparks/environmentalhealth/healthrelatedregsordinance> and are on file in the office of the Waukesha County Department of Parks and Land Use, and are an attachment to this ordinance.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Health-Related Regulations and Licenses Ordinance, found in Chapter 14, Article X of the Waukesha County Code of Ordinances, is hereby repealed and recreated in accordance with the proposed amendments on file with the Department of Parks and Land Use and as set forth in the attached Exhibit A, effective as of March 1, 2019.

REPEAL AND RECREATE THE TEXT OF CHAPTER 14, ARTICLE X OF THE CODE
OF ORDINANCES, HEALTH-RELATED REGULATIONS AND LICENSES,
TO UPDATE ADMINISTRATIVE CODE REFERENCES AND TO
MODERNIZE VARIOUS CODE PROVISIONS

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair



Kathleen M. Cummings


Keith Hammitt

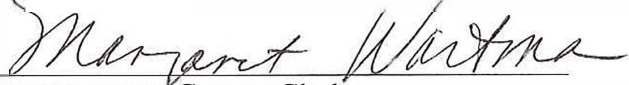

William A. Mitchell


Thomas J. Schellinger


Steve Whittow


Chuck Wood

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: March 1, 2019, 
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 3/4/2019, 
Paul Farrow, County Executive

Exhibit A

Secs. 14-402 - 14-409. Reserved.

ARTICLE X. HEALTH-RELATED REGULATIONS AND LICENSES

Sec. 14-410. Wisconsin Statutes and Administrative Code provisions adopted by reference.

The following Wisconsin Statutes and Administrative Code Chapters, as from time to time are amended, are hereby adopted by reference and made part of this article as if fully set forth herein:

ATCP 73, Bed and Breakfast Establishments;
ATCP 72, Hotels, Motels and Tourist Rooming Houses;
ATCP 79, Campgrounds
ATCP 76, Safety, Maintenance and Operation of Public Swimming Pools and Water Attractions;
ATCP 78, Recreational and Educational Camps.
ATCP 75, Retail Food Establishments
ATCP 75 Appendix – Wisconsin Food Code
ATCP 74, Local Agents and Regulation
Wis. Stats. § 66.0417, Local enforcement of certain food and health regulations
Wis. Stats. Chapter 97, Food, Lodging, and Recreation
Wis. Stats. Chapter 93, Department of Agriculture, Trade and Consumer Protection

(Ord. No. 147-15, § 1(A), 6-9-92; Ord. No. 150-26, §4, 7-26-05)

Sec. 14-411. Definitions.

For the purposes of this article:

Department shall mean the Department of Agriculture, Trade and Consumer Protection or any alternate county department designated by the Department of Agriculture, Trade and Consumer Protection to protect public health and safety.

Division shall mean the Waukesha County Department of Parks and Land Use, Division of Environmental Health, which is an agent of the Department.

Establishment shall mean any public or private business organization, including any retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, food vending machine, vending machine commissary, camping resort or other campground, recreational camp, educational camp, public swimming pool or water attraction licensed pursuant to Chapter 97 of the Wisconsin Statutes.

License means the legal authority granted by the Department or its agent to operate an establishment. Wherever used, shall be synonymous with “permit”.

(Ord. No. 148-91, § 1, 11-29-93)

Sec. 14-412. Licensing.

(a) Before being opened for public use, each Establishment in the county regulated by this article shall be licensed in accordance with this article. Application for licensure shall be made on forms provided by the Division.

(b) Upon application by the owner or agent and submission of the preinspection fee, the License fee, the tax key number of the property, and documentation of zoning and/or conditional use approval from the Waukesha County Parks and Land Use Department for premises located in areas of Waukesha County where the Parks and Land Use Department has authority to impose and enforce zoning regulations, a License may be issued provided the preinspection of the premises indicates reasonable compliance with the requirements of the applicable Statutes and Administrative Code chapters adopted by this article.

(c) All Licenses expire each year on June 30th, except that a License initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

(d) A License granted pursuant to this article may be suspended or revoked due to violations of this article.

(e) Copies of plans shall be submitted to the Division prior to the construction, remodeling or renovation of any entity regulated by this article.

(Ord. No. 147-15, § 1(C), 6-9-92; Ord. No. 148-41, § 1, 8-10-93)

Sec. 14-413. Fees.

(a) Fees shall be determined by the Division within parameters determined by the county board in the budget for the Department of Parks and Land Use. Fee schedules shall be filed in the Department of Parks and Land Use and in the office of the county clerk.

(b) Fees will be imposed for the following:

1. Preinspections.
2. Annual Licenses.
3. Penalties.
4. Duplicate Licenses.
5. Reinspections.
6. Partial inspections.
7. Temporary restaurant inspections.

