

CHAPTER 10
~~HUMAN HEALTH HAZARD ORDINANCE~~
ENVIRONMENTAL HEALTH AND SANITATION

HUMAN HEALTH HAZARD

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(Ord. No. 179, Am. #78-10, 4-20-10, Am. 136, 11-14-23)

HUMAN HEALTH HAZARD

10.01 - STATUTORY AUTHORITY

This ordinance is adopted pursuant to the authority granted by Chs. 251, 252, and 254, Wis. Stats.

10.02 - PURPOSE AND INTENT

The purpose and intent of the Ordinance is to protect the public health, safety, and general welfare and to maintain and protect the environment for the people and communities of Pepin County and to:

- (1) Prevent communicable diseases.
- (2) To prevent the continuance of human health hazards.
- (3) Assure that local, state and federal air quality standards are complied with.
- (4) Assure that insects and rodents do not create human or other health hazards.
- (5) Assure that surface and groundwater meet local, state and federal standards and regulations.
- (6) Assure that solid waste is handled, stored and disposed of according to local, state, and federal standards and regulations.
- (7) Assure that citizens are protected from hazards, unhealthy, or unsafe substances.
- (8) Provide for the administration and enforcement of this ordinance.

10.03 - DEFINITIONS

The following terms have the meanings indicated:

- (1) *Dwelling.* Any structure, all or part of which is designed or used for human habitation.
- (2) *Environmental Pollution.* The contaminating 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.
- (3) *Human Health Hazard.* A substance, activity, or condition that is known to have the potential to cause acute or chronic illness, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (4) *Immediate Health Hazard.* A condition that exists or has the potential to exist, which should in the opinion of the Health Officer be abated or corrected immediately or at least within a 24-hour period to prevent possible severe damage to human health or the environment.

- (5) *Owner.* Person who has the legal title to a property or person who has charge, care or control of a property or part of a property as an agent of or as executor, administrator, trustee, tenant, or guardian of the estate of a person with the legal title.
- (6) *Person.* An individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency.
- (7) *Pollution.* The contaminating or rendering unclean or impure the air, land or water in the County or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
- (8) *Structure.* A building, facility or other unit that is constructed or otherwise erected.

10.04 - RESPONSIBILITY OF PROPERTY OWNER

Every property owner shall maintain his property in a health hazard free manner and be responsible for the abatement and correction of any public nuisance determined to exist on his property.

10.05 - HUMAN HEALTH HAZARDS

No person shall erect, construct, cause, continue, maintain, or permit any human health hazard within the County. Any person who shall cause, create or maintain a human health hazard or who shall in any way aid or contribute to causing, creating or maintenance thereof shall be in violation of this ordinance, and shall be liable for all costs and expenses attendant upon the removal and correction of such hazard and to the penalty provided in this ordinance.

- (1) *Adulterated Food.* Food bearing or containing any poisonous or deleterious substance which may render it injurious to health; consisting in whole or part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered diseased, unwholesome or injurious to health.
- (2) *Air Pollution.* The presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.
- (3) *Groundwater Pollution.* Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption.
- (4) *Holes Or Openings.* Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well or any other improperly abandoned, barricaded or covered-up excavation.

- (5) *Manure*. Excreta from livestock, poultry, and other materials such as bedding, rain or other water, soil, hair, feathers, and other debris that becomes intermingled with excreta. (Chapter 13 Pepin County Manure Storage Ordinance and Wis. Adm. Code ATCP 50.)
- (6) *Nonfunctional Public Building Fixtures*. Nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to insure a sanitary condition in a public building.
- (7) *Noxious Odors*. Any negligent use of property, substances or things within the County emitting or causing any foul, offensive, noisome, noxious or disagreeable odor or stenches extremely repulsive to the physical senses of ordinary persons or a neighborhood as a whole.
- (8) *Privy Vaults and Garbage Cans*. Privy vaults and garbage cans which are not fly tight.
- (9) *Solid Waste*. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits by State and County codes.
- (10) *Stagnant Water*. All stagnant water in which mosquitoes, flies or other insects can breed.
- (11) *Street Pollution*. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the County.
- (12) *Sludge*. Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other such waste having similar characteristics and effects.
- (13) *Surface Water Pollution*. The pollution of any stream, lake or other body of surface water within the County that creates noncompliance with State and County codes.
- (14) *Toxic And Hazardous Substance*. Any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the Health Department department.

