

CHAPTER 10

SANITARY CODE

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10.01 LOCAL BOARD OF HEALTH. (Ord. 1760)

(1) The North Shore Health Department or its designee shall provide public health services for the Village of Whitefish Bay pursuant to an intergovernmental agreement between the Village of Whitefish Bay and other North Shore municipalities and shall be and constitute the Health Department, Local Health Department, and Health Officer for all purposes under this Chapter 10 and the Municipal Code generally.

(2) Board of Health.

A. **Creation.** The North Shore Health Department Board of Health shall be the Board of Health for the Village of Whitefish Bay.

B. **Composition.**

(1) The Board of Health shall consist of one representative from the Villages of Bayside, Brown Deer, Fox Point, River Hills, Shorewood and Whitefish Bay and the City of Glendale; the Medical Officer shall be a member of the North Shore Health Department Board (“Board”) and those members shall appoint on a rotating basis from the participating municipalities one community representative for a two year term. Except for the Medical Officer and the community representative appointed by the members, appointments to the Board of Health shall be made by the village president or mayor of each participating community and shall serve as that community’s representative to the North Shore Health Department Board of Health, subject to confirmation by each municipality’s governing body. The health officer to the North Shore Health Department shall be staff representatives to the Board.

(2) Each person appointed to represent a municipality shall have demonstrated interest or competence in the field of public health or community health. Appointments made to the Board shall consist of no more than nine members, and at least three of these members shall be persons who are not elected officials or employees of the governing bodies. A good faith effort shall be made to appoint a registered nurse and a physician. The Board of Health should reflect the diversity of constituents served.

C. **Term of office.** Each participating municipality’s representative shall be appointed annually in conformance with the municipality’s practice for appointing any Board members, subject to confirmation by each municipality’s governing body.

D. **Selection of officers.** The Board shall annually elect a chair and clerk at its first meeting of each calendar year. The director of the North Shore Health Department or his designee shall record minutes for Board meetings.

E. **Meetings.** All meetings of the North Shore Health Department Board of Health shall be properly posted and notice given in accordance with state open meeting law. Meetings shall be held at least quarterly. The Board may meet more often, on an as-needed basis, at the call of the chair, so long as the meeting is properly posted and notice given in accordance with Wis. Stats. § 19.84.

F. **Jurisdiction and duties.**

(1) The Board shall govern the North Shore Health Department and ensure the enforcement of state public health statutes and public health rules of the department, subject to the "Agreement for Public Health Services, North Shore Health Department" and applicable ordinances of each participating municipality.

(2) Specifically, the Board shall:

(a) Assist in determining public health needs and advocate for the provision of reasonable and necessary public health services.

(b) Develop policy and provide leadership that fosters local involvement and commitment, that emphasizes public health needs and that advocates equitable distribution of public health resources and complementary private activities commensurate with public health needs.

(c) Ensure conformance with the "Agreement for Public Health Services, North Shore Health Department."

(d) Assure that measures are taken to provide an environment in which individuals can be healthy.

(e) Assure that the North Shore Health Department is a Level II or III health department, as specified in Wis. Stats. § 251.04(1) and (2).

10.02 HEALTH OFFICER; DUTIES AND POWERS.

(1) General Duties:

The Village Health officer under the supervision of the district State Health Officer shall:

(a) Make an annual sanitary survey and maintain continuous sanitary supervision over his territory.

(b) Make periodic sanitary inspection at least every four months of all school buildings, restaurants, dairies, grocery stores, meat markets

and places of public assemblage and report thereon to those responsible for the maintenance thereof.

- (c) Promote the spread of information as to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.
- (d) Enforce the health laws, rules and regulations of the State Board of Health, the State and the Village, including the laws relating to contagious diseases contained in Chapter 143, Wisconsin Statutes.
- (e) Take steps necessary to secure prompt and full reports by physicians of communicable diseases and prompt and full registration of births and deaths.
- (f) Keep and deliver to his successor a record of all his official acts.
- (g) Make an annual report to the State Board of Health and to the Village Board and such other reports as they may request.

(3) Materials and Supplies:

The Health officer shall have the authority to procure at the expense of the Village all record books, quarantine cards and other materials needed by the Board of Health, except such as are furnished by the State Board of Health.

10.03 RUBBISH AND FILTH ON PUBLIC OR PRIVATE GROUNDS.

It shall be unlawful to place, leave, deposit, throw, keep or maintain any slops, dirt, manure, vegetation, grass cuttings, rubbish, ashes, garbage, cans, bottles, refuse of any kind, any substance or liquid of offensive smell or otherwise nauseous or unwholesome, any material of any kind that is likely to become a breeding place or development place for flies or fly larvae or cause of sickness, in or upon any public or private parcel of land within this Village, unless the same shall be securely enclosed and safely covered in a water-tight metal box or vessel with a water-tight cover securely attached thereto; it shall also be unlawful to maintain in any such place any loosely piled material which is likely to become a breeding place for flies or rats.

10.04 GARBAGE AND REFUSE COLLECTION.

This section shall govern and apply to the collection of solid waste, domestic and commercial, by the Village Department of Public Works. It shall be unlawful for any person to bring solid waste into the Village for the purpose of collection by the Whitefish Bay Department of Public Works, which was not generated from use in a Village dwelling unit, nor on a business or other premises within the Village. (Ord. 1303)

(1) Definitions:

- (a) Solid Waste. Solid Waste is Domestic Waste and Commercial Waste resulting from domestic and commercial use and activities, excluding toxic waste, hazardous material (as defined in Section 10.13 (7), hazardous waste or hazardous substances (as otherwise defined under state and federal law), construction or demolition waste, and green grass clippings.
- (b) Domestic Waste. Domestic Waste is solid waste material resulting from the usual routine of residential housekeeping and includes garbage, rubbish, newsprint, yard waste, brush and leaves. Residential housekeeping shall include single-family dwellings, duplexes, three-family dwellings and condominiums. A parsonage or rectory shall be deemed residential when it falls within one of the above classifications.
- (c) Commercial Waste. Commercial Waste is solid waste material resulting from the operation of a business, stores, school, church, club, lodge, apartment and multi-family dwelling of four units or more, and similar enterprises, and includes garbage, rubbish and other solid materials incidental thereto.
- (d) Garbage. Garbage is all waste, animal, fish, fowl or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption.
- (e) Rubbish. Rubbish is the miscellaneous waste material, combustible and noncombustible, resulting from housekeeping and ordinary mercantile enterprises, and includes boxes, cartons, excelsior, paper (excluding newsprint), ashes, cinders, tin cans, bottles and broken glass, metals and rubber.
- (f) Newsprint. Newsprint shall mean a common and inexpensive machine finished paper made chiefly from wood pulp and used for newspapers.
- (g) Construction or Demolition Waste. Construction or Demolition Waste is waste resulting from building construction, alteration or repair, and dirt from excavation, or from plumbing, heating or similar alterations or replacements.

