

PORTAGE COUNTY CODE OF ORDINANCES

Chapter 4 HEALTH AND SANITATION

ORDINANCES

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4.1 RESTAURANTS, TAVERNS AND RETAIL FOOD ESTABLISHMENTS

enacted Feb 23, 1990; revised Dec. 31, 1999.

4.1.1 AUTHORITY AND PURPOSE

Section 254.69, Wis. Stats. authorizes the Portage County Health and Human Services Department to be designated an agent of the Wisconsin Department of Health and Family Services for the purpose of collecting permit fees; issuing permits; making investigations or inspections of restaurants; vending machines and commissaries; and enforcing state law governing these establishments to protect and improve public health and safety. Chapter 251, Wis. Stats. authorizes the Department to conduct the aforementioned activities as they apply to taverns. Section 97.41, Wis. Stats. authorizes the Wisconsin Department of Agriculture, Trade and Consumer Protection to designate the Portage County Health and Human Services Department as an agent.

4.1.2 APPLICABILITY

The provisions of this ordinance shall apply to the operator of any restaurant, temporary restaurant, mobile restaurant, vending machine or commissary, tavern, or retail food establishment in Portage County. All operators shall comply with the requirements of this ordinance.

4.1.3 DEFINITIONS

- (1) "*Agent*" means the county designated by the state to issue permits and make investigations or inspections of restaurants, temporary restaurants, mobile restaurants, vending machines, commissaries, and retail food establishments.
- (2) "*Department*" means the Portage County Health and Human Services Department.
- (3) "*Employee*" means any person working in a restaurant, tavern, or retail food establishment.
- (4) "*General Public*" means persons who are served a meal but are not part of the household. "*General Public*" includes but is not limited to members and guests of churches, religious, fraternal, youth or patriotic

organizations, and members, guests, employees, customers and occupants of public or private service clubs, civic organizations, industrial plants, office buildings and businesses. "General Public" does not include personal guests in private homes; residents or employees of governmental institutions; residents, patients or employees of health care facilities or of community based residential facilities, defined in s. 50.01(1), Stats.; residents, clients or employees of facilities licensed under ch. 48, Stats.; visitors of patients or of residents of health care facilities, community based residential facilities, defined in s. 50.01(1), Stats., or governmental institutions; and visitors of residents or clients of facilities licensed under ch. 48, Stats.

(5) "*Health Officer*" means the statutory officer supervising all public health programs and activities in the Department.

(6) "*Meal*" means food that is served, except soft drinks, ice cream, milk, milk drinks, ices and confections. "Meal" includes but is not limited to sandwiches, individual portions of cured and pickled food sold from bulk containers, hard boiled eggs, hot ready-to-eat soup, individual pastry items generally sold with a beverage, raw or cooked processed foods sold or served in individual portions, or ingredients prepared, served or sold at retail for human consumption by any fixed or mobile restaurant or pushcart, coffee shop, cafeteria, cafe, luncheonette, grill, tearoom, sandwich shop, drive in restaurant, caterer, whether the caterer sells meals or lunches at a stated price or is contracted by the meal or on an hourly basis, commissary, delicatessen, industrial feeding establishment, private organization operating a food service in a hospital, or temporary restaurant.

(7) "*Mobile Restaurant*" means a restaurant operating from a movable vehicle, pushcart, trailer or boat which periodically or continuously changes location and wherein meals or lunches are prepared or served or sold to the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant. "Mobile Restaurant" does not include a common carrier regulated by the state or federal government.

(8) "*New*" in reference to a restaurant, means operating with a permit from the Department for the first time on or after January 1, 1990.

(9) "*Occasional*" means fewer than four days during any twelve month period.

(10) "*Operator*" means the owner or person responsible to the owner for the operation of the restaurant, mobile restaurant, temporary restaurant, vending machine, commissary, tavern, or retail food establishment.

(11) "*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 or any of these.

(12) "*Premises*" means each individual building, space or stand where meals or lunches are prepared, served or sold.

(13) "*Restaurant*" means any building, room or place where meals are prepared or served or sold to transients or the general public, and all places used in connection with the building, room or place and includes any public or private school lunch room for which food service is provided by contract. "Restaurant" does not include:

- a. taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter;
- b. churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which occasionally prepare, serve or sell meals to the general public;
- c. any public or private school lunchroom for which food service is directly provided by the school;
- d. any food service provided solely for needy persons;
- e. bed and breakfast establishments; or
- f. a private individual selling food from a movable or temporary stand at a public farm sale.

(14) *"Retail Food Establishment"* means any of the following, but does not include a restaurant or other establishment holding a permit under s.50.51 Wis. Stats., to the extent that the activities of the establishment are covered by that permit:

a. a permanent or mobile food processing facility where food is processed primarily for direct retail sale to consumers at the facility.

b. a mobile facility from which potentially hazardous food is sold to customers at retail.

c. a permanent facility from which food is sold to customers at retail, whether or not that facility sells potentially hazardous food or is engaged in food processing.

(15) *"Tavern"* means an establishment which holds a "Class B" liquor license under ch. 125, Wis. Stats., but does not hold a restaurant license.

(16) *"Temporary Restaurant"* means a restaurant that operates at a fixed location in conjunction with a single event such as a fair, carnival, circus, public exhibition, anniversary sale or occasional sales promotion.

(17) *"Vending Machine"* means any self-service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation. "Vending machine" does not include a device which dispenses only bottled, prepackaged or canned soft drinks, a one cent vending device, a vending machine dispensing only candy, gum, nuts, nut meats, cookies or crackers, or a vending machine dispensing only prepackaged grade A pasteurized milk or milk products.

(18) *"Vending Machine Commissary"* means any building, room or place in the state at which foods, containers, transport equipment or supplies for vending machines are kept, handled, prepared or stored by a vending machine operator, except a place at which the operator is licensed to manufacture, distribute or sell food products under ch. 97, Stats.

4.1.4 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 be permitted to enter, at any reasonable time, upon premises affected by this ordinance to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this ordinance. The Department shall follow the Enforcement Policy and Inspection Procedures for Restaurants, Taverns, and Retail Food Establishments as approved by the Health and Human Services Board.

4.1.5 LICENSE AND PERMIT

A. No person shall operate a restaurant, tavern, or retail food establishment without first obtaining a permit from the Department or, for vending machines and commissaries, from the Wis. Dept. of Health and Family Services. Permits issued by the Department shall expire on June 30. Restaurant permits initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the following year. The issuance of a permit may be conditioned upon the permittee correcting a violation of this ordinance within a specified period of time. If the condition is not met within the specified period of time, the permit may be voided. A permit shall not be transferable to a location other than the one for which it was issued, nor shall a permit be transferred from one operator to another, subject to the express exception that, as to location, temporary and mobile restaurant permits may be transferred.

B. It is unlawful for any person to operate a temporary restaurant as defined in Section 3.1.3 without first obtaining a permit for that purpose. Operators or permittees of temporary restaurants whom the

Department has found to be uncooperative or habitual violators of restaurant regulations may be denied a permit to operate. Permits may be transferred to a premise other than that for which it was issued, provided that approval of the new premises is secured from the Department prior to operating at the new premises. Permits to operate a temporary restaurant shall expire on June 30 except that permits initially issued during the period beginning April 1 and ending on June 30 expire on June 30 of the following year.

C. It is unlawful for any person to operate a mobile restaurant and a service base as defined in Section 4.1.3 without first obtaining a permit for that purpose. Such permits shall expire on June 30 except that permits initially issued during the period beginning April 1 and ending on June 30 expire on June 30 of the following year.

D. A permit shall not be granted to a person intending to operate a new restaurant, tavern, or retail food establishment or to a person intending to be the new operator of an existing restaurant, tavern, or retail food establishment without a pre-inspection.

E. Prior to the issuance of a permit to any restaurant, except temporary restaurants or restaurants serving only pre-packaged food, the operator or at least one manager shall obtain a department approved food service training certificate. The certificate shall be displayed on premise in a conspicuous location.

1. A food service training certificate shall be issued to an individual who passes a department-approved examination, after January 1, 1990. Certificates are issued to the individual and are not transferable. Certificates are valid for five years and successful completion of a department approved recertification course is required every five years from the date of issuance.

2. The holder of the certificate shall be an employee of the licensed restaurant.

3. If a restaurant loses a certified manager, the restaurant operator shall report the loss to the department immediately. The restaurant shall be given three months to hire a certified individual or to certify an existing manager. Failure to certify another individual may result in license action by the department.

4. The certified manager is responsible for training all employees of the licensed restaurant regarding HSS 196 rules. Adequacy of the training shall be determined by the department. The department may require additional training if adequate training is not provided by the certified manager.

4.1.6 APPLICATION

Application for permits shall be made in writing to the Department on forms provided by the Department, stating the name and address of the applicant, and the address and location of the proposed or existing restaurant, tavern, or retail food establishment together with such other information as may be required.

4.1.7 FEES

A. The fees for permits shall be established by the Health and Human Services Board to cover part or all of the cost of issuing permits, making investigations, inspections, sampling, providing education, training and technical assistance to the establishments, plus the cost required to be paid to the state for each permit issued.

B. Separate fees will be required for pre-inspections of new establishments or existing establishments for which a person intends to be a new operator. Such fees shall be established by the Health and Human Services Board.

4.1.8 PERMIT PUBLIC DISPLAY

Every restaurant, tavern, and retail food establishment in Portage County shall display at all times, in public view, the permit of the establishment.

4.1.9 PERMIT SUSPENSION AND REVOCATION

Such permits may be temporarily or summarily suspended by the Department for a violation of any provision of this ordinance or rules adopted by reference by this ordinance or revoked after repeated violations, after an opportunity for a hearing by the Appeals Board upon ten days notice personally served upon the permittee.