- (15) *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 the time period specified by the Health Officer.
- (16) *Unhealthy Or Unsanitary Condition.* Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy and unfit for human habitation, occupancy or use or renders any property unsanitary or unhealthy.
- (17) *Waste/Food Or Breeding Places For Vermin, Insects, Etc.* Accumulations of animal or human fecal matter or other materials, including, but not limited to, decayed animal or vegetable matter, hair, feathers, eggshells, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, or any substance that either is handled, stored, or disposed of in a manner that creates a health hazard or in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter.
- (18) *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 damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral. Also, any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable County and State codes.
- (19) *Water Pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (20) *Abandoned Refrigerators, Vehicles, And Other Air-Tight Containers.* Any abandoned, unattended, or discharged icebox, refrigerator, vehicle or other container which has an airtight door, lid, snap lock or other locking device which may not be released from the inside of said container and which is in a place that is accessible to children regardless of the location of said container.
- (21) (21) *Other.* Any other situation determined by the Health Officer to be a Human Health Hazard as defined in §10.03 of this ordinance.

10.06 - DESIGNATION OF UNFIT DWELLINGS

- (1) Any dwelling or dwelling unit found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated as a nuisance and shall be placarded by the Health Officer.
 - (a) 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.
 - (b) One which lacks potable water supply, a properly functioning public or private sanitary sewer system, or a functioning ventilation system adequate to protect the health or safety of the occupants.
 - (c) One which has been implicated as the source of a confirmed case of lead poisoning, asbestosis exposure, or other harmful substances.

- (d) 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.
- (2) 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.
- (3) No dwelling or dwelling unit 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. The Health Officer shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.
- (4) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.
- (5) Any person affected by any notice or order relating to the condemning or placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing in the matter before the Health Officer.
- (6) Whenever the Health Officer 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 shall give or cause to give notice of such violation or alleged 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 violation and corrective actions required and allowing 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 in person, by registered mail or in the manner provided by the Wisconsin Statutes for the service of summons. Such notice may contain an outline of remedial action which, if taken, will affect compliance with the provisions of this section and with rules and regulations adopted pursuant thereto.
- (7) Any person affected by any notice or order relating to a dwelling or dwelling unit under the provisions of this section may request and shall be granted upon request a hearing in the matter before the County Health Board.

10.07 - INVESTIGATION OF POSSIBLE HUMAN HEALTH HAZARDS

The Health Officer or **designated representative** **designee** shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists.

10.1509 - ENFORCEMENT

The County Board, by and through its Health Committee, shall enforce the provisions of this chapter and the Health Committee is hereby delegated authority to enforce the provisions of this chapter, including the power to inspect private premises, issue orders for abatement, issue citations for violations and abate human health hazards. The officers charged with the enforcement of this chapter shall take all reasonable precautions to prevent the commission and maintenance of human health hazards.

10.1610 - ENFORCEMENT PROCEDURE

Whenever in the judgment of the officer charged with enforcement it is determined upon investigation that a human health hazard is being maintained or exists within the County, such officer:

- (1) Shall notify in writing the person committing or maintaining such violation and require him to terminate and abate the violation and remove such conditions or remedy such defects. The written notice shall be served upon the person committing or maintaining the violation in person, by registered mail or in the manner provided by the Wisconsin Statutes. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. The notice shall require the owner or occupant of such premises or both to take reasonable steps within a reasonable time to abate and remove the violation. The maximum time for the removal of the violation after service of the notice shall not in any event exceed 30 days. Service of notice may be proved by filing an affidavit of service with the County Clerk setting forth the manner and time thereof.
- (2) May issue a citation for violation of this chapter at the time the notice is served or any time thereafter until the order to abate has been complied with. The citation shall be in the form prescribed in §25.04(4) of this Code of Ordinances and shall specify a forfeiture according to the schedule of forfeitures adopted within §25.04(4).
- (3) When the order to abate as contained in the notice has not been complied with, such noncompliance shall be reported to the Health Board of Health for such action as may be necessary and deemed advisable in the manner of the County Board to abate and enjoin the further continuation of the violation.