- (h) Department. The Department of Public Works.
 - (i) Brush. Branches from trees and bushes less than four inches in diameter.
 - (j) Parkway. The area immediately adjacent to the street pavement usually between the public sidewalk and street curb.
 - (k) Green Grass Clippings. Green grass clippings are grass clippings resulting from mowing lawns.
 - (l) Yard Waste. Yard waste shall mean all lawn and garden waste (including garden plants and thatch), but not including green grass clippings, leaves or brush.
- (2) Separation and Storage.
- (a) Domestic Waste. Domestic Waste materials, unless specifically excluded herein, shall be collected by the Department if separated as to (1) Garbage and rubbish not requiring further separation indicated herein; (2) Newsprint; (3) Yard waste; (4) Brush; and (5) Leaves, providing that such materials are placed or stored as required herein. Garbage shall be drained of all free liquid and wrapped in plastic of several thicknesses of paper and placed in an approved container. The Department may refuse to collect undrained garbage of a liquid or semi-liquid nature or unwrapped or improperly placed garbage.
 - (b) Commercial Waste. Commercial Waste shall not be collected by the Department.
 - (c) Placement. Garbage and rubbish shall be placed in an approved container. Yard Waste shall be placed in containers not exceeding 30 gallons in capacity and placed on the parkway. Brush shall be placed in neat piles on the parkway. Leaves may be stored on the parkway or in the gutter from September 15th until November 15th of each year; after November 15th, on the parkway only. Yard Waste and leaves may not be placed in plastic bags.
 - (d) Small Dead Animals. Small dead animals shall be collected by the Department upon notification.
 - (e) Construction or Demolition Waste. No owner, lessee, managing agent or contractor shall permit or suffer an accumulation of Construction or Demolition Waste to remain upon any premises, street, alley or public ground. Each person shall be responsible for the proper removal of such waste as provided in subsection (4)(c).
 - (f) Newsprint. Newsprint shall be separated from other Domestic

Waste. It shall be tied or packaged in bundles, not exceeding 50 pounds and placed for collection adjacent to but not in approved containers for other refuse. When so placed, it shall be presumed that it is left for collection by the Department and it is the property of the Village and shall not be collected by others. Containers used for regular weekly Domestic Waste collection which hold clean Newsprint will not be serviced until the until the clean Newsprint has been removed therefrom unless the Newsprint therein has been used to wrap other garbage or rubbish. A notice shall be affixed by the Department crews to such containers holding clean Newsprint and other refuse, which notice shall note the violation of the regulation requiring separation of Newsprint from other refuse

(g) Storage of Certain Materials in Front Yards or on Parkway Prohibited.

It shall be unlawful to place, store, or keep any domestic waste, commercial waste, or recyclable, whether in containers or not, in any front yard (as defined in the Zoning Code) or on any parkway prior to 8:00 p.m. on the day before collection by the Village. All containers shall be removed from the parkway and front yard by 8:00 p.m. on collection day. This subsection does not apply to leaves which may be stored in the parkway until collected, and to brush which may be placed in neat piles in the parkway until collected. (Ord. 1671)

(3) Containers and Collection.

Sufficient containers as herein defined shall be provided, kept clean and properly located as follows:

- (a) Containers. Every householder or occupant of any residential building shall provide approved containers sufficient in number to receive at least 10 days accumulation of garbage and rubbish, and of the following description: metal or plastic construction, water tight, it capacity not exceeding thirty gallons, and no single container shall weigh more than sixty pounds when filled. All containers shall have at least two handles and a tight fitting cover which shall be kept in place on such containers at all times.
- (b) Collection. Domestic Waste, Yard Waste, and Newsprint shall be collected weekly on the day scheduled for that household, except when a holiday or severe weather occurs in a given week, in which instance collection will be delayed by a like period of time. Domestic Waste will not be collected from a dwelling, a breezeway, or a storage shed.
- (c) Location of Containers. Waste containers, except as noted herein, shall be located upon private property and not upon any street, alley or public grounds. If a property abuts upon an alley, such receptacle shall be located immediately adjacent thereto; if a property does not abut upon any alley, portable containers shall be

placed as directed by the Department for expeditious year around collection from the street; provided that no such container shall be located contrary to an order of the Health Officer.

- (d) Green Grass Clippings. Green grass clippings will not be collected. Residents shall either leave green grass clippings on the lawn or compost them in accordance with Section 10.14.
- (e) Removed Tree Disposal. Logs, branches, trunks and stumps removed trees will be collected as specified in 10.04 (4)(c) 1 Special Services.
- (f) Village Board May Make Rules Regarding Same. The Village Board is hereby authorized to make such reasonable rules and regulations for the administration of this section, including charges for extraordinary and unusual services as they may deem necessary and proper, provided, no such regulations contravene the specific provisions of this section.

(4) Collection Charges.

As provided herein certain waste materials shall be collected by the Department without charge, others shall be collected at a charge established by the Department for such services. Such charges shall be reasonable ones based upon the cost of labor and equipment use.

- (a) Domestic Waste. Domestic Waste shall be collected by the Department without charge.

(b) repealed-Ord. 1354

(c) Special Services.

(1) Whenever any person desires the removal of Domestic Waste, which are not removed in the course of regular service the following criteria for a Special Pickup apply:

- a. Anything over two (2) garbage cans and eight (8) bags or three (3) very large cans and four (4) bags.
- b. Anything over three (3) garbage cans with several additional containers of debris/construction materials.
- c. Anything over three (3) garbage cans with several pieces of furniture/mattresses.
- d. Yard Waste/Chipping – A pile of logs, or branches stacked 5' or higher along the entire property line, 12 or more bags of yard waste or uncontained soil/sand, rocks or concrete.

(2) Special pickup minimum charge is \$45.00. Additional fees

may be imposed at the discretion of the Department of Public Works if the amount of domestic waste exceeds the criteria listed above. Additional charges will be based on the hourly rate for the personnel, including fringe benefits and equipment used and disposal fees.

(3) Domestic Waste to be picked up by the Village must be removed by the resident from the dwelling to an outside place readily accessible to the Department of Public Works. No Domestic Waste will be removed by the Village of Whitefish Bay personnel from inside a dwelling.

(4) Green grass clippings will not be collected under the provisions of this subsection.

(d) Removal of Construction Waste. No Village employee shall remove any construction waste from private property unless the owner of such property shall first have followed the procedure provided in subsection (4)(c).

(e) Collection Condition. The collection of all municipal wastes is conditioned upon the observance of all provisions of this ordinance.

(5) Transportation of Wastes.

Transportation and collection of wastes by persons other than employees of the Department shall be strictly in compliance with this subsection.

(a) Transportation. The transportation of all wastes through and upon the street, alleys, and thoroughfares of the village shall be conducted in such manner as to comply with section 7.02 of this code.

(b) Vehicles. No person shall carry or transport any material of any kind whatsoever in any vehicle unless the same be of such construction and so operated that the contents shall not fall therefrom nor spill upon the public streets or alleys.

(c) Removing Obnoxious Substances. No person shall remove or cause to be removed, carried or conveyed any noxious or offensive substances in upon or over any of the public streets or alleys in the Village of Whitefish Bay between the hours of 7:00 a.m. and 8:00 p.m. in the months of May, June, July, August, September or October unless vehicles for removing said noxious or offensive substances are water tight and covered, if so required by rules of the Health Officer.

(6) Duty to Enforce.

It shall be the duty of every police officer, health department officer and supervisory employee of the department to enforce all provisions of this section, and upon

observing any violation hereof to take appropriate steps to ensure compliance herewith.

10.045 **RECYCLING** (ORD. #1531)

(1) Purpose.

The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in s. 159.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.

(2) Definitions. For the purposes of this ordinance:

(1) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(2) "Container Board" means corrugated paperboard used in the manufacture of shipping containers and related products.

(3) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

(a) Is designed for serving food or beverages.

(b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

(c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(4) "HDPE" means high density polyethylene, labeled by the SPI Code #2.

(5) "LDPE" means low density polyethylene, labeled by the SPI Code #4.

(6) "Magazines" means magazines and other materials printed on similar paper.

(7) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

(8) "Multiple-family dwelling" means a property containing 4 or more residential units, including those which are occupied seasonally.

(9) "Newspaper" means a newspaper and other materials printed on newsprint.

(10) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.

generally accepted as high grade. This term does not include industrial

process waste.

(12) "Other resins or multiple resins" means plastic resins labeled by the SPI Code #7.

(13) "Person" includes any individual, corporation, partnership, association, local governmental unit, as defined in s. 66.299 (l) (a), Wis. Stats, state agency or authority or federal agency.

(14) "PETE" means polyethylene terephthalate, labeled by the SPI Code #1.

(15) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

(16) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in s. 144.61 (5), Wis. Stats., waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in s. 144.44 (7)(a)1., Wis. Stats.

(17) "PP" means polypropylene, labeled by the SPI Code #5.

(18) "PS" means polystyrene, labeled by the SPI Code #6.