4.1.10 FOOD, DRINKS, EQUIPMENT AND FACILITY EXAMINATION

A. Samples of food, drink and other substances may be taken and examined by the Department as often as may be necessary for the detection of unwholesomeness or adulteration. Whenever, as a result of examination, the Department has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition or method of operation of the premises or equipment used on the premises creates, an immediate danger to health, the Department may issue a temporary order and cause it to be delivered to the permittee or to the owner or custodian of the food, or to both. The order may prohibit the sale or movement of the food for any purpose, prohibit the continued operation or method of operation of specific equipment, require the premises to cease other operations which create the immediate danger to health, or set forth any combination of these requirements. The Department may order the cessation of all operations authorized by the permit only if a more limited order does not remove the immediate danger to health. Except as provided in paragraph "C", no temporary order is effective for longer than 14 days from the time of its delivery, but a temporary order may be re-issued for one additional 14 day period, if necessary to complete the analysis or examination of samples, specimens or other evidence.

B. No food described in a temporary order issued and delivered under paragraph "A" may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the Department, until the order has been terminated or the time period specified in paragraph "A" has run out, whichever occurs first. If the Department, upon completed analysis and examination, determines that the food, construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health, the permittee, owner or custodian of the food or premises shall be promptly notified through personal service or in writing by certified mail and the temporary order shall terminate upon his or her receipt of the written notice.

C. If the analysis or examination shows that the food, construction, sanitary condition, operation or method of operation of the premise or equipment constitutes an immediate danger to health, the permittee, owner or custodian shall be notified within the effective period of the temporary order issued under paragraph "A". The Department may issue a final decision for the destruction of food, the diversion of food through uses which do not pose a danger to health, the modification of foods so that it does not create a danger to health, changes to or replacement of equipment or construction, other changes in or cessation of any operation or method of operation of the equipment or premises, or any combination of these actions necessary to remove the danger to health. The decision may order the cessation of all operations authorized by the permit only if a more limited order will not remove the immediate danger to health.

4.1.11 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules, and regulations set forth in Chapter 254, Chapter 251, Chapter 125.68, Chapter 93, and Chapter 97, Wis. Stats. and ch. HSS 196, HSS 198 and ch. ATCP75, Wisconsin Administrative

Code are incorporated in this regulation by reference and they shall be construed, read, and interpreted as though fully set forth herein. The express provisions of this ordinance shall control where more restrictive.

4.1.12 APPEALS

Appeals from Department orders shall be pursuant to Department policy adopted in conformance with the procedures for conducting appeals enumerated in ch. 68, Wis. Stats. Copies of the appeal procedures shall be available at the Department.

4.1.13 VIOLATION-PENALTIES

Any person who violates or refuses to comply with any provisions of this regulation shall be subject to a forfeiture of not less than twenty-five (25) dollars nor more than five hundred (\$500) dollars for each violation. Each day a violation exists or continues shall be considered a separate violation. Where appropriate, injunctive relief may be sought by the Department against continuing violations. In the alternative, the Department may pursue enforcement of such section of these regulations as are prosecutable under Sections 254.85, 254.88, 66.124, and 252.25, Wis. Stats.

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4.2 REGULATION OF CAMPGROUNDS, MOBILE HOME PARKS, POOLS AND RECREATIONAL/EDUCATIONAL CAMPS

4.2.1 AUTHORITY AND PURPOSE

Section 254.69, Wisconsin Statutes authorizes the Portage County Health and Human Services Department to be designated an agent of the Wisconsin Department of Health and Family Services for the purpose of collecting permit fees; issuing permits; making investigations or inspections of campgrounds, pools and recreational/educational camps; and enforcing state law governing these facilities to protect and improve public health and safety. Section 101.935, Wisconsin Statutes, authorizes the Portage County Health and Human Services Department to be designated an agent of the Wisconsin Department of Commerce to conduct the aforementioned activities as they apply to mobile home parks. Enacted Feb. 23, 1990; revised Dec. 31, 1999.

4.2.2 APPLICABILITY

The provisions of this ordinance shall apply to the operator of any campground, mobile home park, pool or recreational/educational camp in Portage County. All operators of these facilities shall comply with the requirements of this ordinance.

4.2.3 DEFINITIONS

"Camp" means a premises, including temporary and permanent structures, which is operated as an overnight living quarters where both food and lodging or facilities for food and lodging are provided for children or adults, or both children and adults, for a planned program of recreation or education and which is offered free of charge or for payment of a fee by a person or by the state or a local unit of government. Camp does not include:

- a. Overnight planned programs of recreation or education for adults or families at establishments holding current hotel/motel/restaurant permits;
- b. Overnight planned programs of recreation or education for less than 4 consecutive nights and without permanent facilities for food and lodging; and
- c. Overnight planned programs for credit at an accredited academic institution.

"Campground" means any parcel or tract of land owned by a person, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or by one to 3 camping units if the parcel or tract of land is represented as a campground.

"Department" means the Portage County Health and Human Services Department.

"Health Officer" means the statutory officer supervising all public health programs and activities in the Department.

"Mobile home park" means any plot or plots of ground owned by a person, state government or local government upon which three or more mobile homes occupied for dwelling or sleeping purposes are located, regardless of ownership and whether or not a charge is made for accommodation, but excluding farms where the occupants of the mobile homes work on the farm or are related to the farm owner or operator as father, mother, son, daughter, brother or sister.

"Operator" means the owner or the person responsible to the owner for the operation of the facility.

"Pool" means a structure, basin, chamber or tank used for wading, swimming, diving, water recreation or therapy.

"Public swimming pool" means a pool used for one or more purposes described in sub. (7) except a pool serving fewer than 3 residences such as homes or apartments used by the owner or persons making the property their primary residence. A public swimming pool includes a pool installed in a "place of employment", as defined in s.101.01(2)(f), Wis. Stats., or in a "public building", as defined in s.101.01(2)(g), Wis. Stats., and any pool used on a regular basis by persons other than the residents. A public swimming pool includes but is not limited to a pool serving or installed for the state or any political subdivision of the state, a pool serving or installed at a motel, hotel, tourist rooming house, bed and breakfast establishment, campground, camp, club, association, housing development or school, or a religious, charitable or youth organization; a mobile pool; and a pool at an educational or rehabilitative institution. Included in the meaning of a "public swimming pool" are buildings, equipment and appurtenances, irrespective of whether or not a fee is charged for their use.

4.2.4 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 be permitted to enter, at any reasonable time, upon premises affected by this ordinance to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this ordinance. The Department shall follow the Enforcement Policy and Inspection Procedures for Campgrounds, Mobile Home Parks, Pools and Recreational/Educational Camps as approved by the Health and Human Services Board.

4.2.5 LICENSE AND PERMIT

No person shall operate a campground, mobile home park, pool or recreational/educational camp without first obtaining a permit from the Department. Such permits shall expire on June 30 except that permits initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the

following year. The issuance of a permit may be conditioned upon the permittee correcting a violation of this ordinance within a specified period of time. If the condition is not met within the specified period of time, the permit may be voided. A permit shall not be transferable to a location other than the one for which it was issued, nor shall a permit be transferred from one operator to another. A permit shall not be granted to a person intending to operate a new campground, mobile home park, pool or recreational/education camp or to a person intending to be the new operator of an existing facility without a pre-licensing inspection.

4.2.6 APPLICATION

Application for permits shall be made in writing to the Department on forms provided by the Department, stating the name and address of the applicant, and the address and location of the proposed or existing campground, mobile home park, pool or recreational/educational camp together with such other information as may be required.

4.2.7 FEE

- a. The fees for permits shall be established by the Health and Human Services Board to cover part or all of the cost of issuing permits, making investigations, inspections, sampling, providing education, training and technical assistance to the facilities, plus the cost required to be paid to the State for each permit issued.
- b. Separate fees will be required for pre-licensing inspections of new facilities or existing facilities for which a person intends to be a new operator. Such fees shall be established by the Health and Human Services Board.

4.2.8 PUBLIC DISPLAY OF THE PERMIT

Every campground, mobile home park, pool and recreational/educational camp in Portage County shall display at all times, in public view, the permit of the facility.

4.2.9 PERMIT SUSPENSION AND REVOCATION

Such permits may be temporarily or summarily suspended by the Department for a violation of any provision of this ordinance or rules adopted by reference by this ordinance or revoked after repeated violations, after an opportunity for a hearing by the Appeals Board upon ten days notice personally served upon the permittee.

4.2.10 ORDER TO DEAL WITH IMMEDIATE DANGER TO HEALTH

- a. Samples of food, drink and other substances may be taken and examined by the Department as often as may be necessary for the detection of unwholesomeness or adulteration. In addition, the Department may sample pools and conduct tests to determine bacteriological quality of the water. Pool water analysis may include but is not limited to coliform organisms, staphylococcal organisms, and pseudomonads. Whenever, as a result of examination, the Department has reasonable cause to believe that any examined food or water constitutes, or that any construction, sanitary condition or method of operation of the premises or equipment used on the premises creates, an immediate danger to health, the Department may issue a temporary order and cause it to be delivered to the permittee or to the owner of the facility, or to both. The order may prohibit the sale or movement of the food for any purpose, prohibit the continued

operation or method of operation of specific equipment, require the premises to cease other operations which create the immediate danger to health, or set forth any combination of these requirements. The Department may order the cessation of all operations authorized by the permit only if a more limited order does not remove the immediate danger to health. Except as provided in paragraph "c", no temporary order is effective for longer than 14 days from the time of its delivery, but a temporary order may be re-issued for one additional 14 day period, if necessary to complete the analysis or examination of samples, specimens or other evidence.

b. No food described in a temporary order issued and delivered under paragraph "a" may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the Department, until the order has been terminated or the time period specified in paragraph "a" has run out, whichever occurs first. If the Department, upon completed analysis and examination, determines that the food, water, construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health, the permittee, owner or custodian of the food or premises shall be promptly notified through personal service or in writing by certified mail and the temporary order shall terminate upon his or her receipt of the written notice.

c. If the analysis or examination shows that the food, water, construction, sanitary condition, operation or method of operation of the premise or equipment constitutes an immediate danger to health, the permittee, owner or custodian shall be notified within the effective period of the temporary order issued under paragraph "a". The Department may issue a final decision for the destruction of food, the diversion of food through uses which do not pose a danger to health, the modification of foods so that it does not create a danger to health, changes to or replacement of equipment or construction, other changes in or cessation of any operation or method of operation of the equipment or premises, or any combination of these actions necessary to remove the danger to health. The decision may order the cessation of all operations authorized by the permit only if a more limited order will not remove the immediate danger to health.