10.1711 - ABATEMENT OF VIOLATION

If after service of notice the person served fails to abate the human health hazard or make the necessary repairs, alterations or changes in accordance with the order of the Health Officer or Health Board, the Health Officer or Health Board may cause such violation to be abated at the expense of the Board and recover such expenditure by civil action against the person or persons served or, if service has been had upon the owner or occupant, by ordering the Clerk to extend such sum as a special tax against the property upon which the violation existed and to certify the same to the County for collection in the same manner as taxes and special assessments are certified and collected.

10.1812 - PENALTIES

Any person who shall cause or create a violation of this chapter or human health hazard or permit any violation of this chapter or human health hazard to be created or placed upon or to remain upon any premises owned or occupied by him and any person who shall fail to comply with any order made under the provisions of this chapter, upon conviction thereof, shall be guilty of a misdemeanor and shall be punished by a forfeiture of not less than \$10.00, together with taxable cost, nor

more than \$200.00 or by imprisonment in the county jail for not more than 10 days or both. Each day of violation shall constitute a separate offense.

PUBLIC HEALTH STANDARDS FOR RETAIL FOOD ESTABLISHMENTS AND PUBLIC ACCOMMODATIONS

10.20 - STATUTORY AUTHORITY

- (1) This chapter is adopted pursuant to that authority granted by Chs. 251, 252, 254, Wisconsin Administrative Code Chapters 72, 73, 74, 75, 76, 78, and 79 and ATCP 75 Retail Food Appendices (Wisconsin Food Code), § 251.04(3), Wis. Stats., and any such other provisions adopted in conformity therewith to protect and improve the health of the public.
- (2) Section 97.41(1m), Wis. Stats., authorizes the Pepin County Health Department to become the designated agent of the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) for the purpose of establishing license fees, issuing licenses and making investigations or inspections of hotels, motels, tourist rooming houses, retail food establishments, bed-and-breakfast establishments, campgrounds, camping resorts, recreational and educational camps, public swimming pools and water attractions, and in making investigations and inspections of food vending machines.
- (3) A local health department that is an agent of DATCP may enact local regulations governing these establishments which may be stricter than state law. No such regulation may conflict with Ch. 97, Stats; or rules promulgated by DATCP.
- ~~(4) Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable, and if any provisions shall be held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the ordinance nor any part thereof other than that affected by such decision.~~

10.21 PURPOSE AND INTENT

This article shall be applied to promote its underlying purpose and intent of protecting the public health, safety, and general welfare of the Pepin County community and to maintain and protect the environment for the people and communities of Pepin County.

10.22 APPLICABILITY

- (1) The provisions of this chapter shall apply to the owner and operator of any facility or establishment used by the general public falling under the jurisdiction of Pepin County Health Department either directly or pursuant to Pepin County's acting as an agent of DATCP pursuant to Wis. Stats., §97.41, Wis. Admin Code, Chapter ATCP 74 and any other applicable statues, codes, or

agreements between DATCP and Pepin County.

- (2) Such operations include, but may not be limited to, any hotel, motel, tourist rooming house, retail food establishment, bed-and-breakfast establishment, campground, camping resort, recreational and educational camp, public swimming pool, or vending machine in all areas of Pepin County.

10.23 DEFINITIONS

In addition to those definitions set forth expressly hereinafter, all definitions set forth in Chapters §66.0417, 68, 97, 125 251, 252, and 254, Wis. Stats., and ATCP 72, 73, 74, 75, 76, 78, and 79 are incorporated herein by reference, and they shall be construed, read and interpreted as if set forth herein until amended and then shall apply as amended.