(19) "PVC" means polyvinyl chloride, labeled by the SPI Code #3.

(20) "Recyclable materials" includes lead acid batteries, major appliances; waste oil, yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers; including those made of PETE and HDPE; steel containers; waste tires; and bi-metal containers.

(21) "Solid waste" has the meaning specified in s. 144.01 (15), Wis. Stats.

(22) "Solid waste facility" has the meaning specified in s. 144.53 (5). Wis. Stats.

(23) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

(24) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(25) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than 4 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(3) Separation of Recyclable Materials.

Occupants of Single-family and 2 to 4-unit residences, multiple-family dwellings and non-residential facilities and property shall separate the following materials from postconsumer waste:

- (1) Lead acid batteries
- (2) Major appliances
- (3) Waste oil
- (4) Yard waste
- (5) Aluminum containers
- (6) Bi-metal containers
- (7) Corrugated paper or other container board
- (8) Foam polystyrene packaging
- (9) Glass containers
- (10) Magazines
- (11) Newspaper
- (12) Office paper
- (13) Rigid plastic containers made of PETE and HDPE
- (14) Steel containers
- (15) Waste tires

(4) Separation Requirements Exempted.

The separation requirements of subsection (3) do not apply to the following:

- (1) Occupants of single-family and 2 and 3-unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in subsection (3) from solid waste in as pure a form as is technically feasible.
- (2) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (3) A recyclable material specified in subsection (3), [(5) through (15)] for which a variance has been granted by the Department of Natural Resources under s. 159.11 (2m), Wis. Stats., or s. NR 544.14, Wis. Administrative Code.

5. Care of Separated Recyclable Materials.

To the greatest extent practicable, the recyclable materials separated in accordance with subsection (3) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

6. Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.

Occupants of single-family and 2 to and 3-unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil and yard waste as follows:

- (1) Lead acid batteries shall be taken to any area retail business that sells such batteries.
- (2) Major appliances shall be collected by the Village at a special fee.
- (3) Waste oil shall be disposed of at any local service station or at the Village Garage during regular business hours.
- (4) Yard waste shall be disposed of as provided in s. 10.04 (2)(c).
- (5) Brush shall be disposed of as provided in s. 10.04 (2)(c).

7. Preparation and Collection of Recyclable Materials.

Except as otherwise directed by the Village Board of Trustees, occupants of dwellings of less than 4 units shall do the following for the preparation and collection of the separated materials specified in subsection (3), [(5) through (15)]:

- (1) Aluminum, bi-metal and steel containers shall be rinsed free of product residue and debris, and placed in the designated portion of the approved recycling cart.
- (2) Glass containers shall be rinsed free of product residue, and caps shall be removed and discarded. The containers shall be placed in the designated portion of the approved recycling cart.
- (3) Plastic containers made of PETE and HDPE shall be rinsed free of product residue and caps shall be removed and discarded. The containers shall be placed in the designated portion of the approved recycling cart.
- (4) Newspapers, magazines, catalogs, and phone books shall be placed in the designated portion of the approved recycling cart.
- (5) Corrugated paper and other container board shall be free of debris, flattened, stacked, and placed in the designated container at the recycling drop-off center.
- (6) Office paper shall be recycled at the place at which the paper is generated or shall be placed in the designated container at the recycling drop-off center.
- (7) Waste tires shall be taken to area retail businesses which sell tires or taken directly to a tire reclamation facility.

8. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

(l) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in subsection (3), [(5) through (15)]:

(a) Provide adequate, separate containers for recyclable materials.

(b) Notify tenants in writing at the time of renting or leasing the dwelling, and at least semi-annually thereafter, about the established recycling program.

(c) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

(d) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in (l) do not apply to the owners or designated agents of multiple-family dwellings if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in subsection (3), [(5) through (15)] from solid waste in as pure a form as is technically feasible.

(9) Responsibilities of Owners or Designated Agents of Non-Residential Facilities and Properties.

(l) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in subsection (3), [(5) through (15)]:

(a) Provide adequate, separate containers for the recyclable materials.

(b) Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

(c) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

(d) Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in

order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in subsection (3), [(5) through (15)] from solid waste in as pure a form as is technically feasible.

(10) Prohibitions on Disposal of Recyclable Materials Separated for Recycling.

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in subsection (3), [(5) through (15)] which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(11) Statutory Authority.

This ordinance is adopted as authorized under s. 159.09 (3)(b), Wis. Stats.

(12) Abrogation and Greater Restrictions.

It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

(13) Interpretation.

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

(14) Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(15) Applicability.

The requirements of this ordinance apply to all persons within the Village of Whitefish Bay.

(16) Administration.

The provisions of this ordinance shall be administered by the Village Engineer.

(17) Enforcement.

(1) For the purpose of ascertaining compliance with the provisions of this ordinance, any authorized officer, employee or representative of the Village of Whitefish Bay may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Village of Whitefish Bay who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(2) Any person who violates a provision of this ordinance may be issued a citation by the Village of Whitefish Bay to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(3) Penalties for violating this ordinance may be assessed as follows:

(a) Any person who violates subsection (10) may be required to forfeit \$50 for a first violation, \$200 for a second violation, and no more than \$2,000 for a third or subsequent violation.

(b) Any person who violates a provision of this ordinance, except subsection (10), may be required to forfeit not less than \$10 nor more than \$1,000 for each violation.

(18) Effective Date.

The provisions of this section shall take effect on January 1, 1995.

10.06 SALE OR POSSESSION OF UNINSPECTED MEAT, UNLAWFUL.

(1) No person shall sell, have, keep or expose for sale for human consumption, or have in possession the flesh or meat food products of any cattle, calves, sheep, swine, horses or goats unless the same shall have been slaughtered or prepared under the

supervision of the United States government inspector in accordance with the regulations regulating the inspection of meat prescribed by the department of agriculture of the United States, or in lieu of a United States inspector, under the supervision of an inspector of the health department of the City of Milwaukee, in accordance with the provisions of section 70-1 to 70-24, both inclusive, of the City of Milwaukee code of ordinances.

(2) No person shall sell, have, keep or expose for sale or have in possession the flesh or meat products of any such domestic animals, unless there has been placed on each primal part, package or container thereof by and under the personal supervision of an inspector of the United States or of the City of Milwaukee, a mark, stamp or brand showing that the same has been inspected and passed for food purposes by the United States department of agriculture or showing that the same has been inspected and passed for food purposes by the City of Milwaukee. Said stamp, when used by said City of Milwaukee, shall state the words "inspected and passed, Milwaukee Health Department", together with the number of the inspector stamped thereon by whom the same is inspected.

10.07 NEGLECT OF PLACES FOR SERVING FOOD.

(1) No person shall construct, maintain or operate any store or booth for the sale of any food or drink for immediate human consumption, except in compliance with the following provisions,

- (a) Such structure must be constructed in accordance with all provisions of the village ordinances and the Laws of Wisconsin.
- (b) If any part thereof is located within seventy-five feet of any gasoline filling station or any automobile greasing station, it must be entirely constructed of fireproof materials.
- (c) Such structure must be provided with suitable sink equipment, with hot and cold running water.
- (d) Such structure must be provided with suitable lavatory and toilet room, connected in a proper manner with the village sewer and water systems.
- (e) All plumbing in such structure must be installed and maintained in accordance with the state laws and village ordinances.
- (f) All toilets must have adequate artificial illumination.
- (g) The kitchen or place in such structure where food or drink is prepared must be properly lighted and ventilated.
- (h) All doors, windows and other openings in such structure must be properly screened.

- (i) A suitable dressing room must be provided for all employees, entirely separate from the kitchen or other place where food or drink is prepared, and each employe must be supplied with individual soap and towels.
- (j) Such structure must provide adequate space within said structure to accommodate all purchasers of food or drink at said structure for immediate consumption.

(2) No person shall construct, maintain or operate any store or booth for the sale of any food or drink for consumption off the premises, except in compliance with paragraphs (a), (d), (e), (f), (g) and (h) of subsection (1) of this section.

