

# **City of Racine**

*City Hall  
730 Washington Ave.  
Racine, WI 53403  
[www.cityofracine.org](http://www.cityofracine.org)*



## **Meeting Agenda - Final**

**Tuesday, June 13, 2006**

**4:15 PM**

**Room 103, City Hall**

**Board of Health**

**Call To Order****Presentation**

*Wisconsin WINS Program - Deputy Tim Graves, Racine County Sheriff's Department*

**Election of Officers****Approval of Minutes for April 11, 2006, Meeting**

*The April minutes were included in the Board of Health packets that were sent out last month.*

**Correspondence****06-1806**

**Subject:** Communication from the Public Health Administrator requesting permission to apply for funding from the United States Conference of Mayors and Dupont for a "Lead Safe...for Kids' Sake," grant.

**(Please refer to the Finance and Personnel Committee and the Board of Health).**

**Recommendation of the Finance & Personnel Committee 04-24-06:**

That the Public Health Administrator granted permission to apply for the \$175,000 grant with the United States Conference of Mayors and Dupont for the "Lead Safe...for Kids' Sake," grant (Grant Control No. 2006-019) to be utilized for the elimination of lead poisoning.

**Fiscal Note:** No match required on the part of the City.

**Attachments:** [Lead Safe for Kids' Sake.pdf](#)

*Jannelle Grammer, Public Health Administrator, appeared before the Committee.*

**Ord.19-06**

Ordinance No. 19-06 to repeal and recreate Chapter 22, Article XIII relating to Business-Food and drinking establishments.

To repeal and recreate Chapter 22, Article XIII of the Municipal Code of the City of Racine, Wisconsin relating to Business - Food and drinking establishments.

The Common Council of the City of Racine do ordain as follows:

Part 1:

Chapter 22, Article XIII of the Municipal Code of the City of Racine is hereby repealed and recreated to read as follows:

**“ARTICLE XIII. LODGING, RECREATION AND FOOD PROTECTION**

## DIVISION I. GENERALLY

**Sec. 22-411. Authority.**

This ordinance is adopted pursuant to authority provided by Wis. Stat. § 60.0417, 97.12, 97.41, 125.68(5), 251.04(3), 252.02, 252.03, 254.47, and 254.69(2), ch. 68, and Wis. Admin. Code chapters ATP 74 and 75, HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, and COMM 90 and 95.

**Sec. 22-412. Purpose.**

(a) The purpose of this article is to protect and improve the public health and to authorize the City of Racine Health Department to become the designated agent of:

1. The Wisconsin Department of Health and Family Services for the purpose of establishing permit fees, issuing permits, making investigations or inspections of hotels, motels, tourist rooming houses, body piercing and tattooing establishments, restaurants, bed and breakfast establishments, campgrounds and camping resorts, recreational and educational camps, public swimming pools and in making investigations and inspections of food vending machines, their operators and vending machine commissaries; and,

2. The Wisconsin Department of Agriculture, Trade, and Consumer Protection, for the purpose of establishing permit fees, issuing permits, conducting routine sampling, making inspections or investigations of retail food establishments, and enacting local regulations governing these establishments.

(b) The health department is also authorized to secure samples or specimens of food and any product or substance that may affect food, to examine and copy relevant documents and records and to obtain photographic and other evidence reasonably necessary to enforce this article. The health department shall examine any samples secured and conduct other inspections and examinations needed to determine whether there is a violation.

**Sec. 22-413. Applicability.**

The provisions of this article shall apply to the owner and operator of any retail food establishment, hotel, motel, tourist rooming house, body piercing and tattooing establishment, restaurant, bed and breakfast establishment, campground and camping resort, recreational and educational camp, public swimming pool, vending machine commissary or vending machine in all areas of jurisdiction of the health department.

**Sec. 22-414. Definitions.**

All definitions as set forth in Wis. Stat. §66.0417, chapters 68, 97, 125, 251, 252 and 254; and Wis. Admin. Code Articles, ATP 74 and 75, HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, and COMM 90 and 95 are hereby incorporated

into this article by reference and they shall be construed, read and interpreted as fully set forth herein until amended and then shall apply as amended. In addition, the following terms and phrases have the meanings given:

*Annual permit fee* means a fee for on-site inspection of the entire facility, and one follow-up inspection to determine whether the facility is compliant with the applicable statutes and administrative codes.

*Duplicate permit fee* means a fee for the replacement of an original permit.

*Health department* means the City of Racine Health Department.

*Late application fee* means a fee that is charged for failure to comply with the application timeframe specified in the applicable provision for completion and submission of the required application for permit to the health department.

*Late fee* means a fee for failure to pay established or assessed fees in a timely manner. This refers to any fee not received or postmarked by June 30 or other specified due date.

*Limited food service* means the serving of only individually wrapped hermetically sealed single food servings by a licensed processor, with preparation on the premises limited to heating and serving of single-service articles, e.g., hermetically wrapped sandwiches or frozen pizza.