4.2.11 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules and regulations set forth in Chapter 254 and Chapter 101, Wisconsin Statutes and Chapters HFS 172, 175, and 178, Comm 95 and Comm 90, Wisconsin Administrative Code, are incorporated in this ordinance by reference and they shall be construed, read, and interpreted as though fully set forth herein. The express provisions of this ordinance shall control where more restrictive.

4.2.12 APPEALS

Appeals from Department orders shall be pursuant to Department policy adopted in conformance with the procedures for conducting appeals enumerated in Chapter 68, Wisconsin Statutes. Copies of the appeal procedures shall be available at the Department.

4.2.13 VIOLATION-PENALTIES

Any person who violates or refuses to comply with any provisions of this ordinance shall be subject to a forfeiture or not less than \$25 nor more than \$500 for each violation. Each day a violation exists or continues shall be considered a separate violation. Where appropriate, injunctive relief may be sought by the Department against continuing violations. In the alternative, the Department may pursue enforcement of such section of these regulations as are prosecutable under Sections 101.935, 254.85 or 66.0417, Wisconsin State Statutes.

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4.3 REGULATION OF HOTELS, MOTELS, BED AND BREAKFAST ESTABLISHMENTS, TOURIST ROOMING HOUSES

4.3.1 AUTHORITY AND PURPOSE

Section 254.69, Wisconsin Statutes, authorizes the Portage County Health and Human Services Department to be designated as an agent of the Wisconsin Department of Health and Family Services for the purpose of collecting permit fees; issuing permits; making investigations or inspections of hotels, motels, bed and breakfast establishments, and tourist rooming houses; and enforcing state law governing these establishments to protect and improve public health and safety.

Enacted Feb. 23, 1990; revised Dec. 31, 1999.

4.3.2 APPLICABILITY

The provisions of this ordinance shall apply to the operator of any hotel, motel, bed and breakfast establishment or tourist rooming house in Portage County. All operators of hotels, motels, bed and breakfast establishments, and tourist rooming houses shall comply with the requirements of this ordinance.

4.3.3 DEFINITIONS

- (1) "*Bed and breakfast establishment*" means any place of lodging that:
 - a) provides eight or fewer rooms for rent to no more than a total of 20 tourists or transients;
 - b) provides no meals other than breakfast and provides the breakfast only to renters of the place;
 - c) is the owner's personal residence;
 - d) is occupied by the owner at the time of rental;
 - e) was originally built and occupied as a single family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single family residence; and
 - f) has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that a structural addition, including a renovation, to the structure may, after May 11, 1990, be made within the dimensions of the original structure.
- (2) "*Department*" means the Portage County Health and Human Services Department.
- (3) "*Health Officer*" means the statutory officer supervising all public health programs and activities in the Department.
- (4) "*Hotel*" means a place where sleeping accommodations are offered for pay to transients, in five or more rooms, and all related rooms, buildings and areas.
- (5) "*Motel*" means a hotel that furnishes on premise parking for motor vehicles of guests as part of the room charge, without extra cost, and that is identified as a "motel" rather than a "hotel" at the request of the operator.
- (6) "*Operator*" means the person legally responsible for the operation of the hotel, motel, tourist rooming house or bed and breakfast establishment.
- (7) "*Tourist or transient*" means a person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.
- (8) "*Tourist rooming house*" means all lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients. It does not

include private boarding or rooming houses not accommodating tourists or transients, or bed and breakfast establishments.

4.3.4 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 be permitted to enter, at any reasonable time, upon premises affected by this ordinance to inspect the premises, secure samples or specimens, examine and copy relevant documents and records or obtain photographic or other evidence needed to enforce this ordinance. The Department shall follow the Enforcement Policy and Inspection Procedures for Lodging Facilities as approved by the Health and Human Services Board.

4.3.5 LICENSE AND PERMIT

No person shall operate a hotel, motel, tourist rooming house or bed and breakfast establishment without first obtaining a permit from the Department. Such permits shall expire on June 30 except that permits initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the following year. Bed and breakfast establishments shall receive a biennial permit. The issuance of a permit may be conditioned upon the permittee correcting a violation of this ordinance within a specified period of time. If the condition is not met within the specified period of time, the permit may be voided. A permit shall not be transferable to a location other than the one for which it was issued, nor shall a permit be transferred from one operator to another.

4.3.6 APPLICATION

Application for permits shall be made in writing to the Department on forms provided by the Department, stating the name and address of the applicant, and the address and location of the proposed or existing hotel, motel, tourist rooming house or bed and breakfast establishment together with such other information as may be required.

4.3.7 FEES

- a. Permit fees shall be established by the Health and Human Services Board to cover part or all of the cost of issuing permits, making investigations, inspections, sampling, providing education, training and technical assistance to the establishments, plus the cost required to be paid to the State for each permit issued.
- b. Separate fees will be required for pre-licensing inspections of new establishments or existing establishments for which a person intends to be a new operator. Such fees shall be established by the Health and Human Services Board.

4.3.8 PERMIT PUBLIC DISPLAY

Every hotel, motel, tourist rooming house and bed and breakfast establishment in Portage County shall display at all times, in public view, the permit of the establishment.

4.3.9 PERMIT SUSPENSION AND REVOCATION

Such permits may be temporarily or summarily suspended by the Department for a violation of any provision of this ordinance or rules adopted by reference by this ordinance or revoked after repeated violations, after an opportunity for a hearing by the Appeals Board upon 10 days notice personally served upon the permittee.

4.3.10 FOOD, DRINKS, EQUIPMENT AND FACILITY EXAMINATION

a. Samples of food, drink and other substances may be taken and examined by the Department as often as may be necessary for the detection of unwholesomeness or adulteration. Whenever, as a result of examination, the Department has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition or method of operation of the premises or equipment used on the premises creates, an immediate danger to health, the Department may issue a temporary order and cause it to be delivered to the permittee or to the owner of the establishment, or to both. The order may prohibit the sale or movement of the food for any purpose, prohibit the continued operation or method of operation of specific equipment, require the premises to cease other operations which create the immediate danger to health, or set forth any combination of these requirements. The Department may order the cessation of all operations authorized by the permit only if a more limited order does not remove the immediate danger to health. Except as provided in paragraph "c", no temporary order is effective for longer than 14 days from the time of its delivery, but a temporary order may be re-issued for one additional 14 day period, if necessary to complete the analysis or examination of samples, specimens or other evidence.

b. No food described in a temporary order issued and delivered under paragraph "a" may be sold or moved and no operation or method of operation prohibited by the temporary order may be resumed without the approval of the Department, until the order has been terminated or the time period specified in paragraph "a" has run out, whichever occurs first. If the Department, upon completed analysis and examination, determines that the food, construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health, the permittee, owner or custodian of the food or premises shall be promptly notified through personal service or in writing by certified mail and the temporary order shall terminate upon his or her receipt of the written notice.

c. If the analysis or examination shows that the food, construction, sanitary condition, operation or method of operation of the premise or equipment constitutes an immediate danger to health, the permittee, owner or custodian shall be notified within the effective period of the temporary order issued under paragraph "a". The Department may issue a final decision for the destruction of food, the diversion of food through uses which do not pose a danger to health, the modification of foods so that it does not create a danger to health, changes to or replacement of equipment or construction, other changes in or cessation of any operation or method of operation of the equipment or premises, or any combination of these actions necessary to remove the danger to health. The decision may order the cessation of all operations authorized by the permit only if a more limited order will not remove the immediate danger to health.

4.3.11 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules, and regulations set forth in Chapter 254 Wisconsin Statutes, and Chapter HSS 195 and Chapter HSS 197, Wisconsin Administrative Code are incorporated in this ordinance by reference and they shall be construed, read, and interpreted as though fully set forth herein. The express provisions of this ordinance shall control where more restrictive.

4.3.12 APPEALS

Appeals from Department orders shall be pursuant to Department policy adopted in conformance with the procedures for conducting appeals enumerated in Chapter 68, Wisconsin Statutes. Copies of the appeal procedures shall be available at the Department.

4.3.13 VIOLATION - PENALTIES

Any person who violates or refuses to comply with any provisions of this regulation shall be subject to a forfeiture of not less than \$25 nor more than \$200 for each violation. Each day a violation exists or continues shall be considered a separate violation. Where appropriate, injunctive relief may be sought by the Department against continuing violations. In the alternative, the Department may pursue enforcement of such section of these regulations as are prosecutable under Section 254.85, 254.88, and 66.124, Wisconsin Statutes.

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4.4 CLEAN AIR AND SMOKING REGULATION

4.4.1 LEGISLATIVE FINDINGS AND DECLARATION

The Board of Supervisors finds and determines that smoking tobacco or any other weed or plant or the use of e-cigarettes is a danger to health and well-being and is an annoyance, inconvenience, discomfort and health hazard to those who are present in confined spaces. Smoking indoors adversely affects among other things, the health, safety, comfort and production of Portage County employees and other citizens and increases building and maintenance expenses.

4.4.2 STATE LAW ADOPTED

Except as specifically provided in this ordinance, all applicable provisions of section 101.123 of the Wisconsin statutes prohibiting smoking in specified places are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated by reference herein are respectively required or prohibited by this ordinance.

4.4.3 REGULATION OF SMOKING

Notwithstanding other portions of this ordinance, no person shall smoke or use an e-cigarette inside at any time in any county-owned or operated building or vehicle.

4.4.4 PENALTY

(A) Except as provided for in (B), the forfeiture for violation of any provision of the chapter adopted by reference in section 4.4.2 of this ordinance shall conform to the forfeiture for violation of a comparable state offense, including all costs, fees, and assessments provided for in the Wisconsin statutes.

(B) Where no penalty is expressly provided for in the current state deposit schedule adopted by the Wisconsin Judicial Conference, pursuant to chapter 778 of the Wisconsin statutes, any person who violates this ordinance shall be required to forfeit not less than \$100.00 nor more than \$250.00, together with all

legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed sixty (60) days.

4.4.5 ENFORCEMENT

Deputies of the Portage County Sheriff's Department, as well as the Portage County Health Officer are hereby authorized to issue citations for violations of this ordinance.