(3) The owner or occupant of any structure mentioned in subsections (1) or (2) or any employe of such owner or occupant shall not solicit the sale of such food or drink or make delivery thereof upon any public street in this village.

10.08 DOGS AND CATS EXCLUDED FROM CERTAIN PLACES.

No person shall take into or permit any dog or cat in any store, market or restaurant where food for human consumption is kept and offered for sale, either for consumption on or off the premises.

10.09 HEATING OF BUILDINGS.

Every owner, agent, manager of lessee of any apartment house, flat or other building whatsoever who leases, rents or lets such apartment house, flat or other building as living quarters or as a business establishment where one or more persons are employed, on terms either expressed or implied to furnish heat to the occupants thereof, shall and is hereby directed to maintain a minimum temperature of seventy degrees Fahrenheit at all such times as stipulated in this section; provided, however, that the provisions of this section shall not apply to buildings or portions thereof used and occupied for trades, businesses or occupations where high or low temperatures are essential. For the purpose of this section, wherever a building is heated by means of a furnace, boiler or apparatus under the control of the owner, agent, manager or lessee of such building, such owner, agent, manager or lessee in the absence of a contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself or herself to furnish heat in accordance with provisions of this section.

The term "at all such times" as used in this section, unless otherwise provided by a contract or agreement, shall include the time between the hours of 6:30 a.m. and 10:00 p.m. in a building or portion thereof occupied as a home or place of residence and during the usual working hours maintained and established in a building or portion thereof, occupied as a business establishment each day, whenever the outer temperature shall fall below fifty degrees Fahrenheit. The term "contract" as used in this section shall be taken to mean and include a written contract, lease or letting, and the presence of heating outlets, radiators, risers or returns in any hall or apartment or subdivision of a

house shall be prima facie evidence of an implied contract. It shall be the duty of the department of health to investigate any and all complaints that the terms of the provisions within this section have been or are being violated.

10.10 HEATING OF SCHOOL ROOMS.

The owner, board of directors, school board, principal, teachers, janitor or other person in charge of any room used for school purposes shall maintain a minimum temperature in every room used for school purposes, except a gymnasium or a Sunday School, of seventy degrees Fahrenheit whenever the outdoor temperature shall fall below fifty degrees Fahrenheit at all times while such room is used for the purpose of giving instruction, except as hereinafter provided. The minimum temperature of every such room shall be not less than sixty degrees Fahrenheit at 8:00 a.m. and shall not be less than seventy degrees Fahrenheit between the hour of 10:00 a.m. until school is dismissed for the day. In the event that the temperature cannot be maintained at the minimum temperature above provided for, said room shall not be used for school purposes.

10.11 SMOKING AND SPITTING IN PUBLIC PLACES.

(1) No person shall smoke in any vehicle used as a common carrier for the transportation of passengers for hire.

(2) Every person having control of any vehicle used as a common carrier for the transportation of passengers for hire, shall display in a conspicuous place on every such vehicle in the Village a sign or placard reading "NO SMOKING."

(3) No person shall spit, expectorate or deposit any sputum, spittle, saliva, phlegm, mucus, tobacco juice or wads of tobacco upon the floors or stairways or any part of any theater, church, schoolhouse, armory, public hall or building, store, market or any other place of public assemblage or upon the floor or any part of any vehicle used as a common carrier for the transportation of passengers for hire, or upon any public sidewalk.

10.12 STORM AND DRAINAGE WATER.

Whenever storm or drainage water flows from the property of one owner or owners onto the property of another owner or owners to the damage of the latter property, the owner or owners of the property first mentioned shall connect his or their property with the storm sewer or with the street gutter in such manner as the Village Manager shall require. In the event that the owner or owners of such property first mentioned shall fail to comply with the orders of the Village Manager after ten days notice by registered mail to the last known address of such owner or owners so to do, the Village Manager shall cause said work to be done and certify the cost thereof to the Village Clerk-Treasurer who shall extend such cost against the property first above mentioned upon the next tax roll of said Village.

10.13 DISCHARGE AND CLEANUP OF HAZARDOUS MATERIAL.

(1) Prohibited Discharge.

No person, firm or corporation shall discharge or cause to be discharged, leak, break, or spill upon or onto any public street, alley or public property or onto the ground, surface water, subsurface waters, or aquifers, or on any private property in the Village any hazardous material as defined in subsection (7).

(2) Containment, Cleanup and Restoration.

Any person, firm or corporation in violation of this section must, upon direction of any fire officer, police officer, or public health official of the Village, begin immediate actions to contain, clean up and remove to an approved depository the offending material(s) and restore the site to its original condition. Should any person, firm, or corporation fail to engage or complete the requirement of this section, the Fire, Police, or Health Department may order the owner or lessee to take the required action or, in default thereof, may, in behalf of the Village, without the taking of bids, do the necessary work with all costs incurred by the Village to be reimbursed by anyone violating this section.

(3) Access.

The owner or lessee of any site, public or private, where a prohibited discharge is occurring or where there is probable cause to believe that such discharge is occurring shall provide access to personnel of the Village for the purpose of allowing them to evaluate the threat to public health and safety or to monitor the containment, cleanup or restoration activity needed for the protection of the environment, public health, or safety. In the event voluntary access is not granted by the owner or lessee, the appropriate officer or employee of the Fire, Police or Health Department may obtain an administrative search warrant and after receiving the same may enter the premises.

(4) Public Protection.

Should any prohibited discharge occur that reasonably causes a threat to the life, safety, welfare or health of the public, evacuation of the area or take other appropriate protective steps for such period of time as needed until the Village Manager, his designee, an/or Emergency Government officials can act.

(5) Enforcement.

A Police officer shall have the authority to make complaints and issue citations and summons under this section.

(6) Civil Liability.

Any person, firm or corporation in violation of this section shall be liable to the Village and to any individual whose person or property was damaged by such violation for any and all expenses incurred by the Village and loss or damage sustained by the Village, or assisting private or public agencies by reason of such violation.

(7) Definitions. Hazardous material is defined as either:

a. Any material or combination of materials of a solid, or liquid, or contained gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment. Such material includes but is not limited to material which is toxic, carcinogenic or flammable. Such material also includes irritants and strong sensitizers and materials which generate pressure because of decomposition of heat. Likewise, toxic material also includes containers and receptacles previously used in transportation, storage, use or application of material described herein as hazardous material.

b. Hazardous waste is described in the Wisconsin Administrative code, NR 181.12.

(8) Penalty.

Any person, firm or corporation found guilty of violating any provisions of this ordinance shall be subject to a forfeiture of not more than one hundred (\$100) dollars for the first offense, and not more than five hundred (\$500) dollars plus State surcharge, and court costs; for each subsequent offense, together with costs of prosecution in each instance; and in default of payment thereof, shall be imprisoned in the County Jail or the House of Correction of Milwaukee County until said forfeiture and costs together with subsequent costs are paid, but in any event not to exceed thirty (30) days

(9) Separate Offense.

Each day that the violation is permitted or continues to exist shall constitute a separate offense. (Ord. 1375)

10.14 COMPOSTING.

(1) Purpose and Intent.

The purpose of this section is to promote the recycling of Green Grass Clippings and Yard Wastes through composting, and to establish minimum standards for proper compost maintenance and operation.

(2) Definitions.

Composting shall mean a controlled biological reduction of organic wastes to humus. Yard Waste and Green Grass Clippings shall be defined as in Section 10.04 (l).

(3) Maintenance.

