



HEALTH DEPARTMENT

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The Honorable Dan Devine and
Members of the Common Council
West Allis City Hall
West Allis, Wisconsin

RE: Resolution R-2011-0122

Dear Mayor Devine and Common Council Members:

In response to your request the West Allis Health Department has analyzed the differences between City of West Allis ordinances and State law as pertains to public health.

The Environmental Health Division of the West Allis Health Department (WAHD) enforces Chapter 7 (Health and Sanitation) and Chapter 8 (Weights and Measures) of the Revised Municipal Code of the City of West Allis (RMC), along with a few select sections of other chapters.

The chapters reviewed relate only to the codes that pertain to businesses in the City. This review does not address codes directed toward residences. For example, the code requirement (7.123) for residents that own more than two dogs to obtain an Animal Fancier permit pertains only to individuals and not businesses. Sections such as 7.123 have no "state equivalent" and are specifically in place for the health and safety of city residents.

Below are the sections that were reviewed for differences from state law, as outlined by the May 3, 2011 Common Council Resolution.

Section 7.035 Noise and Vibration

This section of the ordinance does affect businesses, however there is no "state equivalent" law in place. The regulation is in place to assure that businesses do not emit excessive noise and vibration into the community.

While there are no comparable state laws relating to noise and vibration, a recent survey of similar sized communities in Wisconsin found most to have similar rules. The enforcement levels for noise were found to be in a similar range as other local ordinances,

keeping in mind that each municipality has set different action levels. Vibration levels were difficult to compare as the current section of the West Allis RMC uses “displacement” and current protocol call for measurement in “particle acceleration”.

The Environmental Health division is planning to further evaluate section 7.035 to determine if an update is warranted.

Historically, businesses have successfully asked for and received a variance permit, waiving compliance with this section (i.e. Unit Drop Forge).

Section 7.04 Food Establishments

Per Wisconsin Statute the WAHD acts as agents for the State of Wisconsin regarding food establishment licensure and inspection. West Allis’s agreements with the Wisconsin Department of Health Services (DHS) and the Department of Agriculture, Trade and Consumer Protection (DATCP), empowers the WAHD to regulate all restaurants, taverns, grocery stores and retail food establishments in the City of West Allis (and West Milwaukee). Wisconsin Administrative Code, Chapters DATCP 75-Retail Food Establishments and DHS 196-Restaurants, outline the rules enforced by the WAHD. Both of these chapters adopt the Wisconsin Food Code. This is the “rulebook” which guides all inspections. Wisconsin adopted the Food Code in 2003 and it is currently in use by 48 of 50 states in the U.S. The Wisconsin Food Code is modeled after the FDA Food Code.

In addition, the WAHD has one Environmentalist that participated in a formal “standardization” process. This consisted of a 3-day evaluation and field exercise with a state evaluator. The West Allis Environmentalist, in turn conducted field exercises with the other two inspectors. The standardization program is designed to increase uniformity of inspections and interpretation of rules throughout Wisconsin.

In summary, there are no differences in West Allis ordinance when compared to state law.

The agent agreement with DHS also applies to the regulation of swimming pools, tattoo and body piercing establishments, hotels/motels and vending machines.

Section 7.135 Public Pools

The WAHD inspects and licenses public swimming pools for safety and water quality. The RMC adopts Wisconsin Administrative Code chapters COMM 90 (Design of Swimming Pools) and HFS 172 (Swimming Pools). **There are no differences between West Allis ordinance and state law.**

Section 9.30 Tattoo and Body Piercing Establishments

In 1998, the city of West Allis instituted an ordinance regulating Tattoo and Body Piercing Establishments. The RMC adopts Wisconsin State Statute ch. 252 and Administrative Code ch. 173.

Originally, the ordinance included a 24-hour waiting period for patrons requesting a tattoo. That provision was rescinded in 2002, to align with state law.

There are two differences between state law and local ordinance:

1. West Allis requires tattoo and body piercing practitioners to wear a plastic disposable apron when working on patrons. This is not a requirement in state law. This provision is in place to prevent practitioners' clothing from being contaminated and harboring pathogens.
2. West Allis requires proof of comprehensive general liability insurance for any tattoo/body piercing establishment license holder. This provision was added to protect both the operator and the patron in the event of a serious complication caused by a tattoo or piercing.

Section 7.145 Hotels, Motels, Tourist Rooming Houses and Bed & Breakfast Establishments

West Allis ordinance adopts Wisconsin Administrative Code HFS 195-Hotels, Motels and Tourist Rooming Houses. **There is no difference between West Allis ordinance and state law.**

Vending of Food

Food vending machines are inspected under DHS agent agreement. **There is no local ordinance governing vending machines.**

Chapter 8 Weights and Measures

West Allis RMC Chapter 8 governs Weights & Measures, licensing and inspection. Chapter 8 adopts Wisconsin statute ch. 98 by reference. **There is no difference between local ordinance and state laws as they relate to weights and measures.**

Sincerely,



Sally Nusslock
Acting Health Commissioner