The issuance of a citation for violation of this ordinance shall not bar subsequent prosecution under section 101.123 of the Wisconsin Statutes, or other applicable laws or ordinances, nor shall it preclude any administrative actions, lawfully taken by any officer of Portage County.

4.4.6 PUBLIC NOTIFICATION

County officials charged with supervision of buildings shall cause signage to be posted at entryways notifying all persons that the building is a no smoking area, consistent with section 101.123 of the Wisconsin Statutes. County officials charged with supervision of vehicles shall ensure that all drivers and passengers are notified of this policy as well. Absence of signage, by itself, shall not constitute a defense to prosecution under this ordinance.

Revised Resolution No. 306-2008-2010 on 3-16-10

Revised Resolution No. 185-2014-2016 on 12-15-15

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4.5 HUMAN HEALTH HAZARDS

4.5.1 AUTHORITY AND PURPOSE

Sections 46.23 and 251.04, Wis. Stats. authorizes the Portage County Health and Human Services Board to adopt regulations that it considers necessary to protect and improve public health. The purpose of this ordinance is to protect public health in Portage County by preventing unhealthy or dangerous conditions which may result from a human health hazard. Enacted March 21, 1994.

4.5.2 APPLICABILITY

The provisions of this ordinance shall apply to all municipalities in Portage County.

4.5.3 DEFINITIONS

- (1) Department - the Portage County Health and Human Services Department.
- (2) Dwelling - any structure, all or part of which is designed or used for human habitation.
- (3) Failing private sewage system - see s.145.245(4), Wisconsin Statutes.
- (4) Health Officer - the statutory officer supervising all public health programs and activities in the Department.
- (5) Human health hazard - a substance, activity, or condition that is known to have the potential to cause acute or chronic illness, or death, if exposure to the substance, activity, or condition is not abated.

(6) Immediate danger to health - any human health hazard that creates an immediate danger to public health and safety in terms of happening now; of the present moment.

(7) 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).

(8) 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.

4.5.4 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.

4.5.5 HUMAN HEALTH HAZARDS PROHIBITED

No person shall erect, construe, cause, continue, maintain, or permit any human health hazard within Portage 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 subsection 4.5.11 of this chapter.

4.5.6 HUMAN HEALTH HAZARDS ENUMERATED

Human health hazard is defined in subsection 3.8.3(5) 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 3.8.3(5).

(1) Breeding places for vermin, insects, etc. - accumulations of decayed animal or vegetable matter, trash, rubbish, refuse, garbage, foodstuffs, animal or human fecal matter, or any substance or structure in which flies, cockroaches, rats, mice, skunks, or other disease carrying insects or vermin can breed, live, nest, or seek shelter.

(2) Public swimming beach hazard - unacceptable bacteriological conditions as determined by multiple fermentation or membrane filter procedures. When the fecal coliform density of any sample collected from an operating beach exceeds 200 per 100 milliliters, samples shall be collected and analyzed for fecal coliform for at least two consecutive days and if the count exceeds 200 per 100 milliliter sample, consideration shall be given to closing the beach.

(3) Wells - any well that is no longer used as a source of potable or nonpotable water or is contaminated or is not properly abandoned in accordance with NR 8 12.26, Wisconsin Administrative Code. In addition, any well that is identified by the Wisconsin Department of Natural Resources or others as not complying with requirements of NR 8 12 may be designated a human health hazard.

(4) Wastewater - wastewater or sewage effluent from buildings discharging to the ground surface or surface water or backing up into the building which is caused by a failing or inadequately maintained private sewage system.

(5) Housing - housing that is dilapidated, unsafe or unsanitary may be declared a human health hazard.

(6) Other - any other situation determined by the Health Officer to meet the definition of a human health hazard as per subsection 3.8.3(5) of this ordinance.

4.5.7 INVESTIGATION OF POSSIBLE HUMAN HEALTH HAZARDS

The Health Officer or his/her designated representative 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 and approved by the Health and Human Services Board.

4.5.8 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, 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 Chapter 254.59, Wisconsin Statutes.

4.5.9 REGULATIONS, RULES, AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules, and regulations set forth in Chapters 145.245, 254.01, 254.55, 254.56, 254.59, and 254.593, Wis. Stats. and Chapter NR 812 Wisconsin Administrative Code are incorporated in this ordinance by reference and they shall be construed, read, and interpreted as though fully set forth herein.

4.5.10 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.

4.5.11 VIOLATION-PENALTIES

Any person who violates or refuses to comply with any provisions of this ordinance shall be subject to a forfeiture of not less than twenty-five (25) dollars nor more than two hundred (200) dollars for each violation. Each day a violation exists or continues shall be considered a separate violation. Where appropriate, injunctive relief may be sought by the Department against continuing violations. In addition, Chapter 5 of the Portage County Code authorizes the Health Officer to issue citations for violations of this ordinance. Section 5.1.3 of the Portage County Code entitled "Cash Deposit Schedule" is hereby amended to add the following language:

CASH <u>DEPOSIT</u> \$50.00	PENALTY <u>ASSESSMENT</u> \$10.00	JAIL <u>ASSESSMENT</u> \$10.00	AUTOMATION <u>FEE</u> \$3.00	COURT <u>COSTS</u> \$20.00	TOTAL <u>DEPOSIT</u> \$93.00
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4.6 REGULATION OF TATTOO AND BODY PIERCING ESTABLISHMENTS

4.6.1 AUTHORITY AND PURPOSE

Sections 46.23 and 251.04 Wisconsin Statutes authorizes the Portage County Health and Human Services Board to adopt regulations to protect and improve public health. The purpose of this ordinance is to protect public health in Portage County by preventing the transmission and spread of disease through the processes of tattoo application and/or body piercing. Enacted March 21, 1994; revised Dec. 31, 1999.

4.6.2 APPLICABILITY

The provisions of this ordinance shall apply throughout Portage County.

4.6.3 DEFINITIONS

- A. "Approved" means acceptable to the Department based upon its determination of conformance to good public health practices and ch. HFS 173, Wis. Adm. Code.
- B. "Body piercing" means perforating any human body part or tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.
- C. "Department" means the Portage County Health and Human Services Department.
- D. "Health Officer" shall mean the statutory officer supervising all public health programs and activities in the Department.
- E. "Premises" means a building, structure, area, or location where tattooing or body piercing is performed.
- F. "State-Approved Disinfectant" means a chemical that is capable of destroying disease causing organisms on inanimate objects, with the exception of bacterial spores, which is approved for use as a sanitizer by the Wisconsin Division of Public Health.
- G. "Sterilization" means the killing of all organisms and spores through the use of an autoclave operated at a minimum of 250°F (121°C) at pressure of at least 15 pounds per square inch for not less than 30 minutes or through use of an autoclave approved by the Wis. Dept. of Health and Family Services that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores.
- H. "Tatto", as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

4.6.4 LICENSE REQUIRED

No person shall operate a tattoo or body piercing establishment nor engage in the practice of tattooing or body piercing in Portage County without first obtaining the appropriate license(s) from the Department. Such license shall expire on June 30th following its issuance. The owner of a tattoo or body piercing establishment must apply for an establishment license. An individual engaged in tattooing in a tattoo establishment or body piercing in a body piercing establishment must apply for an operator license.

An establishment license shall not be transferable to a location other than the one for which it is issued, nor shall a license be transferred from one operator to another. If the premise does not meet the requirements of the ordinance, the operator may not receive a license to operate.

Any person engaging in tattooing or body piercing who possesses a license under this section must also obtain a temporary license if he/she chooses to operate in a location outside his/her licensed establishment for a special event.

The license issued shall be posted at all times on the licensed premises in a conspicuous location.

4.6.5 FEE

License fees are established by the Health and Human Services Board. All applicable fees must be paid before any license is issued.

4.6.6 APPLICATION INVESTIGATION

The Department shall not issue a license to a new tattoo or body piercing establishment or a new operator at an existing establishment without completing a prior inspection of the establishment. The establishment and/or operator shall comply with the requirements of this ordinance or the license may be withheld in accordance with the Department Enforcement Policy and Inspection Procedures

4.6.7 HEALTH AND SANITARY REQUIREMENTS

A. Premises

1. All establishments shall have a work room which is separate from the waiting room or area. The work room shall not be used as a corridor for access to other rooms. Customers shall be tattooed only in the work room.

B. General Supplies

1. A clean towel and washcloth shall be used for each customer.
2. Clean towels and washcloths shall be stored in a closed, dust-proof container, which is labeled for clean towels/cloths.
3. Soiled towels and washcloths shall be stored in an approved, non-absorbent, covered container, which is labeled for soiled towels/cloths.

C. General Practices

1. Smoking or other tobacco use and consumption of food or drink shall not be allowed in the work area where the tattoo procedure is being performed.

D. Equipment

1. General

All surfaces with customer contact during a tattoo procedure, i.e., chairs, benches, work table, etc., must be disinfected between each use with a state-approved disinfectant.

E. Skin Preparation

1. Aseptic technique must be utilized in the practice of tattooing.
 - a. If the customer's skin is to be shaved, the skin shall be washed with a cleansing, medicated soap before shaving. A disposable razor shall be used. A new razor shall be used for each customer.

F. Operator

1. If the operator has hair longer than shoulder length, it must be tied back and not come into contact with the customer at any time.

4.6.8 RECORD RETENTION

A. Records shall be kept of all tattoos administered, including the name of customer, date, time, identification of tattoo, and operator's name.

4.6.9 REGULATIONS, RULES, AND LAWS ADOPTED BY REFERENCE

The applicable laws, rules, and regulations set forth in Chapter HFS 173, Wis. Admin. Code are incorporated in this regulation by reference and they shall be construed, read, and interpreted as though fully set forth herein. The express provisions of this ordinance shall control where more restrictive.

4.6.10 VIOLATION/PENALTIES

Any person who violates or refuses to comply with any provisions of this ordinance shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each violation cited by the Health Officer. Each day a violation exists or continues shall be considered a separate violation. Where appropriate, injunctive relief may be sought by the Department against continuing violations.

4.6.11 APPEALS

Appeals from Department orders shall be pursuant to Department policy adopted in conformance with the procedures for conducting appeals enumerated in Chapter 68, Wisconsin Statutes. Copies of the appeal procedure shall be available at the Department.