All compost piles shall be maintained using approved composting procedures to comply with the following requirements:

- (a) All compost piles shall be enclosed in a free standing compost bin. Each compost bin shall be no larger in volume than one hundred twenty-five (125) cubic feet, and shall be no taller than five (5) feet.
- (b) All compost piles and bins shall be so maintained as to prevent the attraction or harborage of rodents, other animal pests or insects. The presence of rodents in order near a compost pile or bin shall be cause for proceeding by the Health Department or Building Inspector.
- (c) All compost piles and bins shall be so maintained as to prevent odors which will annoy and disturb persons of normal olfactory sensitivity.
- (d) All compost piles or bins shall be located not less than three (3) feet from a property line or dwelling.
- (e) No compost pile or bin shall be located in any yard except a rear yard.
- (f) On a corner lot, no compost pile or bin shall be located less than ten (10) feet from the property line adjacent to a street.

(4) Ingredients.

- (a) No compost bin shall contain any of the following:

Section 10.14 (4) (a) (1)

- 1. Lakeweeds;
- 2. Cooked or uncooked food scraps or oil and grease, except coffee grounds and tea leaves;

3. Fish, meat, dairy products or other animal products;
 4. Carnivorous manure;
 5. Large items that will impede the composting process.
- (b) Permitted ingredients in a compost bin shall include, in appropriate quantities:
1. Yard waste;
 2. Raw vegetables and fruit scraps;
 3. Horse, sheep and cow manure;
 4. Commercial compost additives;
 5. Coffee grounds and tea leaves.

(5) Owner Responsibility.

Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this subsection.

(6) Penalty.

Any person violating this section shall be subject to a forfeiture as provided for in Section 10.20.

10.15 SMOKING BY MINORS (Ord. 1584)

- (a) It shall be unlawful for any person under the age of eighteen (18) years to:
- (1) Smoke or possess any cigarette or smoke, consume or possess any tobacco product on public property;
 - (2) Buy or attempt to buy any cigarette or tobacco product;
 - (3) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- (b) A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of this section committed in his or her presence.

10.16 SALE OF TOBACCO PRODUCTS TO MINORS (Ord. 1584)

It shall be unlawful for any person to sell or give cigarettes or tobacco products to any person under the age of eighteen (18) years.

10.17 HUMAN HEALTH HAZARD AND PUBLIC HEALTH NUISANCE

1.01 DEFINITIONS

- a. Designees – such persons named by the Health Officer to assist in the enforcement of this Ordinance as well as the Village Building Inspection and Police Departments acting in consultation with the Health Officer or his or her named Designee where practicable.
- b. Groundwater – all water found beneath the surface of the Village located in sand, gravel, lime rock, or sandstone geological formations or any combination of these formations.
- c. Health Officer – “Health Officer” shall include the Village Health Officer designated pursuant to this Chapter, or his or her Designees.
- d. Human Health Hazard – a substance, activity, or condition that is known to have potential to cause acute or chronic illness or death if exposure to the substance, activity, or condition is not abated, or the condition of a dwelling or dwelling unit that renders it unsafe for human habitation.
- e. Immediate Health Hazard – a condition which exists or has the potential to exist which should, in the opinion of the Health Officer or designee, be abated or corrected immediately, or at least with a 24 - hour period, to prevent possible severe damage to human health and/or the environment.
- f. Ordinance – the “Human Health Hazard and Public Health Nuisance Ordinance.”
- g. Owner – a person who has legal title or possession, charge, care or control of property (including but not limited to a structure, building, dwelling, dwelling unit or vacant land) or as executor, administrator, trustee, or guardian of the estate of a person or property under this paragraph.
- h. Person – means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency or any instrumentality, agent or combination of the foregoing entities.
- i. Placard – to affix a written notice to the main entrance of a dwelling stating that the dwelling has been declared unfit for human habitation.
- j. Pollution – the contaminating or rendering unclean or impure the air, land, or waters of the Village, or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal, or plant life.

- k. Public Health Nuisance – a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially injure or endanger the comfort, health, repose or safety of the public or in any way render the public insecure in life or in the use of property.
- k. Solid Waste – garbage, refuse, and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operational and from domestic use and public service activities, but not including solids or dissolved material in waste water effluent or other common water pollutants.
- l. State –State of Wisconsin.
- m. Structure or building – a building or structure having walls and a roof erected or set upon an individual foundation or slab constructed, designed or used for the housing, shelter, enclosure, or support of persons, animals or property of any kind, including, but not limited to houses, apartments, condominiums, commercial and manufacturing buildings, mobile homes and structures accessory to the foregoing uses.
- n. Toxic and Hazardous Materials – any chemical and/or biological material that is or has the potential to create a human health hazard.
- o. Village – the Village of Whitefish Bay.

1.02 GENERAL PROVISIONS

- a. Title – This Ordinance shall be referred to as the “Village Human Health Hazard and Public Health Nuisance Ordinance.”
- b. Administration – This Ordinance shall be administered by the Health Officer. The Health Officer shall have the power to insure compliance with the intent and purpose of this Ordinance by any means possible under the law, including but not limited to the authority to issue or to request that the Police Department or Building Inspector issue citations for violations of this Ordinance pursuant to Sec 800.02 (2), Wis. Stats.
- c. Interpretation – The provisions of this Ordinance shall be interpreted to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation of any power granted by the Wisconsin Statutes, or repeal of any other Village Ordinance that imposes a stricter or greater requirement.

1.03 AUTHORITY

This Ordinance is adopted pursuant to the authority granted by Chapters 251 and 254 of the Wisconsin Statutes.

1.04 PURPOSE AND INTENT

- a. General Provisions – The purpose and intent of this Ordinance is to protect the public health, safety, and general welfare and to maintain and protect the environment for the people of the Village and to:
 1. Prevent communicable diseases.
 2. Prevent the continuance of human health hazards or public health nuisances.
 3. Assure that Village and State air quality standards are complied with.
 4. Assure that insects and rodents do not create human health hazards.
 5. Assure that surface and groundwater meet Village and State standards and regulations.
 6. Assure that solid waste is handled, stored, and disposed of according to Village and State standards and regulations.
 7. Assure that persons are protected from hazards, and unhealthy or unsafe substances.

1.05 JURISDICTION

The jurisdiction of this Ordinance shall include all air, land, and water (both surface and ground) within the Village.

1.06 COMPLIANCE

- a. Written Orders – Compliance with this Ordinance shall include compliance with written orders issued under this Ordinance or State Health Laws by the Health Officer to abate and/or correct a human health hazard or bring any other situation or condition in noncompliance with this Ordinance into compliance.
- b. Noncompliance – Noncompliance with the Ordinance and/or with a written order from the Health Officer shall be cause for enforcement action under this section.

1.07 ADMINISTRATION

- a. General Provisions – This Ordinance shall be interpreted, administered, and enforced by the Health Officer.
- b. Powers – The Health Officer shall have all the powers necessary to enforce the provisions of this Ordinance without limitation including but not limited to the following:
 1. To apply for and secure search warrants to obtain access to any property or structure on or in which he or she has probable cause to believe that a violation of this Ordinance or State Statutes exist.
 2. To order abatement and/or corrections of any human health

hazard/public nuisance in violation of this Ordinance or State Statutes.

3. To delegate the responsibilities of administration and enforcement of this Ordinance to a registered environmental health sanitarian or other person qualified in the field of public health.
4. To initiate any other action authorized under the law or this Ordinance to insure compliance with the purpose and intent of this Ordinance and requirements of this Ordinance.

1.08 HUMAN HEALTH HAZARD/PUBLIC NUISANCE

- a. Human Health Hazard/Public Health Nuisances prohibited: No person shall erect, construct, cause, continue, maintain, or permit any human health hazard/public health nuisance within the Village. Any person who shall in any way, aid, or contribute to the causing, creating, or maintenance thereof shall be guilty of a violation of this Ordinance, and shall be liable for all costs and expenses attendant upon the removal and correction of such human hazard/public nuisance and to the penalty provided in this Ordinance.
- b. Responsibility of Property Owner: It shall be the responsibility of the property owner to maintain such owner's property in a hazard-free manner and also to be responsible for the abatement and/or correction of any human health hazard/public nuisance that has been determined to exist on their property.
- c. Human Health Hazards Enumerated: Specifically, but not limited by enumeration, the following are human health hazards if determined to meet the Human Health Hazard definition.
 1. Unburied Carcasses. Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
 2. Manure. Accumulations of the bodily waste of all domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a human health hazard.
 3. Air Pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gasses, fly ash, or industrial dust in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial injury to property within the Village.
 4. Noxious Odors. Any use of property, substances, or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons that annoy, discomfort, injure, or inconvenience the health of persons within the Village.