*Master fee schedule* means the schedule of all fees associated with this article, as established from time to time by the common council, and posted in the health department.

*Mobile restaurant* means a restaurant operating from a movable vehicle, pushcart, trailer or boat which periodically or continuously changes location and wherein meals or lunches are prepared, served or sold to the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant.

*Operator* means the owner, operator, manager or person responsible for the operation of the hotel, motel, bed and breakfast establishment, restaurant, retail food establishment or beverage establishment, vending machine commissary and/or vending machine, campground, camping resort, recreational/educational camp, or public swimming pool.

*Outdoor grilling* means the cooking of food on an outdoor grill on the premises of a licensed food service facility. The purpose for outdoor cooking shall not be to increase the production capability of the restaurant kitchen by circumventing codes applicable to indoor cooking facilities. Hot holding shall be limited to the quantity of food that the cooking unit is designed to hold.

Except as provided in sub 1, *Potentially Hazardous Food* means:

(a) A food that is natural and synthetic and that requires temperature control because it is in a form capable of supporting:

1. The rapid and progressive growth of infectious or toxigenic microorganisms;
2. The growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of *Salmonella enteritidis*.
3. An animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified under 1. above.

(b) *Potentially hazardous food* does not include:

1. An air-cooled hard-boiled egg with shell intact;
2. A food with an a/w value of 0.85 or less;
3. A food with a pH level of 4.6 or below when measured at 24C (75F);
4. A food in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or growth of *S. enteritidis* in eggs or *C. botulinum* cannot occur, such as a food that has an a/w and pH that are above the levels specified under Subparagraphs 2 and 3 of this definition and that may contain a preservative, other barrier to growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms;
6. A food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified under subparagraph 1 of this definition.

*Pre-inspection fee* means the fee associated with the required inspection necessary to determine compliance at the time of a change-in-operator or new business.

*Re-inspection fee* means a fee for the subsequent inspections needed to address compliance issues that govern an establishment. Re-inspections are conducted due to one or more of the following: Uncorrected critical violation, more than ten total violations, repeat violations from previous inspections, major non-critical violations, or when a complaint investigation identifies unsatisfactory conditions. The fee for a re-inspection will be established by the common council and posted in the health department on the Master Fee Schedule.

*Restaurant* means any building, room or place where meals are prepared,

served or sold to transients or the general public, and all places used in connection with the building, room or place, and include any public or private school lunchroom for which food service is provided by contract. *Restaurant* does not include:

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

*Retail food establishment* means any of the following, but does not include a restaurant or other establishment holding a permit to the extent that the activities of the establishment are covered by that permit:

- (a) A permanent or mobile food processing facility where food is processed primarily for direct retail sale to consumers at the facility.
- (b) A mobile facility from which potentially hazardous food is sold to customers at retail.
- (c) A permanent facility from which food is sold to consumers at retail, whether or not that facility sells potentially hazardous food or is engaged in food processing.

*Temporary restaurant or Temporary retail food establishment* means a restaurant or retail food establishment that operates at a fixed location in conjunction with a single event such as a fair, carnival, circus, public exhibition, anniversary sale, or occasional sales promotion for a period of no more than fourteen consecutive days. Mobile establishments of this type that conduct business in the jurisdiction of the health department and that are licensed outside the area of jurisdiction, will be inspected and charged a nominal fee to cover the cost of inspection.

*Vending machine* means any self-service device offered for public use which, upon insertion of a coin or token, or by other means, dispenses unit servings of food or beverage either in bulk or in package, without the necessity of replenishing the device between each vending operation, except that *vending machine* does not include a device which dispenses only bottled, prepackaged

or canned soft drinks, a one-cent vending device, a vending machine dispensing only candy, gum, nuts, nutmeats, cookies or crackers, or a vending machine dispensing only prepackaged grade A pasteurized milk or milk products.

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

*Wisconsin food code* means the food code appended to Wis. Admin. Code ch. HFS 196 and ATPC 75.

**Sec. 22-415. Enforcement.**

The provisions of this article shall be administered by or under the direction of the public health officer who, in person or by duly authorized representatives, shall have the right, at reasonable hours, to enter upon premises subject to this article to inspect the premises, secure samples or specimens, examine and copy relevant documents and records, and obtain photographic or other evidence needed to enforce this article and issue citations or file a summons and complaint with the city attorney.

**Sec. 22-416. Violation of article; payment of forfeiture in lieu of court appearance.**

(a) Any person charged with a violation of the offenses listed under subsection (b) of this section may pay the amount enumerated therein at the police department in lieu of a court appearance. Persons wishing to contest charges contained in subsection (b) of this section may contact the police department to arrange a court appearance date.