As used in this chapter, the following terms shall have the meanings indicated:

- (1) *Annual License Fee.* A fee for issuing an annual license for investigations and yearly inspections, limited to two, to determine that establishments identified in this chapter are compliant with the statutes and administrative codes that govern their operation.
- (2) *Agent.* Pepin County Health Department, as defined in Wis. Stat. §250.01 (4), has entered a MOA with DATCP and is authorized under terms of the MOA to administer a retail food establishment, lodging, and recreational business establishment safety regulatory program, pursuant to Wis. Stat. §97.41 and 97.615 (2), in the jurisdiction of the Pepin County Health Department.
- (3) *Board of Health.* The Pepin County Board of Health and its designated representatives.
- (4) *Complaint.* An allegation, presented to an Agent, or DATCP, of a possible public health hazard or violation of any provision of the Wis. Stats. and Administrative Code indicated in the MOA entered to DATCP or this ordinance.
- (5) *County.* Pepin County, Wisconsin.
- (6) *DATCP.* The Wisconsin Department of Agriculture, Trade, and Consumer Protection.
- (7) *Duplicate. License Fee.* A fee for the replacement of an original license.
- (8) *Follow-up Inspection.* Non-mandatory inspection by the Agent to ensure non—critical violations, cited in an inspection, have been corrected by a licensee.
- (9) *Health Department.* The Pepin County Health Department and its designated representatives.
- (10) *Health Officer.* The Health Officer of Pepin County, or the Health Officer's designated representative, who oversees the administration of environmental health programs, as outlined in the Agent agreement (ATCP

74.04) with Wisconsin DATCP.

- (11) *Human Health. Hazard.* A substance, activity, or condition that is known to have the potential to cause acute or chronic illness, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (12) *Inspection Fee.* Fee a fee charged by the Agent program, the amount of which is reasonably related to the cost of performing an assessment of an establishment's compliance with the statutes and rules, under which a license is granted, including the following:
 - (a) An inspection in an establishment not under DATCP's regulatory authority.
 - (b) An agent inspection in its jurisdiction of a DATCP licensed mobile or transient retail food establishment.
- (13) *Late Fee.* Fee for failure to comply with the application time frame specified in applicable statutes or administrative code for the payment of established fees in a timely manner to the Health Department.
- (14) *Licensee.* Person or entity licensed to operate an establishment.
- (15) *MOA.* The signed, written agreement between a local health department and DATCP setting forth the obligations of each party in the operation of an Agent program.
- (16) *Operating without a License Fee.* Operator(s) found to be operating without a valid license shall be subject to an initial license fee as well as an 'operating without a license' penalty fee. Operators found to be operating without a certified food manager, as required by the Wisconsin Food Code, shall be subject to a penalty fee equal to that of the reinspection fee.
- (17) *Operator.* The owner or person responsible to the owner for the operations of the establishments outlined there forth in this ordinance.
- (18) *Permit or License.* A Pepin County operator's permit which shall include licenses issued to any facility or establishment used by the general public that requires a permit or license under this regulation, a Wisconsin Administrative Code, or a Wisconsin state statute adopted by reference in this regulation. These include retail food and recreational business establishments as defined by Ch. ATCP 75, Wis. Adm. Code, and Chs. 93 and 97, Wis. Stats. The terms "permit" and "license" are synonymous.
- (19) *Person.* An individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency, or federal agency.
- (20) *Plan review fees.* Plan review fees shall be assessed to cover part or all of the cost of reviewing plans for new or remodeling establishments.
- (21) *Pre-inspection Fee.* Fee associated with the required inspection needed to determine compliance at the time of application for a new business or the

change-in-operator.

- (22) *Reinspection.* A follow-up inspection conducted to verify that an ordered remedial action has been taken and to verify that the non-compliance or violation no longer exists. The Health Department may reinspect a license holder whenever an inspection or the investigation of a complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of patrons or employees of the establishment. Any such reinspection shall be scheduled to allow the owner a reasonably sufficient time to correct any noted non-compliance or violation.
- (23) *Reinspection Fee.* Onsite inspection or administrative follow-up inspection to ensure that a priority, critical or recurring violation has been corrected. A reinspection shall be conducted as soon as possible, based on the scheduled date for correction(s). An applicable reinspection fee may be required per Agent policy. A reinspection will be required as identified in the DATCP's reinspection criteria for retail food and recreational business establishments.
- (24) *Service Base.* An enclosed building for servicing, cleaning, inspection of and maintenance of a mobile restaurant.
- (25) *Transient Retail Food Establishment.* A temporary retail food establishment that operates at a fixed location in conjunction with a special event and sells or serves food for a period of no more than 14 consecutive days or in conjunction with an occasional sales promotion.
- (26) *Waterborne Disease Outbreak.* The occurrence of two or more cases of a similar illness of persons after the ingestion of drinking water from the same source, or after exposure to water from the same source used for recreational purposes, and for which epidemiologic evidence implicates water as the probable source of illness.