5. Solid Waste. Any solid waste, which is stored or disposed of in a manner, which may pose a human health hazard.
 6. Vermin/Insects. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed. Also, all stagnant water in which mosquitoes, flies, or other insects can multiply as well as garbage cans that are not fly tight.
 7. Toxic and Hazardous Material. Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that it is, or has the potential to create, a human health hazard.
 8. Waste Water. The presence of waste water or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body caused by a damaged, malfunctioning, improperly constructed, or inadequately maintained private sewage system or private sewage lateral. Also, any waste water or sewage effluent that is not handled and disposed of in compliance with all applicable Village and State codes.
 9. Holes or Openings. All abandoned wells or openings in the ground not securely covered or secured from public access and use.
 10. Nonfunctional Public Building Fixtures. Nonfunctioning water supply systems, toilets, urinals, lavatories, or other fixtures considered necessary to insure a sanitary condition in a public building.
 11. Food Conditions. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
 12. Animals. Wild animals or wild animal hybrids kept as domestic pets within the Village limits.
 13. Other. Any other substance, activity or condition determined to meet the definition of a Human Health Hazard.
- d. Public Health Nuisances Enumerated: The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but such enumerations shall not be construed to exclude the following or other nuisances from coming within the definition of Public Health Nuisance in this Ordinance.
1. Privy Vaults. Construction and maintenance of privy vaults and cesspools.

2. Bird Feeding. Feed for birds that as placed attracts rodents or other animals.
3. Animal Waste. Any unhealthy or unsanitary accumulation of animal fecal matter and other waste.
4. Noxious Weeds. All noxious weeds and other rank growth of vegetation.
5. Miscellaneous. Failure to comply with any law or rule regarding sanitation and health, including, but not limited to:
 - a. Plumbing.
 - b. Water supplies, including wells, and surface water.
 - c. Waste Disposal.
 - d. Storage or use of chemical, pesticides, and herbicides or any other toxic substance.

1.09 DESIGNATION OF DWELLING AS UNFIT FOR HUMAN HABITATION

- a. The Health Officer may declare any dwelling or dwelling unit found to have any of the following defects a human health hazard. It shall be condemned as unfit for human habitation and shall be placarded by the Health Officer.
 1. A dwelling, which is so damaged, decayed, dilapidated, unsanitary, and unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or public.
 2. A dwelling which lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health or safety of the occupant or public.
 3. All or portions of a dwelling to the extent it is proven to be uninhabitable by virtue of a serious and eminent threat to human health from exposures to lead or asbestos.
- b. No person shall continue to occupy, rent or lease quarters for human habitation, which are declared unfit for human habitation by the Health Officer.
- c. Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the Health Officer shall be vacated within a time specified by the Health Officer.
- d. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and the placard is removed by,

the Health Officer. The Health Officer, Building Inspector, or designee shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

- e. No person shall deface or remove the placard from any dwelling or dwelling unit, which has been condemned as unfit for human habitation.
- f. Any person affected by any notice or order relating to the condemning or placarding of a dwelling or dwelling unit for human habitation may request and shall be granted a hearing in the matter before the Board of Appeals.

1.10 ENFORCEMENT

- a. Whenever the Health Officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or any rule or regulation adopted pursuant thereto, he/she shall issue the violator a written order to include:
 - 1. A description of the real estate involved.
 - 2. A statement of violations and corrective actions required.
 - 3. A reasonable time limit for the performance of any corrective act required.
 - 4. That if the violation is not corrected within the time set forth that the Health Officer may take steps to abate the violation and that the cost of the abatement may be assessed against the owner of the property involved.

Such notice shall be served upon the owner, operator or occupant as the case may require, and may be served by certified mail or in the manner provided by Ch. 801, Wisconsin Statutes, for service of summons.

- b. Exception to Written Order. In cases where a violation poses an immediate health hazard to the public as determined by the Health Officer, the Health Officer can take all reasonable steps to abate the hazard without a written order.
- c. Abatement. In those cases where the Health Officer determines that it is necessary to abate the violation the cost of the abatement may be assessed to the property owner as a special charge pursuant to Section 66.0627 Wis. Stats. In addition to any other methods provided in this Ordinance the Health Officer shall have the power to abate human health hazards and recover the cost of such abatement in accordance with Section 254.59 of the Wisconsin Statutes, which is adopted by reference herein and made a part of this Ordinance as if fully set forth.

That if any subsection, section or portions of this Ordinance or the application thereof to

any persons as enacted hereunder is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holdings shall not effect the validity of the remaining portions hereof and the validity of the Ordinance in all other respects shall not be affected thereby.

10.18 ENVIRONMENTAL HEALTH AND SANITATION (Ord. 1696)

1.01 AUTHORITY AND PURPOSE. This ordinance is adopted pursuant to authority provided by Wisconsin Statutes, including Sections 97.41 and 254.69 (2), which authorize local health departments to become the designated agent of the State Department of Health and Family Services (DHFS) and Department of Agriculture Trade & Consumer Protection (ATCP) for the purpose of issuing permits, making investigations or inspections and enforcing the applicable state administrative codes for the operations of retail food establishments, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments, campgrounds, recreational and educational camps, public swimming pools, and establishments possessing Class A, Class B, or Class C alcohol beverage licenses (for sanitation and health purposes and not alcohol licensing purposes), and in making investigations and inspections of food vending machines, their operators, vending machine commissaries, and national lunch and breakfast program and establishing permit and inspection fees related to the inspections and issuance of such permits. The local health department acting through the Environmental Health Consortium (as defined in this ordinance) will be required to enter into a Memorandum of Understanding with the DHFS regarding the powers and duties that it will be authorized to perform under the applicable statutes, this ordinance and the Memorandum of Understanding.

1.02 APPLICABILITY. The provisions of this Ordinance shall apply to the owner, operator or agents thereof of any hotel, motel, tourist rooming house, restaurant, food establishment, bed and breakfast establishment, campgrounds, recreational and educational camp, public swimming pools, establishments possessing Class A, Class B, or Class C alcoholic beverage licenses, vending machine commissaries or vending machines and national lunch and breakfast program in the Village of Whitefish Bay.

1.03 REGULATIONS, RULES AND LAWS ADOPTED BY REFERENCE. The applicable laws, rules, definitions and regulations as set forth in Wis. Stats, chs, 97, 125, 251, 254, Wisconsin Administrative Code Chapters HFS 172, 175, 178, 192, 195, 196, 197, 198, ATCP 74, 75, 80, and COMM 90 and any future amendments thereof are hereby incorporated herein and adopted by reference and a copy of each shall be on file and open to public inspection in the offices of the Department and Village Clerk.

1.04 DEFINITIONS.

- (a) "Department or local health department " shall mean the North Shore Health Department. (Ord. 1760)
- (b) "Duplicate Permit Fee" shall mean a fee for the replacement of the original permit.
- (c) "Environmental Health Consortium" means the North Shore Health Department for the purpose of entering into a Memorandum of Understanding with the Wisconsin DHFS for the purposes set forth in section 1.01 above.
- (d) "Licensed Establishment" shall mean an establishment that has a current and

valid license that is required under this ordinance.