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4.7 SOLID WASTE

4.7.1 AUTHORITY

This Ordinance is enacted pursuant to authority granted to counties under ss. 59.07 (135)(h) and ss 287 and 289 of Wisconsin Statutes or as amended and shall be known as the Solid Waste Ordinance.

4.7.2 ABROGATION

This Ordinance does not repeal or abrogate any existing rule, regulations, laws or county ordinances.

4.7.3 INTERPRETATION

Where a provision of this ordinance is required by Wisconsin State Statutes or Administrative Rule, the provision shall be interpreted under the guidance of Wisconsin State Statutes or Administrative Rule which are in effect on January 1, 1995 or as thereafter amended.

4.7.4 APPLICABILITY

This ordinance shall apply to all persons, entities, business organizations and others throughout the boundary of Portage County.

4.7.5 EFFECTIVE DATE

The provisions of this ordinance shall take effect on upon adoption.

4.7.6 PURPOSE AND INTENT OF THE ORDINANCE

The purpose of this ordinance is to create a county-wide Solid Waste System under the auspices of the Solid Waste Management Board ("SWMB") an operate such a system in conformity with all applicable federal and state statutes and regulations.

4.7.7 DEFINITIONS

"Acceptable Waste": All solid waste, garbage, trash, rubbish and refuse that is now normally disposed of by, or collected from residential, commercial, and institutional establishments. Acceptable waste shall not include any material separated for recycling such as newsprint, magazines, corrugated cardboard, office paper, glass containers, aluminum containers, steel containers, bi-metal cans, plastics, foam polystyrene packaging, waste oil, lead acid batteries, and major appliances or any other material prohibited from disposal by state or federal statutes or regulations.

"Collector": Any person collecting refuse and/or recyclable material for compensation in Portage County.

"County Landfill": Any landfill owned and operated by the Portage County Solid Waste Management Board.

"Disposable Solid Waste": Materials which are not commonly recycled and are not banned from landfills.

"Hazardous Substance": Any substance or combination of substances as described in ss. 291 WI Stats. as amended, including any waste of 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 Wisconsin Department of Natural Resources (DNR).

"Identification": A current State of Wisconsin identification card or a Wisconsin photo drivers' license.

"Infectious Waste": Any waste which tends to be contaminated with potential disease producing substances or agents including but not limited to viruses and bacteria.

"Major Appliances": Any refrigerator, freezer, air conditioner, dehumidifier, oven, stove, furnace, boiler, washer, dryer, microwave oven, dishwasher, or water heater or similar appliance.

"Material Recovery Facility (MRF)": The Portage County Material Recycling Facility.

"Medical Waste": Those types of waste which are associated with medical procedures such as infectious waste, including but not limited to, syringes, needles, drains, catheters, urinals, body parts, soiled dressings, blood, etc.

"Multi-Family Dwelling": A property containing five (5) or more residential units, including those which are occupied seasonally.

"Office Paper": Paper generated in an office, including but not limited to, high grade and computer printout.

"Post Consumer Waste": Solid waste as described in ss. 289 WI Stats as amended other than solid waste generated in the production of goods, waste form the construction and demolition of structures, scrap automobiles, or high volume industrial waste, as defined in ss. 287 WI Stats as amended. *Post Consumer Waste* does not include hazardous waste as defined in ss. 287 WI Stats as amended.

"Recyclable Material": Material which is currently commonly recycled and mandated by Wisconsin DNR, such as lead acid batteries, major appliances, waste oil, aluminum containers, corrugated papers or container board, foam polystyrene packaging, glass containers, magazines or material that is printed on

similar paper, newsprint, office paper, plastic containers, steel containers, and bi-metal containers. This list shall include items listed in ss. 287 WI Stats as may be amended from time to time.

“Refuse”: All biodegradable matter produced from industrial or community life, not defined as sewage.

“Responsible Unit.”: A municipality, county or solid waste management system that is recognized by the Wisconsin DNR as the responsible unit of government for recycling in that jurisdictional area.

“Scale Attendant”: Any employee or agent of the Portage County SWMB who is responsible for operating the County Scale.

“Solid Waste”: Non-liquid waste as specified in ss. 289 WI Stats as amended including garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or a pollution control facility and other discarded or salvageable materials, including solid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid 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 under chapter 147, WI Stats. as amended, or source, special nuclear or by-product material as defined under ss. 140.52 WI Stats. as amended.

“Special Waste”: Waste acceptable at the County Transfer Facility which has special characteristics so as not to allow simple transport of such material. This includes but is not limited to: major appliances, and tires.

“SWMB”: The Portage County Solid Waste Management Board, with powers and duties defined by the County Board and by statute, ss. 59.70 (2) WI. Stats. as amended.

“Unacceptable Material”: Material delivered to the MRF which poses a threat to health or safety or which may cause damage to or materially adversely affect the operation of the facility. *Unacceptable material* also includes materials that are not Recyclable Material.

“Unacceptable Waste”: Waste which poses a threat to health or safety or which may cause damage to or materially adversely affect the operation of the County Transfer Facility and the MRF including but not limited to, explosive wastes; hospital, pathological and biological wastes; hazardous or toxic substances; mining waste sludges; and hazardous refuse of any kind such as cleaning fluids, crank case oils, cutting oils, paints, acids, caustics, poisons, drugs or other such materials.

“User”: Any person or business that delivers materials to the County Transfer Facility or MRF for disposal, processing or recovery.

“Yard Waste”: Material specified in ss. 281.01 WI Stats. as amended including leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

4.7.8 SOLID WASTE MANAGEMENT BOARD

The Solid Waste Management Board (SWB) shall be the administering body for the Solid Waste Ordinance and shall have the powers and duties set forth in County Board Resolution No. 189 (92-94) or as may be amended from time to time.

4.7.9 SOLID WASTE SITE REGULATIONS

This ordinance shall be enforced by the Portage County Sheriff's Department, the Solid Waste Administrator or Solid Waste Manager, in accordance with the provisions of this ordinance and shall apply to all county solid waste sites and operations.

4.7.10 DISPOSAL PROHIBITIONS

No person shall deliver acceptable waste that has not been generated in Portage County to the County Transfer Facility without the written consent of the SWMB.

No person shall dispose of the following items or materials in any county Transfer Facility unless an exemption has been granted by the SWB or the Wisconsin DNR:

- tires
- lead acid batteries
- waste oil
- major appliances
- newsprint
- magazines or other material printed on similar paper
- corrugated paper or other container board
- office paper
- aluminum containers
- glass containers
- steel containers
- bi-metal containers
- plastic containers
- foam polystyrene packaging
- yard waste
- free liquids
- radioactive wastes
- infectious wastes
- hazardous substances
- electron wastes
- oil and oil filters

4.7.11 ACCEPTABLE MATERIAL

Each user of the county Transfer Facility shall verbally notify the Scale Attendant as to what type of waste is presently being delivered. This notification shall occur before unloading begins. If Unacceptable Waste is placed in the County Transfer Facility the offending User shall be responsible for removing it in addition to any forfeitures and/or costs associated with cleanup or environmental damage repair. The Solid Waste Manager may order the removal of Unacceptable Waste and assess the appropriate cost if Unacceptable Waste is found. Random inspections of loads may be performed by Solid Waste Department employees or agents.

4.7.12 RESPONSIBILITY OF USER

Each User of the County Transfer Facility (individual, commercial, industrial, and municipal) shall remain liable for the items that the User delivers to the County Transfer Facility.

4.7.13 FEE SCHEDULE

All fees shall be paid by User before leaving the County Transfer Facility unless a charge account has been set up in advance. The current fee schedule shall be posted at the County Transfer Facility.

4.7.14 OPERATING HOURS

No person shall deposit Solid Waste material at the County Transfer Facility except during the hours established and posted or as adjusted from time to time by the Solid Waste Manager to accommodate emergencies, holidays, or other unusual circumstances.

4.7.15 DESIGNATED AREAS

No unauthorized person shall enter into those areas of the County Transfer Facility which have been posted "No Trespassing" except when entering for refuse disposal purposes during operating hours. No unauthorized person or vehicle is permitted within the Active Transfer Facility Area except for the express purpose of unloading Solid Waste. No person under the age of sixteen years shall be permitted outside of any vehicle in the Active Transfer Facility Area. No pets shall be allowed in the Active Transfer Facility Area. This provision applies to all county owned lands under the authority of the Solid Waste Board.

4.7.16 IDENTIFICATION

Each User of the County Transfer Facility shall furnish identification to the Scale Attendant upon request. Failure to do so may result in User not being permitted to use the County Transfer Facility

4.7.17 VEHICLE REGULATIONS

Any person operating a motor vehicle while at the County Transfer Facility shall obey all posted traffic signs. All vehicles and trailers carrying Solid Waste to and into the County Transfer Facility shall be covered or contained so as to prevent waste from falling onto the roadway and police the area for any discharge litter caused by such transportation operation. Each County Transfer Facility User must weigh-in their vehicles and have the vehicle weights recorded before and after dumping waste at the county Transfer Facility.

4.7.18 SPECIAL WASTES

Special wastes such as tires and appliances shall be kept separated from Acceptable Waste by each User. The Scale Attendant shall be notified of any Special Waste prior to unloading. Failure to claim and properly handle Special Waste may result in a surcharge being assessed to the User along with imposition of other penalties set forth herein.

4.7.19 PROHIBITION REGARDING RECLAMATION

No scavenging shall be allowed in the Active Transfer Facility Area.

4.7.20 PROHIBITED DUMPING

It is unlawful for any person to dump or otherwise dispose of any Solid Waste upon any street, valley, highway, land, stream or waters within the County except at sites operated in compliance with Wisconsin DNR regulations.

4.7.21 DEFINITIONS

In this ordinance, the following meanings apply:

“*Garbage*” shall be defined as every waste accumulation of animal, fruit, or vegetable matter, liquid or other wise, resulting from the preparation, processing, storing, consuming cooking, dealing in or with animal, fruit, or vegetable matter.