10.24 APPLICATION FOR LICENSE

- (1) Applications and fees for licenses shall be made in writing or electronically to the Health Department on forms or electronic forms developed and provided by the Health Department and shall be accompanied by the appropriate license fee and pre-inspection fee. Application shall state the name and address of the proposed applicant and operator, and the address and location of the proposed establishment, and any other information as may be required. In addition, the signature of all applicants and their agents to confirm that all information on the application is correct and acknowledge that any change in the information on the application shall be reported to the Health Officer within 14 days of the change.
- (2) The Health Department shall either approve or deny the application within 30 days of receipt of a complete application. Once a pre-licensing inspection is performed, notice will be given to the applicant of action taken if an application for license is granted by the Health Department that license approval shall

constitute a license to do business in Pepin County in conformity with this ordinance.

10.25 LICENSING

- (1) No person shall operate a retail food establishment, hotel, motel, tourist rooming house, bed and breakfast establishment, campground, camping resort, recreational and educational camp, public swimming pool or other licensable public establishment without first obtaining a license from the Health Department as defined in ATCP 72, 73, 75, 76, 78, and 79, unless otherwise exempt.
- (2) Only a person who complies with the requirements of this article and applicable regulations of other governmental entities shall be eligible to receive or retain a license.
- (3) No license shall be issued until a complete application and all applicable fees have been paid and received by the Health Department.
- (4) Prior to approval of an application for a license, the Health Department shall pre-inspect the establishment to determine compliance with the requirements of this article. With the exception of those establishments defined herein as “transient retail” or “micro market”, no license shall be granted to any person under this chapter without a pre-inspection by the Health Department of the premises for which the license shall be granted.
- (5) The issuance of a license may be conditioned upon the operator correcting a violation of this chapter within a specified period of time. If the condition is not met within the specified period of time, the license shall be voided.
- (6) Licenses shall be issued on an annual basis. Licenses will expire on June 30 of each year following their issuance except that license initially issued during the period on April 1 and ending June 30 shall expire on June 30 of the following year. If the annual renewal fee has not been paid on or before June 30 of each year, an additional late payment fee shall be assessed, as specified in this ordinance under each license category. Establishments or individuals operating on August 15 without a proper license shall be ordered closed by the Health Officer.
- (7) A Transient Retail Food Establishment or Special Events food establishment may be moved from location to location within the County but may only operate as part of a Special Event. A Transient Retail Food Establishment or Special Events food establishment license may not be used to operate more than one facility at a time.
- (8) The license shall not be transferable from an operator to another except as provided pursuant to ATCP 72, 73, 75, 76, 78, and 79.
- (9) If a change of operator occurs at a licensed facility during a portion of the fiscal year(s) and the Health Department is not notified until a License renewal period, an ‘operating without a permit’ fee shall be collected from the new

operator.

10.26 FOOD SERVICE LICENSE RECIPROCITY

- (1) A current mobile retail food license, transient retail food license, or similar license, issued from DATCP, or those departments' designated agents, shall be recognized as valid in the County for that type of food service for which it was issued. However, all food service establishments serving retail food items and meals to the public in the County will be subject to inspection by the Health Department to ensure safe food handling practices are being conducted, as outlined in Wis. Admin. Code Ch. ATCP 75, regardless of the license held by the food service operator.
- (2) Establishments under this section may also be subject to an inspection fee as established in the fee schedule approved by the Board of Health. The food service operators covered under this section will be subject to compliance with the provisions of this article. Noncompliance with the provisions of this article shall result in food service operation privileges in the County to be suspended or revoked as outlined in this article. Any establishment not holding a transient or mobile license issued by DATCP, or its agents will be issued a Pepin County transient or mobile license at the discretion of the Health Department.

10.27 DISPLAY OF LICENSE

All licensees shall immediately post their license upon some conspicuous public part of the room in which the business is carried on, and the license shall remain posted during the entirety of the licensing period.