8. Food safety inspections

(c) Preinspection fees shall be nonreturnable, nontransferable and nonprorated.

(d) Annual License fees shall be nonreturnable, nontransferable and nonprorated.

(e) A penalty fee, which may include costs to the county to cover collection, shall be required whenever the annual fee for renewal is not paid prior to the expiration of the License.

(f) An additional penalty fee shall be required whenever operations are continued after written notification of License suspension or revocation.

(g) Licenses are nontransferable either from one (1) entity to another or from one (1) person to another unless allowed by applicable Wisconsin Statute or Administrative Code provision. It is the responsibility of the licensee to notify the Division in writing when a change in owner occurs and also supply the Division with the names and post office addresses of any new owners.

(h) A License may be voided for failure to pay any applicable fee pursuant to this article, the applicable Wisconsin Statute sections or Administrative Code rules.

(i) Licensing is contingent on payment of fees. The Division may not issue or renew an establishment license unless the license applicant pays all fees which are due and payable under this article.

(Ord. No. 147-15, §1(D), 6-9-92; Ord. No. 148-91, § 2, 11-29-93; Ord. No. 157-2, § 1)

Sec. 14-414. Inspections

Employees of the Division shall be permitted to enter, at any reasonable hour and upon the presentation of proper identification, any Establishment in Waukesha County for which a License is required by this Ordinance to inspect the Establishment for any purpose stated in Wis. Stats. §§ 66.0417 (1), 97.12 (1) and Chapters ATCP Subsections 72.06 (1), 73.06 (1), 74.02 (1), 74.05 (2), 74.23, 75.106 (1), 75.206 (1), 76.07 (1), 78.07 (1), 79.07 (1), as amended.

Sec. 14-414. Enforcement.

(a) Section 254.85, Wisconsin Statutes, is adopted by reference.

(b) It shall be the duty of the director of the Department of Parks and Land Use, or the director's designee, to enforce the provisions of this article relating to the regulation of restaurants, retail food establishments, bed and breakfast establishments, hotels, motels, tourist rooming house, vending machines, vending machine commissaries, camping resorts, campgrounds, recreational and educational camps, public swimming pools or water attractions licensed pursuant to Chapter 97, Wisconsin Statutes. For the purpose of inspection and enforcement, the Division shall have access to Establishments during reasonable hours. In the event any operator of any Establishment refuses entry for inspection purposes, the Division may obtain a special inspection warrant under section 66.0119 of the Wisconsin Statutes. The director

or the director's designee shall enforce violations of this article through the Office of the Corporation Counsel.

(c) Temporary Orders to Correct Violations. The Division may issue temporary orders to correct violations of any applicable Wisconsin Statute or Administrative Code provision pursuant to the procedures in Wis. Stat. §§ 66.0417 and 97.65(2), as amended.

(d) Suspension and Revocation of Licenses. The Division may suspend or revoke a license if an order to correct violations is not complied with in the time period specified by the Division. Suspension and revocation notices shall be in writing. Suspensions and revocations shall take effect ten (10) days after issuance of the notice. If the applicant or operator disputes the suspension or revocation, he/she must submit a written objection within the same ten (10) day time period to Waukesha County for administrative review under Sec. 18-454, Waukesha County Code.

(e) Appeals. Any decision made by the Division pursuant to this article may be appealed pursuant to Chapter 18, Article IV of the Waukesha County Code.

(Ord. No. 147-15, §1(E), 6-9-92)

Secs. 14-415 - 14-429. Reserved.



Voting Results for Ordinance 173-O-093

Repeat And Renewse The Text Of Chapter 14, Article X Of The Code Of Ordinances, Health-Related Regulations And Licenses, To Update Administrative Code References And To Modernize Various Code Provisions

Passed By Majority Vote

24 AYE:
 1 NAY:
 0 ABSTAIN:
 0 ABSENT:
 0

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|-----------------|--------|-------------------|--------|
| D1 - Foti | AYE | D14 - Wood | AYE |
| D2 - Zimmermann | Motion | D15 - Mitchell | Second |
| D3 - Morris | AYE | D16 - Crowley | AYE |
| D4 - Batzko | AYE | D17 - Paulson | AYE |
| D5 - Dondlinger | AYE | D18 - Nelson | AYE |
| D6 - Walz | AYE | D19 - Cummings | AYE |
| D7 - Grant | AYE | D20 - Schellinger | AYE |
| D8 - Michalski | AYE | D21 - Gaughan | AYE |
| D9 - Heinrich | AYE | D22 - Wysocki | AYE |
| D10 - Swan | AYE | D23 - Hammitt | AYE |
| D11 - Howard | AYE | D24 - Whittow | AYE |
| D12 - Wolff | AYE | D25 - Johnson | NAY |
| D13 - Decker | AYE | | |