- (e) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or chewing gum.
- (f) "Food Establishment" means an operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "food establishment" includes a "restaurant" as defined in s. 254.61 (5) Stats; a "retail food establishment" as defined in s. 97.30 stats.; and a "temporary restaurant" as defined in s. 254.61(5m) Stats.
- (g) "Late Fee" shall mean a fee for failure to pay established fees by June 30 or the due date if different.
- (h) "Permit/License" means the document issued by the Department that authorizes a person to operate an establishment. The words "permit" and "license" as used throughout this ordinance shall be interchangeable.
- (i) "Person" means as applicable an individual, partnership, association, limited liability company, corporation or any other legal entity that operates or provides the services, food or other products that is subject to the sanitation or inspection requirements or requires a license or permit under this ordinance.
- (j) "Pre-Inspection Fee" shall mean a fee for consultative services offered to persons intending to operate a new hotel, tourist rooming house, bed and breakfast establishment, restaurant, food store, vending machine commissary, swimming pool, campground or to a person intending to be the new operator of an existing hotel, tourist rooming house, bed and breakfast establishment, restaurant, retail food store, vending machine commissary, swimming pool and campground.
- (k) "Re-Inspection Fee" shall mean a fee for the third (3rd) and subsequent re-inspections needed to address compliance issues with the statutes and administrative codes.

1.05 ENFORCEMENT AND RIGHT TO ENTER PREMISES. The provisions of this Ordinance shall be administered by or under the direction of the Department or authorized agent who shall have the right to enter during reasonable hours, upon any premises affected by this regulation 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.

1.06 OBSTRUCTION OF HEALTH DEPARTMENT EMPLOYEES. No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the Department or authorized agent in the performance of his or her duties under this section, nor shall the operator give false information with the intent to mislead the Department or authorized agent.

1.07 FOOD DEALERS LICENSE AND PERMIT.

(a) No person may operate or provide the services, food or other products that requires a license under this ordinance without first having obtained a current and valid license.

(b) Licenses shall not be transferable from person to person or from premise to premise with the exception that a license issued under the provisions of Wisconsin Chapter 254 may be transferred to an individual who is an immediate family member of the licensee of the establishment. A parent, child, stepchild, grandchild, sibling, or stepsibling shall be considered an immediate family member for purposes of this Ordinance. A license issued under the provisions of Wisconsin Chapter 97 may only be transferred to the spouse of the licensee.

(c) No permit shall be granted to any person under this Ordinance without a pre-inspection by the Department of the premises for which the permit shall be granted.

(d) No permit shall be issued until all application fees have been paid.

1.08 SANITATION REGULATIONS APPLICABLE REGARDLESS OF LICENSE EXEMPTION.

Statutory exemptions from the requirement to obtain a food dealers license does not exclude any person handling food for public consumption from inspection and compliance with all sanitation requirements of the ordinance.

1.09 APPLICATION.

All applicants must apply on forms furnished by the Department. All applications for permits shall be made in writing to the local Department where the business is located. All applications shall list the true, legal names of the owners or operators of the business, including partners and managing members of limited liability companies and the addresses. All corporations and limited liability companies applying for licensure shall be registered with the State of Wisconsin and the name of the registered agent shall be placed on the application. The agent's name and address shall be kept current. The applicant shall provide documents, which reflect the aforementioned registration to the Department. The Department shall either approve the application or deny the permit within thirty (30) days after receipt of a complete application.

1.10 INSPECTION AND REINSPECTION.

(a) One copy of the inspection report shall be given to the owner, operator or employee of the establishment and another copy shall remain on file at the Department.

(b) As a condition of license renewal, all establishments licensed under this ordinance shall consent to an annual inspection and re-inspection. License renewal may be withheld pending inspection, re-inspection and compliance with these regulations.

(c) 1. Whenever an order or directive is issued on a health code violation, which requires a re-inspection to determine compliance, 2 re-inspections shall be made without charge and documented by the Department following the time period given in the order or directive.

2. If, upon the second re-inspection, the order or directive is found not to have been complied with and additional re-inspections are required, a fee shall be assessed to the responsible party for each additional re-inspection to compensate for the costs of such re-inspections. Payment is due on written demand from the Department.

1.11 PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE.

The Department shall issue a license to each applicant for a new or renewal license that meets all the requirements of this ordinance and has paid to the Department the applicable fee.

1.12 NON-PAYMENT OF FEES.

(a) A license will not be issued until all applicable fees, late fees and processing charges are paid.

(b) No license shall be issued to any person that owes the [Village/City] for overdue forfeitures, unpaid property taxes, assessments or special charges, late fees, or license fees relating to a current or previous licensed establishment until all such outstanding amounts are paid.

(c) No license shall be issued for any premises or property for which property taxes, assessments or special charges, late fees, or license fees relating to a current or previous licensed establishment until all such outstanding amounts are paid.

1.13 POSTING.

Each license shall be posted in a conspicuous place visible to the public on the licensed establishment premises.

1.14 CHANGES TO BE REPORTED.

(a) A licensee shall notify the Department whenever there is a change in any information that is reported in the application form. The licensee shall make this notification in writing within 5 days after the change occurs.

(b) The owner of any premises for which a license has been granted shall promptly notify the Department in writing of their intention to cease operations.

1.15 SUSPENSION OF LICENSE.

(a) Whenever the Department finds a condition in a licensed establishment, which is determined to be a direct and immediate hazard to public health, the permit may be suspended without notice or warning.

(b) Whenever the Department has reasonable grounds to believe there are violations that constitute a health hazard that are serious, but not an immediate threat to the public health, or for recurring or repeated violations, a permit may be suspended, if the Department serves a written notice of the violations and corrective actions required to the licensee, his agent or employee in charge of the licensed premises specifying a reasonable time limit for the performance of any corrective act required and the corrective action is not taken within the time required. Any such notice shall state that failure to take the corrective action shall result in suspension of the license.

(c) Upon notification of suspension, the permit must be surrendered to the Department until the time of re-issuance.

(d) The Department may suspend any permit or license issued under this ordinance upon failure to pay any fees due under this ordinance. The Department will notify the permit holder in writing that the permit has been suspended and the reason why. The suspension will continue until payment of all past due fees.

1.16 REINSTATEMENT OF A SUSPENDED LICENSE.

The license holder whose license has been suspended may at any time; make application for reinstatement of the license. Within one week after the receipt of satisfactory application, accompanied by a signed statement by the applicant that the violations have been corrected, the Department or designee shall make a re-inspection and thereafter as many additional re-inspections deemed necessary to assure that the applicant has complied with the requirements. If the findings indicate compliance, the Department may reinstate the license.

1.17 REVOCATION OF LICENSE.

(a) For serious or repeated violations of any of the requirements of this ordinance or for interference with the Health Officer or designee in the performance of their duties, the Health Officer or designee may permanently revoke the license issued under this article. Prior to such actions, the Health Officer shall notify the license holder in writing, stating the reasons for which the license is revoked.

(b) When a license is revoked, the owner/operator shall turn over the license to the Health Officer or designee and cease operations immediately.

1.18 REAPPLICATION OF A REVOKED LICENSE.

(a) A person whose license has been revoked may, at any time, make reapplication for a revoked license. Within one week after the receipt of satisfactory application, accompanied by a signed statement by the applicant that the violations have been corrected, the Department or designee shall make a pre-inspection and thereafter as many additional re-inspections as deemed necessary to assure that the applicant has complied with the requirements.

1.19 APPEAL. Any person refused or denied a license or had a license revoked may appeal through the appeal procedure provided under the provisions of Secs. 68.07 through 68.16 Wis. Stats.

1.20 CONSTRUCTION OR ALTERATION OF FOOD ESTABLISHMENTS.

(a) No person shall erect, construct, enlarge or alter a food establishment without first submitting to the Department or designee, plans (drawings) which clearly show and describe the amount and character of the work proposed and without first receiving approval of submitted plans. Such plans shall include floor plan, equipment plan and specifications, wall, floor and ceiling finishes, and plans and specifications for food service kitchen ventilation and plumbing. Submitted plans shall give all information necessary to show compliance with applicable health codes. Submitted plans shall be retained by the Department or designee.

(b) At the option of the Department or designee, plans need not be submitted to execute minor alterations to a food establishment. Approved plans shall not be changed or modified unless approval of such changes or modifications shall have first been obtained from the Department or designee.