10.28 INSPECTIONS

- (1) The Health Department shall follow the Inspection Policy and Procedure as adopted and amended. A Health Department representative shall inspect every retail food, lodging and recreational business establishment located within the Pepin County jurisdiction as required by the contract with DATCP.
- (2) All licensed retail food establishments will be inspected at least annually by a Health Department representative. The inspection report will list violations of the applicable Administrative Code or Wisconsin Food Code, code citation, and corrective action required. If a risk factor violation cannot be corrected on site or if there are repeat violations during three consecutive inspections, a reinspection will be scheduled.
- (3) Designated representatives of the Health Department, after proper identification, shall be permitted to enter any premises for which a license is required to inspect the premises, secure samples, or specimens, **examining** **examine** and copy relevant documents and records or obtain photographs or other evidence needed to enforce the requirements of this article.
- (4) All food service establishments that fall outside of the scope of licensable entities shall be subject to an inspection by the Health Department to ensure

safe food handling practices are being conducted, as outlined in Wis. Admin. Code Ch. ATCP 75 and appendix, regardless of the licensing exemption.

- (5) Inspections ~~shall be mostly~~ can be unannounced visits.

10.29 INSPECTION FREQUENCY

- (1) Several types of inspections can be conducted on establishment:
- (a) Pre-Licensing Inspection: A pre-arranged inspection for an initial or new license or change of operator to assess if a facility is capable of meeting the code requirements.
 - (b) Routine Inspection: Can be pre-arranged or unannounced inspection. A routine inspection is done to determine if the facility is operating according to the requirements outlined in this ordinance, administrative or statute.
 - (c) Complaint Investigation: Can be pre-arranged or unannounced. A complaint investigation is done to investigate the conditions alleged in a complaint.
 - (d) Foodborne Illness Investigation: Can be pre-arranged or unannounced. An investigation to help identify the cause of foodborne illness outbreak and prevents its continuation.
 - (e) Follow-up Inspection: An inspection conducted at the inspector's discretion to check the status of an outstanding order on a facility. If the routine inspection calls for a reinspection, a follow up inspection is not an option.
 - (f) Re-inspection: All re-inspections are pre-arranged and mandatory. A re-inspection is an inspection to verify that priority/critical violations and repeat violations have been corrected. It will be conducted as soon as possible, based on the scheduled date for correction(s). A reinspection is required as identified in DATCP's reinspection criteria for retail food and recreational business establishments.
 - (g) Special inspection: An inspection or consultation activity that is not directly related to the Health Department's licensing responsibilities.

10.30 FEES

- (1) License fees shall be established and approved by the Board of Health to cover the cost of the investigation(s), sampling, testing, inspections, training, providing education, and technical assistance to the establishments covered pursuant to this chapter, plus the costs required to be reimbursed to DATCP for each license issued. All license and administrative fees shall be rounded upwards to the nearest dollar where necessary.
- (2) Separate pre-inspection fees are established with respect to new establishments or existing establishments that have been transferred to a new

owner.

- (3) Transient Retail Food Establishments, and mobile retail food establishments are subject to inspection and licensing. If a mobile or transient unit with a current license from the State of Wisconsin or another county is operating in Pepin County, an inspection for safety practices will be conducted once per licensing year. If these establishments are inspected but not licensed, an inspection fee may be charged per § 66.0628, Wis. Stats.

10.31 ENFORCEMENT AUTHORITY

- (1) The provisions of this ordinance shall be administered by or under the direction of the Health Officer, or designee, who shall have the right to enter, at reasonable hours, upon any premises affected by this regulation to inspect the premises, to secure samples or specimens, examine and copy relevant documents and records, obtain photographic or other evidence needed to enforce this chapter, and issue citations or seek a summon and complaint through a referral to the District Attorney. Non-compliance with the ordinance or with a temporary order from the Health Officer, or designee, shall be cause for enforcement action under this section of this ordinance.
- (2) If violations are found, an order to correct shall be given to the owner or operator, in writing, noting specific changes that must be made in order to bring the facility into compliance. The order shall set forth the time period by which corrections must take place. Failure to correct said violation(s) may result in re-inspection fees, suspension of the establishment's license to operate, and may invoke the penalty provisions of this ordinance.
- (3) If the Health Officer, or designee, has reasonable cause to believe that an immediate danger to health exists on a premise covered by this section, the Health Officer, or designee, may issue a temporary order in accordance with section 66.0417(2), Wis. Stats., or section 97.12 to prohibit the sale or movement of food for any purpose, prohibit the continued operation or method of operation of equipment, require the premise to cease any other operation or method of operation which creates an immediate danger to public health.