“*Yard Waste*” shall be defined as leaves, needles, grass clipping garden debris, and brush, including clean woody vegetative material, no greater than four (4) inches in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

“*Refuse*” shall be defined as all waste materials, solid, liquid, or semi-solid-produced by or from, used by, or resulting from industrial, agricultural, household, manufacturing, business, or community life such as but not limited to minerals, asphalt, rocks, concrete products, wood products, glass products, metal products, used furniture, household appliances, products or items, clothing, building material, motor vehicles, products and parts, tires, paper products, burnt materials, chemicals, paints, cleaning solutions and containers, stumps, plastics, solvents, petroleum products and materials and their containers defined as hazardous under sec. 289 WI Stats as amended, for which the owner no longer has a use and wishes to dispose of.

4.7.22 PROHIBITED CONDUCT

It shall be a violation of this ordinance for any person, firm or corporation to dispose of, dump, or bury garbage, yard waste or refuse, upon any road, right-of-way, or upon any public or private lands in the unincorporated areas of Portage County.

It shall be a violation of this ordinance for any person, firm or corporation to accept for, allow or permit, the dumping, burying or disposal, of, garbage, yard waste or refuse, upon any land owned by, operated or leased such person, corporation or firm in the unincorporated areas of Portage County. Such garbage, waste or refuse may only lawfully be disposed of, dumped or buried on or in lands designated and licensed by the State of Wisconsin as proper disposal sites.

It shall be a violation of this ordinance to cause or permit garbage, yard waste, or refuse to be placed in such a place or manner that the garbage, yard waste or refuse can be blown away by the wind, washed away by the water or conveyed to another property by some other natural process.

It shall be a violation of this ordinance to cause or to permit garbage, yard waste or refuse to fall from any vehicle onto the road or road right-of-way in the unincorporated area of Portage County.

4.7.23 PERMITTED ACTIONS FOR DISPOSAL

Garbage, waste or refuse may only lawfully be disposed of, dumped or buried on or in lands designated and licensed by the State of Wisconsin as proper disposal sites.

Dumping, burying, or disposal of un-bagged yard waste is permitted on private land if prior permission has been obtained from the landowner.

Dumping, burying, or disposal of garbage, yard waste or refuse is permitted on the landowner’s own private land , unless such material is defined as hazardous under sec. 289 WI Stats as amended.

4.7.24 PENALTIES AND ENFORCEMENT

Any person who violates this ordinance shall forfeit not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500), plus costs and assessments. The County make seek injunctive relief to enforce this ordinance. The Portage County Sheriff’s Department shall enforce the terms of this ordinance by

citation or, enforcement may be undertaken by the County in civil actions and by injunctive, equitable, or legal relief.

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Revised by Resolution No. 188-2010-2012 on 9-20-2011

4.8 RECYCLING

4.8.1 AUTHORITY

Enacted under the authority of sec. 287.11 and 287.13 Wis. Stats., as amended, this ordinance shall be enforced by the Portage County Sheriff's Department, the Solid Waste Administrator and the Solid Waste Manager.

4.8.2 MANDATORY SEPARATION OF RECYCYABLE MATERIALS

Pursuant to NR 544.06 (2)(a) of the Wis. Admin. Code, all persons in Portage County, including those listed below, are subject to the separation of recyclable materials provisions of this ordinance.

1. Occupants of single family residents located in Portage County, including seasonal residents;
2. Occupants of properties located in Portage County containing two (2) or more dwelling units; and
3. Occupants of non-residential facilities and properties located in Portage County.

All persons identified above shall separate and keep the following materials clean and free from contaminants, the following materials from their Solid Waste prior to placement for collection and shall arrange for delivery of these separated materials to a facility capable of handling the following recyclable materials.

1. newspapers or other material printed on newsprint
2. magazines or other material printed on similar paper
3. corrugated paper or other container board
4. office paper
5. glass containers
6. aluminum containers
7. steel containers
8. bi-metal containers
9. plastic containers
10. foam polystyrene packaging
11. waste oil
12. lead acid batteries
13. tires
14. major appliances
15. yard waste
16. oil or used oil filters
17. an electronic peripheral, as defined in s. 287.17(1)(j) also including; A facsimile machine., A digital video disc player, A digital video player that does not use a disc and that is not a camera, as defined in s. 287.17(1)(a), a video cassette recorder, a video recorder that does not use a cassette and that is not a camera, as defined in s. 287.17(1)(a), a covered electronic device, as defined in s. 287.17(1)(f), a

telephone with a video display, another kind of electronic device identified by the department under s. 287.17(10)(i) as amended.

The obligation to separate materials does not apply to Post Consumer Wastes, as noted in ss. 287 WI Stats as amended burned as a supplemental fuel at a facility, if less than 30% of the heat input is derived from the Post Consumer Waste, Materials which receive a variance from the Wisconsin DNR are also exempted from this requirement.

4.8.3 RESPONSIBILITIES OF OWNERS/DESIGNATED AGENTS OF MULTIPLE FAMILY DWELLINGS (5 or more units) AND NON-RESIDENTIAL FACILITIES

Pursuant to NR 544.06 (2)(b) of the Wisconsin Administrative Code, and this ordinance, all persons who own multiple family dwellings or non-residential public facilities in Portage County or their designated agents shall:

Treat Post Consumer Waste at a facility that will recover all materials banned from disposal in as pure a form as is technically feasible.

Perform all the following if Solid Waste is not sent to a facility that will separate out Recyclable Materials:

Provide adequate, easily accessible, separate containers to meet the recycling needs of their tenants, customers or occupants.

Regularly provide educational information to tenants, customers or occupants about recycling services available, reasons to recycle and the benefits of recycling.

Provide for the collection of Recyclable Materials separated from Solid Waste by the tenants, customers, or occupants of the facility and deliver these materials to a recycling facility.

Inspection Provisions.

The SWMB as the Responsible Unit, may annually audit, inspect, arrange to have audited or inspected, or may require a written recycling report from owners or representatives of commercial, industrial, governmental buildings, and multi-family dwellings to determine compliance with the provisions of this ordinance regarding recycling. The SWMB shall have inspection authority pursuant to ss. 66.122, 66.019 and 66.123 WI. Stats. as amended and this ordinance. Duly authorized building, fire or health inspectors may also conduct inspections under this ordinance.

Anti-Disposal/Anti-Burning Provisions

Persons in Portage County, pursuant to NR 544 of the Wis. Admin. Code, and this ordinance, shall not dispose in a Post Consumer Waste disposal facility or burn in a solid waste treatment facility, the following Recyclable Materials which have been separated for recycling:

newsprint

magazines

corrugated cardboard

office paper

glass containers

aluminum containers

steel containers

bi-metal cans

plastic #1 and #2 containers

foam polystyrene packaging

waste oil

lead acid batteries
major appliances
yard waste
oil or used oil filters

an electronic peripheral, as defined in s. 287.17(1)(j) also including: A facsimile machine., A digital video player, A digital video players that does not use a disc and that is not a camera, as defined in s. 287.17(1)(a), a video cassette recorder, a video recorder that does not use a cassette and that is not a camera, as defined in s. 287.17(1)(a), a covered electronic device, as defined in s. 287.17(1)(f), a telephone with a video display, another kind of electronic device identified by the department under s. 287.17(10)(i) as amended.

This provision does not apply to Post Consumer Wastes, including materials listed in ss. 289 WI Stats as amended, that are burned as supplemental fuel under ss. 289.07(7)(bg) WI Stats as amended or tires burned for energy recovery. This provision does not apply to Wisconsin DNR variance or exemption during the time of such variance or exception.

4.8.4 RECYCLABLE MATERIAL COLLECTION PROVISIONS

Any Collector who delivers recyclable materials to the MRF shall:

Refuse to collect certain recyclable materials in Portage County if: the recyclable materials are contaminated and/or hazardous; the recyclable materials are improperly separated; the recyclable materials are not to be collected by order of the SWMB.

Make available to his or her customers in Portage County, educational recycling material provided to the permitted Collector by the SWMB.

Notify the SWMB immediately of any occurrence of an illegal discharge or abandonment of Recyclable Materials, Post Consumer Waste, or hazardous waste in Portage County. Within forty-eight (48) hours of such occurrence, a written report setting forth the circumstances and quantity of the discharge or abandonment shall be submitted to the SWMB.

Display the name and address of the owner or operator and the DNR waste collection license number on both sides of the vehicle used for collection of Recyclable materials.

Transfer Recyclable Materials to collection vehicles without discharging litter and police the area for any discharged litter caused by such collection operation.

Collect Recyclable materials in a manner so as to keep them separated from general refuse and minimize the amount of glass breakage. Loads of recyclable materials containing glass shall not be compacted during collection and/or delivery.

Any Unacceptable Material delivered to the Portage County MRF shall be returned by the Collector of said materials to the person who placed the material, if known. If unknown, the Collector shall be responsible to properly dispose or otherwise care for the material or waste.

4.8.5 RECYCLABLE MATERIAL DELIVERY PROVISION

Users of the MRF shall not:

Deliver recyclable materials to the MRF if the recyclable materials are contaminated and/or hazardous; the recyclable materials are improperly separated; the recyclable materials are considered Unacceptable Material by the SWMB.

Users of the MRF shall:

Transport the recyclable materials in an enclosed or contained manner to prevent any materials from spilling onto roadways and police the area for any discharged litter caused by such transportation operation.

4.8.6 GENERAL PUBLIC PROVISIONS

All persons in Portage County are subject to the following provisions:

It is prohibited for anyone to scavenge or steal any recyclable Materials from another person. Prior to collection, the Recyclable Materials shall be the property of the owner or occupant of the property where the Recyclable Materials are deposited. Recyclable Materials deposited for collection within a Responsible Unit of Portage County shall be the property of the Portage County SWMB upon delivery to and acceptance at the MRF.

4.8.7 BURNING PROHIBITIONS

It is prohibited for any person to burn the following Recyclable Materials:

- aluminum containers
- corrugated paper or other container board
- foam polystyrene packaging
- glass containers
- magazines or other paper printed on similar paper
- newspaper or newsprint
- office paper
- plastic containers
- steel containers
- bi-metal beverage containers
- tires
- waste oil
- lead acid batteries
- major appliances
- oil or used oil filters

an electronic peripheral, as defined in s. 287.17(1)(j) also including: A facsimile machine., A digital video disc player, A digital video player that does not use a disc and that is not a camera, as defined in s. 287.17(1)(a), a video cassette recorder, a video recorder that does not use a cassette and that is not a camera, as defined in s. 287.17(a), a covered electronic device, as defined in s. 287.17(1)(f), a telephone with a video display, another kind of electronic device identified by the department under s. 287.17(10)(i) as amended.