1.21 VIOLATIONS. No person shall violate any provisions of this ordinance.

(1) Enforcement. The Department or its designee shall enforce any provision of this ordinance.

(2) Enforcement Procedure.

(a) Inspection. If, upon inspection, the Department or designee finds that any licensed or unlicensed establishment is conducted or managed in violation of the ordinances or regulations of the (City/Village), laws of the State or regulations of any agency of the State prescribing standards of health or sanitation, the Department or designee shall serve a written order upon the licensee, his agent or employee in charge of the licensed premises or the person responsible for the violation, notifying him of such violations.

(b) Exceptions to Written Order. In extreme cases where a violation poses an immediate health hazard as determined by the Department or designee or, in the case of repeating occurrences of the same violation by the same person, the actions specified in sub. (c) below, can be initiated immediately.

(c) Noncompliance With Order. If a person does not comply with a written order from the department or designee, the person may be subject to one or more of the following actions, and/ or penalties.

1. The issuance of a citation. The Department's Health Officer or any other person duly authorized by the Health Officer is authorized pursuant to sec 800.02, stats. to issue municipal citations for any violations of the provision of this ordinance.

2. A re-inspection fee.

3. Suspension of license
4. Revocation of license
5. Commencement of legal action against the person seeking a court imposed forfeiture and / or imprisonment.
6. Commencement of legal action against the person seeking an injunction to stop, abate the violation and/or correct the damage created by the violation.
7. Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the Department or designee.
8. The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and / or penalties listed in this section.

1.22 FEES.

(a) The fees for licenses, inspections, services and activities performed by the Department in carrying out its responsibilities under this ordinance are herewith established by this ordinance and are set forth on the attached Exhibit A entitled “Environmental Health Consortium Fee Schedule” and which may be amended from time to time by resolution adopted by the Village Board of Whitefish Bay and which shall be on file and open to the public in the Department’s office and the office of the Village Clerk.

(b) Fees to Accompany Application. License fees imposed under this ordinance shall accompany the license application. The Department shall issue the applicant a receipt for the license fee.

(c) No Proration. There will be no proration for license fees.

(d) Refunds. No license fee paid shall be refunded, unless a refund is requested prior to a pre-inspection for a new establishment.

(e) Local Pre-inspection Fees.

1. Preinspection fees shall be charged as enumerated in Environmental Health Consortium Fee Schedule.

2. Pre-inspection fees shall include all consultation prior to the establishment doing business.

3. Pre-inspection fees may be applicable for all new operations and changes in operation.

4. Pre-inspection fees are not refundable.

(f) Late Fees. A late fee, as enumerated in the Environmental Health Consortium Fee Schedule, shall be charged for all licenses issued under provisions of this

ordinance.

1. This shall apply when an application is not renewed before the expiration date, unless waived by the Department.

2. A late fee shall also apply to a new establishment or any establishment with a new operator doing business before obtaining the required licenses, as provided for in this ordinance.

(g) Duplicate License Fee. A duplicate license fee as enumerated in the Environmental Health Consortium Fee Schedule shall be charged to duplicate any license provided for in this ordinance.

(h) License Fees. License fees, as enumerated in the Environmental Health Consortium Fee Schedule.

(i) All fees shall be accounted for separately and applied to the expenses under this ordinance.

(j) Re-inspection.

1. A re-inspection fee shall be charged as enumerated in the Environmental Health Consortium Fee Schedule.

1.23 EXPIRATION DATES.

(a) All licenses issued under provisions of this ordinance shall expire, unless otherwise ordered by the Department or authorized agent, as follows:

Food/drink - June 30

Hotel/Motel - June 30

Public Swimming Pool - June 30

Boarding/Rooming House - December 31

Bed & Breakfast - June 30

Recreation & Educational Camps - June 30

Campgrounds - June 30

Vending Machines - June 30

(b) The licenses shall expire at midnight of the last effective day of the license, unless otherwise provided by this ordinance or other applicable provision of State law.

1.24 RENEWAL.

(a) The Department prior to the expiration date shall furnish renewal notices. It is the responsibility of the owner/operator to complete the application form and pay the appropriate fee before the expiration date of such license.

1.25 CONFLICTS.

Whenever conflicts between these rules and regulations and other Village of Whitefish Bay ordinances or State and Federal regulations occur, the more stringent rule shall apply.

1.26 PENALTY FOR VIOLATION.

Any person, partnership, firm, limited liability company, corporation or other legal entity found guilty of any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$2000.00 and the costs prosecution, and in default of payment thereof, shall be subject to imprisonment in the County Jail or House of Correction of Milwaukee County until such forfeiture and costs, together with any subsequent costs have been paid, but in any event, not to exceed ninety (90) days. Each day a violation continues constitutes a separate offense.

APPENDIX A ENVIRONMENTAL HEALTH CONSORTIUM FEE SCHEDULE

Restaurant

License:	simple	\$207.20
	moderate	\$294.00
	complex	\$406.00
	limited	\$105.00
	additional prep area	\$112.00
	temporary	\$140.00
	mobile	\$133.00
	school lunch prog.	\$294.00
	prepackaged	\$105.00
Preinspection:	limited	\$175.00
	simple	\$210.00
	moderate	\$350.00
	complex	\$490.00
Late fee:		\$105.00
Duplicate license:		\$14.00
Reinspection:		\$105.00

Retail Food

License:		\$821.80
Lic. Surcharge:		\$140.00
Reinspection:		\$420.00
	sales \$25K-\$1mil., potentially hazardous foods	
License:		\$319.20
Lic. Surcharge:		\$140.00
Reinspection:		\$175.00

	sales \$25K and over, non-potentially Hazardous foods	
License:		\$228.20
Lic. Surcharge:		\$140.00
Reinspection:		\$175.00
	sales under \$25K	
License:		\$56.00
Lic. Surcharge:		\$112.00
Reinspection:		\$84.00
	Not engaged in food processing	
License:		\$54.60
Lic. Surcharge:		\$84.00
Reinspection:		\$84.00
Duplicate license:		\$15.00
Hotels/Motels		
Preinspection:	5-30 rooms	\$263.20
	31-99 rooms	\$420.00
	100-199 rooms	\$578.20
	200 or more rooms	\$735.00
License:	5-30 rooms	\$263.20
	31-99 rooms	\$420.00
	100-199 rooms	\$578.20
	200 or more rooms	\$735.00
Bed and Breakfast		
License:		0
Preinspection:		0
Swimming Pool		
License:		\$315.00
Late fee:		\$158.20
Duplicate license:		\$21.00
Body Art		
Permit:	Tattoo	\$140.00
	Body piercing	\$140.00
	Combined tattoo/ Body piercing	\$210.00
	Temp. tattoo	\$140.00
	Temp. body piercing	\$140.00
	Combined temp. tattoo/body piercing	\$140.00
Late fee:		\$105.00
Duplicate permit:		\$14.00
Preinspection:		\$105.00
Vending machines		
Preinspection:	Commissary	\$285.00

License:	Vending Commissary	\$162.00
	equipment & supplies only stored)	
	Vending Commissary	\$285.00
	Vending Machine	\$163.00
	Operator	
	Vending Machine	\$9.40
Late Fee:		\$143.00
Duplicate License:		\$19.00

10.20 PENALTY.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 17.04 of this code, in addition to the specific penalties provided in this chapter. A separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues. As and for a further penalty for any violation of this or any other provision in the Municipal Code, the Village Board hereby empowers the Village Manager or designee to, after providing notice in person or via United States mail to the last known owner of the property at least two (2) business days in advance, perform such work on said property as is required to render the property compliant with the Municipal Code. The reasonable cost of such work shall be billed to the last known property owner and such bill shall be due and payable within fifteen (15) days after it has been mailed. Amounts due after said period of time shall be delinquent and shall become a lien upon the property and may be placed on the tax bill of the property in question as a special charge for current services as provided in § 66.0627 Wis. Stats. (Ord. 1781)