10.32 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE

- (1) Licenses issued by the Health Department pursuant to this Ordinance may be temporarily suspended for a violation of any provisions hereof or of the State Statutes or Administrative Code provisions adopted by reference herein, if the Health Department determines that an imminent health hazard exists.
- (2) An imminent health hazard may include but is not limited to: lack of basic facilities such as water; electricity or a properly functioning sewer; evidence of a sewer backup or surface or air contamination; insect or rodent infestation; evidence of an ongoing food or waterborne illness associated with the operation of the establishment; lack of a functioning hand washing facility; lack of hot or cold holding equipment; or there is a condition that endangers the health or safety of the public as identified by the Health Officer.

- (3) After repeated violations of this Ordinance or violations which have already created a serious environmental or public health hazard, licenses may be permanently revoked by written notice mailed or served on the license holder. The decisions of Health Department staff shall be subject to review by the Health Officer. Suspension or revocation decisions of the Health Officer may be appealed to the Board of Health by filing Notice of Appeal with the Health Department within 10 business days of the giving of notice of license revocation. Such appeals shall be in writing and must be heard within 15 business days of filing with the Health Department.

10.33 LAWS, RULES, AND REGULATIONS ADOPTED BY REFERENCE

The applicable laws, rules, regulations as set forth in Chs. 251, 252, 254, Wisconsin Administrative Code Chapters 72, 73, 74, 75, 76, 78 and 79 and ATCP 75 Retail Food Appendices (Wisconsin Food Code), § 251.04(3), Wis Stats., and any such provisions adopted in conformity are incorporated in this regulation by reference and they shall be construed, read and interpreted as full set forth herein until amended and then shall apply as amended. The express provisions of this regulation shall control where more restrictive.

10.34 PENALTIES

- (1) Any person who violates or refuses to comply with any provisions of this chapter shall be subject to a citation and respective forfeiture of not less than \$100 and not more than \$1,000 for each offense and/or revocation or amendment of the owner's applicable license.
- (2) Each day a violation exists or continues shall be considered a separate offense.
- (3) Where appropriate, injunctive relief may be sought by the Health Department against continuing violations in order to gain compliance. In the alternative, the Health Department may pursue enforcement of such sections of these regulations as are prosecutable through long form summons and complaints with the District Attorney.
- (4) The Health Officer, or designee, may issue citations using the standard citation form used in Pepin County. Citations may be served in person or may be sent by mail.
- (5) Except as otherwise provided, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall, upon conviction thereof, be subject to a penalty as provided in this chapter and code of ordinances.

10.35 CONSTRUCTION OR ALTERATION OF ESTABLISHMENTS

- (1) No person shall erect, construct, enlarge or alter a retail food or recreational business establishment without first submitting to the Health Officer plans (drawings) which clearly show and describe the amount and character of the

work proposed and without first receiving Health Department approval of submitted plans. Such plans shall include floor plan, equipment plan and specifications, wall, floor and ceiling finishes and plans and specifications for food service kitchen ventilation. Submitted plans shall give all information necessary to show compliance with applicable health codes. Submitted plans shall be retained by the Health Officer.

- (2) Any plans approved by the Health Department shall not be changed or modified unless the Health Officer has reviewed and approved the modifications or changes.

10.36 COMPLAINTS

- (1) The Health Department shall follow up on all complaints received in a timely and appropriate manner.
- (2) Complaints of illness and reported food and/or water borne illness are to be investigated to ensure compliance by the establishment under investigation.
- (3) The Health Department will notify DATCP of complaints that are under DATCP's jurisdiction as well as notification for the investigation and follow-up of foodborne illness. DATCP Emergency complaints mailbox will be utilized for reporting.