4.8.8 VIOLATIONS AND PENALTIES

The Portage County Sheriff's Department, Solid Waste Administrator and Solid Waste Manager are authorized to enforce the provisions of this ordinance by issuing citations, as appropriate. Referrals for prosecution of violations shall be made to the Portage County Corporation Counsel.

Persons who violate the provisions of this ordinance shall be subject to: the forfeiture schedule cited below, as well as losing the privilege of using the County Transfer Facility and the MRF, and shall be responsible for any clean-up and/or environmental repair necessary as a result of the violation.

Any person who violates Sections 4.8.2, 4.8.3, 4.8.4, 4.8.5, 4.8.6, and 4.8.7 of this ordinance shall be required to forfeit not more than \$50 for a first violation, not more than \$200 for a second violation, and not more than \$2,000 for a third or subsequent violation plus costs and assessments. The County may also seek injunctive relief to enforce this ordinance.

4.8.9 RECYCLING GRANT

In the event any municipality signs or enters an agreement with the Solid Waste Board, designating the Board as the responsible unit for any recycling grant, the Board shall retain the entire grant where it provides the entire recycling service. The Board shall, however, divide the grant with the municipality, but shall do so only upon written verification that the municipality is an active user of the Portage County Transfer Facility or designated facility. Such verification may be presented as a municipal-wide contract for solid waste delivery to the Transfer Facility, documentation of a roll-off device and/or self-haul to the Transfer Facility (or designated facility) or similar document. Suggestions, or inferences that individual users have utilized the Portage County Transfer Facility from the affected municipality will not by definition, provide sufficient verification of municipal usage. Where the affected municipality cannot provide documentation to the extent that its usage (i.e. tonnage) of the Transfer Facility (or designated facility) provides sufficient revenues to offset its costs of recycling, the Board will deduct such uncovered recycling costs from recycling grant of the affected municipality.

4.8.10 NON-EXCLUSIVITY OF REMEDY

The penalties set forth in this ordinance shall be in addition to any other remedies in law or in equity which the County may have against any person.

Revised by Resolution No. 188-2010-2012 on 9-20-2011

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4.9 ANIMAL CONTROL

4.9.1 PURPOSE AND INTENT

The purpose of this ordinance is to promote health, safety and general welfare of animals and the people around them. Requiring animals be cared for in such a manner that they will not become a public nuisance, requiring animals be properly fed, sheltered and cared for, requiring the removal of animal defecation from public property and to ensure licensing and rabies vaccination of all dogs in Portage County.

4.9.2 STATE LAW ADOPTED

The provisions of Section 95.21 and Chapters 173 and 174, Wisconsin Statutes, exclusive of penalties, are adopted by reference and are made part of this Code, so far as applicable.

4.9.3 DEFINITIONS

(1) As used in this Ordinance, the following terms mean:

(a) "Animal" includes every:

1. Warm blooded creature, except a human being
2. Reptile
3. Amphibian
4. Fish

(b) *Animal At-Large*: An animal shall be deemed to be at large when off the property of the owner and not under restraint or control.

(c) *Animal Exhibition*: Any spectacle, display, act, or event, other than circuses and county fairs, in which animals are used.

(d) *Animal Shelter*: Any facility operated by a humane society, or Portage County, or its authorized agents, for the purpose of impounding and caring for animals held under the authority of this ordinance or state law.

(e) *Commercial Animal Establishment*: Means any pet shop, grooming shop, kennel, cattery, riding stable, or animal exhibition, and shall exclude any pound operated by municipality, humane society animal shelter, or veterinary facility. Notwithstanding the foregoing, the provisions of this ordinance shall be applicable to a veterinary facility if the same is engaged in any activities associated with a pet shop, grooming shop, kennel, or cattery.

(f) *Cruel*: means causing unnecessary or excessive pain or suffering or unjustifiable injury or death.

(g) *Confined*: Restriction of an animal at all times by the owner, or his agent, to an escape-proof building or other enclosure.

(h) *Domestic Animal*: Any animal which normally can be considered tame and kept by humans as a work animal, food source, or as a pet.

(i) *Dwelling Unit*: A building, or portion thereof, designed or used exclusively for residential purposes.

(j) *Exotic Domestic Animal*: Any animal which is not native to Wisconsin and may have been domesticated.

(k) *Farm Animal*: means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.

(L) *Grooming Shop*: A commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

(m) *Health Officer*: The Portage County Health Officer as defined in section 4.5.3 of this Code, or a duly designated representative.

(n) *Humane Officer*: A person appointed under section 173.03 of the Wisconsin Statutes and section 4.9.16 of this ordinance.

(o) *Isolation Facility*: Shall mean the municipal animal shelter or veterinarian clinic as approved by the Portage County Health and Human Services Department. Such isolation facility shall be equipped with a cage or pen which isolates the animal from other animals.

(p) *Kennel or Cattery*: Any premises wherein any person engages in the business of boarding, breeding (more than one litter per year), buying, letting for hire, or selling dogs/cats (buying or selling more than three adult dog/cats per year).

(q) *Law Enforcement Officer*: has the meaning assigned under section 165.85(2)(c) of the Wisconsin Statutes.

(r) *Pet Shop*: Any person, partnership, or corporation, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that buys, sells, or boards any species of animal, but does not include an animal shelter or veterinarian hospital (or clinic).

(s) *Owner*: includes any person who owns, harbors, or keeps, or controls an animal. Any animal shall be deemed harbored if it is fed or sheltered and if it is not a wild animal.

(t) *Render Sterile*: Refers to a surgical procedure that has been performed on an animal by a veterinarian that renders it incapable of siring or bearing offspring, includes spaying and neutering.

(u) *Restraint*: Any animal secured by a leash, lead, or under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.

(v) *Riding Stable*: Any place that has available for hire or riding any horse, pony, donkey, mule, or burro.

(w) *Veterinarian*: Has the meaning designated under section 453.02(7) of the Wisconsin Statutes.

(x) *Veterinarian Hospital (or Clinic)*: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

(y) *Vicious Animal*: Means any of the following:

1. Any animal with the propensity, tendency, or disposition to attack, cause injury, or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing, snapping, barking, or snarling in a threatening manner.

2. Any animal which has attacked a human being or another domestic animal without provocation.

3. Any animal owned or harbored primarily, or in part, for the purpose of animal fighting, or any animal trained for animal fighting.

(z) *Wild Animal*: Any live monkey or other non-human primate, raccoon, skunk, fox, wolf, wolf hybrid, poisonous snake or any snake exceeding three feet in length, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal, which is normally found in the wild state.

4.9.4 DOG LICENSE

(1) Requirement. The owner of a dog more than 5 months of age on January 1 of any year, or 5 months of age within the license year, shall annually, or on or before the date the dog becomes 5 months of age, pay the dog license tax and obtain a license.

(2) Tax. The dog license tax shall be \$6.00 for a neutered male dog or spayed female dog, upon presentation of evidence that the dog is neutered or spayed, and \$16.00 for an un-neutered male dog or un-spayed female dog. The county board may, by a majority vote of the members present at any regular meeting, raise the minimum dog license tax to cover the cost of animal control in the County. The presentation of a rabies certificate issued by a licensed veterinarian is necessary to receive a license.

(3) License Year. The license year commences on January 1 and ends on the following December 31.

(4) Late Fees. The collecting official shall assess and collect a late fee of \$5.00 from every owner of a dog five months of age or over, if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. All late fees received or collected shall be paid into the local treasury as revenue of the town, village or city in which the license was issued.

(5) Multiple Dog License Option: Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this chapter, apply to the collecting official for a multiple dog license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of \$50.00 for a kennel of 12 or fewer dogs and an additional \$6.00 for each dog in excess of 12. Upon payment of the required multiple dog license tax and upon presentation evidence that all dogs over 5 months of age are currently immunized against rabies, the collecting official shall issue the multiple dog license and a number of tags equal to the number of dogs authorized to be kept in the kennel. Late fees under section 4.9.4(4) are applicable to this section. This does not exempt the owner of any kennel fees and inspection under the Portage County Commercial Animal Establishment Section 4.9.14.

4.9.5 RABIES CONTROL PROGRAM

(1) Section 95.21 of the Wisconsin Statutes, is incorporated as though it were restated in its entirety.

(2) Failure to deliver animal to quarantine. Failure of the owner to deliver an animal to a veterinarian or place of quarantine, as ordered, within 25 hours, shall be grounds for a judge to issue an order authorizing the officer or responsible agency to seize said animal and make such delivery as intended at the owner's expense.

4.9.6 MISTREATING ANIMALS

No person may treat any animal, whether belonging to himself or another, in a cruel manner. This section does not prohibit bona fide experiments carried on for scientific research pursuant to section 174.13 of the Wisconsin Statutes, lawful actions of a law enforcement or humane officer, or normal and accepted veterinary practices.

4.9.7 TAKING ANIMALS WITHOUT OWNER'S CONSENT

No person may take an animal from one place to another without the owner's consent or cause such animal to be confined or carried out of this state or held for any purpose without the owner's consent, except when such animal is taken by a law enforcement or humane officer.

4.9.8 USE OF POISONOUS, INJURIOUS, AND CONTROLLED SUBSTANCES

No person may expose any animal owned by another to any known poisonous or injurious substance or controlled substance listed in section 951.06 of the Wisconsin Statutes, whether mixed with meat or other food or not, so that the substance is liable to be eaten by the animal and for the purpose of harming the animal. This section shall not apply to poison used on one's own premises and designed for the purpose of rodent or pest extermination nor to the use of controlled substance in bona fide experiments carried on for scientific research in accepted veterinary practices.

4.9.9 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS

No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with sufficient supply of food and water as prescribed in this section.

- (1) Food. The food shall be of sufficient quantity and nutritive value to maintain the animals in good health.
- (2) Water. If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the good health and well being of the animal.

4.9.10 PROVIDING PROPER SHELTER

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

- (1) Indoor standards. Minimum indoor standards of shelter shall include:
 - (a) Ambient temperatures which shall be compatible with the health of the animal.
 - (b) Ventilation for indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (2) Outdoor Standards. Minimum outdoor standards of shelter shall include:

- (a) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or confined, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight.
- (b) Shelter from inclement weather.
- (3) Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the good health and well being of the animal.
- (4) Dogs. If a dog is tied or confined unattended outdoors, a moisture-proof and wind-proof shelter of suitable size to accommodate the dog shall be provided.
- (5) Space requirements. Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (a) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (b) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (6) Sanitation standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt, and trash so as to minimize health hazards and odors.

4.9.11 ABANDONMENT

No person may abandon any animal.

- (1) Any law enforcement or humane officer may remove, shelter, and care for any animal found to be cruelly exposed to the weather, starved, or denied adequate water, neglected, abandoned, or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for, and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer or other person, having possession of the animal shall have a lien thereon for its care, keeping, and medical attention and the expense of notice.
- (2) If the owner or custodian is unknown and cannot with reasonable effort be ascertained or does not within five days after notice redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

4.9.12 ANIMAL NUISANCES

- (1) No person owning any animal shall allow the same to run at large within the County. The owner or keeper shall be liable for all damages done by such animal while so at large, although he escapes without the fault of such owner or keeper; and the construction of any fence shall not relieve such owner or keeper from liability.
- (2) No person who has custody of an animal shall permit such animal to defecate upon any property other than that of its owner, unless the owner immediately thereafter cleans up and removes such animal excreta from such property.

4.9.13 VICIOUS ANIMAL

- (1) Any animal, when unprovoked, bites, or otherwise injures any human being or other domestic animal, while on or off the owner's property, shall be deemed to be vicious and the owner of the animal shall be deemed to be in violation of this ordinance.

- (2) An animal which has been determined to be vicious by a law enforcement officer or humane officer shall not be allowed off the premises of its owner unless muzzled or on a leash, and under control of the owner or a member of the owner's immediate family that is 16 years of age or older.
- (3) An animal which has been determined to be vicious by a law enforcement officer or humane officer is subject to removal from the County as a nuisance using the abatement process provided for by law.
- (4) Upon such attack or assault, a law enforcement officer or humane officer is empowered to confiscate and destroy such vicious animal pursuant to the provisions of chapters 173 and 174 of the Wisconsin state statutes.
- (5) No animal may be declared "vicious" if:
 - (a) The injury or damage is sustained while the injured party is committing a trespass on the land of the owner of the animal, or criminal trespass upon a dwelling or other building located on the land of the owner of the animal.
 - (b) The injury or damage was sustained by a person who, at the time, was teasing, tormenting, or abusing the animal.
 - (c) The animal was defending a human being within the immediate vicinity from an attack or assault by another person or animal.

4.9.14 IMPOUNDMENT

Animals running at large may be taken by any law enforcement or humane officer, impounded in a temporary or permanent animal shelter, and confined in a humane manner.

- (1) An owner reclaiming an impounded animal shall:
 - (a) Pay the accrued impoundment fee, veterinary fees and any fees associated with the impoundment of the animal.
 - (b) Provide his or her name and address.
 - (c) Present evidence that the animal, if applicable, is licensed and if applicable, is vaccinated against rabies or provides a receipt from a licensed veterinarian for prepayment of a rabies inoculation.
 - (d) If such animal is not licensed, and required to be so licensed, the owner shall properly license the animal prior to its release. Obtaining a license under this subsection shall not be a bar to the issuance of a citation for owning an unlicensed animal.

4.9.15 COMMERCIAL ANIMAL ESTABLISHMENT

- (1) Any person who keeps or operates a commercial animal establishment shall annually, apply to the County Clerk for a permit for the keeping or operating of such commercial animal establishment, and shall pay a permit fee equal to the amount of a multiple dog license for the permit year as specified in 4.9.4(3) and 4.9.4(5). This section shall not apply in municipalities having their own commercial animal establishment licensing.
- (2) A permit may be issued upon the successful inspection by a humane officer. Before any permit may be issued the applicant must comply with any county, state, and federal requirements. No person who has been convicted of cruelty to animals within 20 years from date of application shall be issued a commercial animal establishment permit. If the applicant has withheld or falsified any information on the application, the County shall refuse to issue a permit.
- (3) The County may revoke any permit, after conducting a hearing, if the person holding the permit refuses or fails to comply with this ordinance, or any law governing the protection and keeping of animals.

- (4) Any person whose permit is revoked shall within ten days thereafter humanely dispose of all animals owned, kept, or harbored under this permit, and no part of the license or permit fee shall be refunded. A receipt from an animal shelter, veterinarian or other individual must be obtained as proof of proper disposal.
- (5) It shall be a condition of the issuance of any permit, that a humane officer or responsible agency shall be permitted to inspect all animals and the premises where the animals are kept at any time, and shall, if permission for such inspection is refused, cause the permit of the refusing owner to be revoked.
- (6) Each holder of a commercial animal establishment permit shall take reasonable care to release for sale, trade, or adoption only animals, which are free of disease, injuries, or abnormalities. Any law enforcement or humane officer may request an examination by a veterinarian. The following shall deem an animal unfit for sale or release:
- (a) Obvious signs of infectious diseases, to include distemper, hepatitis, leptospirosis, rabies or other similar diseases.
 - (b) Obvious signs of parasitism including but not limited to: mange, fleas, lice, ticks, ringworm.
 - (c) Obvious fractures or congenital abnormalities affecting general health of the animal.
- (7) All commercial animal establishments shall comply with the following standards:
- (a) All animals shall be displayed in a healthy condition, or if ill, removed from display and shall be given appropriate treatment immediately.
 - (b) All animals shall be quartered, and the quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.
 - (c) There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Litter and/or bedding material shall be changed as often as necessary for the health and well being of the animal. There shall be adequate ventilation to prevent an odor nuisance.
 - (d) Feces shall be removed from pens, perches, enclosures and cages as often as necessary to prevent unsanitary conditions and odor nuisance.
 - (e) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting and shall have secure latches in good repair. Each cage must be of sufficient size that the animal will have room to stand, turn and stretch out to its full length without touching the sides, or top of the enclosure or cage. Wire or wire mesh is an unacceptable surface for dogs or cats to be confined on.
 - (f) The floors and walls of any room in which animals are kept shall be covered with impervious, smooth, surfaces and shall be kept in a clean and sanitary condition.
 - (g) The premises shall be kept free of insect and rodent infestations. Food supplies shall be stored in rodent –proof containers.
 - (h) Water. There shall be hot water available for cleaning purposes. Fresh drinking water shall be available to all species at all times. All water containers shall be mounted so the animal cannot easily turn them over, and all water containers shall be removable for cleaning.
 - (i) Feeding. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over or defecate or urinate in the same, and shall be removable for cleaning.
 - (j) Fish. The water temperature shall be maintained at a temperature that is healthful to the species.
 - (k) Shade. Shade from the direct rays of the sun shall be provided for all animals.
 - (L) Birds. Each bird must have sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages must be cleaned every day and cages must be disinfected when birds are sold. Parrots and other large birds shall have separate cages from smaller birds.
 - (m) Record Keeping. Every permit holder shall make, keep and maintain systems of records or forms on animals acquired and disposed of as prescribed in this section. These records or forms shall be made available for inspection by any law enforcement officer or humane officer or any representative of the Portage County Health and Human Services Department. These records or forms must be maintained on the premises of such commercial animal establishment for immediate inspection.

(8) Acquisition and disposition of animal. Each permit holder shall maintain records which fully and correctly disclose a description of the animal, the name and address of the buyer or seller, whether paid for or not, and the date of acquisition and disposition.

4.9.16 ANIMAL CONTROL AGENCY

(1) Portage County may, if it deems advisable, contract with or enter into an agreement with such person, organization, or corporation to provide for the operation of a county animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impounded animals, and for assisting in the administration of rabies vaccination programs.

(2) Dogs and cats adopted from the county designated pound or animal shelter shall be spayed or neutered in accordance with the facilities policies.

4.9.17 ENFORCEMENT

(1) The Portage County Sheriff's Office and other persons authorized by the Portage County Sheriff's Office, to include humane officers appointed by the Sheriff, are authorized to catch and impound animals at large, with such authorization to include the pursuit of the animals upon non-animal owner private property.

(2) Under the authority of Chapter 173 of the Wisconsin Statutes, the Sheriff may appoint persons as humane officers who shall have the powers designated by that Chapter. The Sheriff may limit such authority of any or all designated humane officers at his or her discretion.

(3) The Sheriff or designee shall be specified as the official to conduct any hearing regarding abatement orders and vicious animal determinations, and shall be authorized to modify or withdraw vicious animal determinations and abatement orders issued under Section 173.11 of the Wisconsin Statutes by law enforcement officers and appointed humane officers.

(4) Appointed humane officers and law enforcement officers are authorized to issue citations under Chapter 5 of this Code for violations of any ordinances relating to animals.

(5) It shall be a violation of this ordinance to interfere with any law enforcement officer, humane officer or health officer in the performance of their duties under this Code.

4.9.18 PENALTIES

(1) Any person violating the provisions of this ordinance, shall be punished by the following forfeiture: \$25.00 for the first violation, \$50.00 for the second violation, \$75.00 for the third violation and \$100.00 for a fourth or subsequent violation, together with court costs. If any violation be continuing, each day's violation shall be deemed a separate offense.

(2) Notwithstanding the penalties listed above, if a dog injures or causes injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds, the owner shall forfeit not less than \$50, nor more than \$200. However, if the owner was notified or knew that the dog previously injured or caused injury to a person, domestic animal, property, deer, game birds, or the nests or eggs of game birds, or an animal had been declared a vicious animal due to a specific incident, the owner shall forfeit not less than \$200, nor more than \$1000.

(3) The penalties in this ordinance are in addition to any other liability imposed on the owner of a dog or other animal.

Updated 1-17-06 by Resolution No. 169-2004-2006
Updated 3-18-14 by Resolution No. 272-2012-2014
Updated 11-12-2014 by Resolution No. 62-2014-2016
Updated 7-18-2017 by Resolution No. 151-2016-2018

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