(b) The following forfeitures for the offenses listed herein may be paid at the police department:

<i>Code Section</i>	<i>Violation</i>	<i>Forfeiture</i>
22-417	Permit required	\$250.00
22-420	Permit display	50.00

**DIVISION 2. PERMIT**

**Sec. 22-417. License and permit.**

(a) No person shall operate a retail food establishment, bed and breakfast establishment, hotel, motel, tourist rooming house, body piercing establishment, tattooing establishment, restaurant, campground and camping resort, recreational and educational camp, or public swimming pool without first

obtaining a non-prorated permit from the health department.

1. Except as provided in sub § a., permits shall expire on June 30 of each year:

a. Permits initially issued for a bed and breakfast establishment, hotel, motel, tourist rooming house, body piercing and tattooing establishment, restaurant, campground and camping resort, recreational and educational camp, or public swimming pool during the period April 1 through June 30 shall expire June 30 of the following year.

b. Permits issued to retail establishments covered under the master rule are issued for one year from July 1 through June 30.

2. The issuance of a permit may be conditioned upon the permittee correcting a violation of this article within a specified period. If the condition is not met within such time, the permit shall be voided.

b) The permit shall not be transferable to another location nor shall a permit be transferred from one operator to another except that, as to operator, a permit of a non-retail food establishment operator may be transferred to an individual who is an immediate family member of the operator if the operator is transferring operation of the establishment or vending machine to that immediate family member. A parent, spouse, child, step-child, grandchild, sibling or step-sibling shall be considered an immediate family member for purposes of this article.

(c) No person may conduct, maintain, manage or operate a restaurant, retail food establishment, mobile restaurant, marketplace, incidental food establishment, or temporary restaurant within the city without first obtaining a permit. No permit shall be transferred from one person or place to another.

(d) Temporary permits may be issued for periods of up to 14 days.

(e) An operator's or permit licensee of a temporary restaurant who the health department has found to be uncooperative or a habitual violator of this article may be denied a permit to operate.

(f) With the exception of those establishments defined as "temporary", no permits shall be granted to any person without a pre-inspection by the health department of the premises for which the permit has been requested.

(g) No permit shall be issued until all applicable fees have been paid.

#### **Sec. 22-418. Application.**

Application for permits shall be made in writing to the health department on forms developed and provided by the health department, stating the name and address of the applicant and proposed operator, and the address and location of the proposed establishment, together with any such other information as may be required. The health department shall either approve the application or deny the permit within thirty (30) days after receipt of a complete application.



**Sec. 22-419. Fees.**

Fees for permits required by this article shall be as provided through the master fee schedule.

**Sec. 22-420. Permit public display.**

Every establishment required to obtain a permit pursuant to this article shall display said permit, at all times, in a conspicuous place at the subject establishment.

**Sec. 22-421. Temporary orders.**

Whenever as a result of an examination the health officer or designee has reasonable cause to believe that an immediate danger to health exists on a premises subject to this article, the health officer or designee may issue a temporary order in accordance with Wis. Stat. §66.0417(2).

**Sec. 22-422. Denial, suspension or revocation of license.**

The health officer or designee may deny any license application or suspend or revoke any license issued under this article for non-compliance with this code and regulations, rules and laws adopted by reference under sub §12. The following procedure shall be followed in the denial, suspension or revocation of any license issued under this article:

(a) A decision by the health officer or designee to deny, suspend or revoke a license shall be in writing and shall state, with specificity, the reasons for the decision and shall state any applicable statute, ordinance, rule, regulation or order which has been violated. The health officer or designee shall send to the licensee a copy of the written decision by certified mail return receipt requested, by personal service or by publication if such service is not reasonably possible. The notice shall inform the licensee or applicant of the right to have the decision reviewed and the procedure for such review.

(b) Any licensee or applicant aggrieved by a decision of the health officer or designee to deny, suspend or revoke a license may have the decision reviewed and reconsidered by a written request mailed or delivered to the health officer within 30 working days after service or publication. The written request for review and reconsideration shall state the grounds upon which the person aggrieved contends that the decision should be reversed or modified.

(c) Within 15 working days after receipt of the request for review and reconsideration, the health officer shall review the initial determination. The health officer may affirm, reverse or modify the initial determination. The health officer shall mail or deliver to the licensee or applicant a copy of the decision on review, which shall state the reasons for such decision. The decision shall advise the licensee or applicant of the right to an administrative appeal, the time within which appeal shall be taken and the office or person with whom the

appeal shall be filed.

(d) A licensee or applicant who wishes to appeal a decision made by the health officer on review must file a notice of appeal within 30 days of notice of the health officer's decision on review. The administrative appeal shall be filed or mailed to the health officer. The health officer shall immediately file the notice of appeal with the health department.

(e) A licensee or applicant shall be provided a hearing on appeal within 15 days of receipt of the request for an administrative appeal. The health officer shall serve the licensee or applicant with notice of hearing by mail or personal service at least 10 days before the hearing.

(f) The hearing shall be conducted before the board of health and shall be conducted in accordance with the procedures outlined in Wis. Stat. §§68.11(2) and (3).

(g) Within 20 days after the hearing, the board of health shall mail or deliver to the appellant its written determination stating the reasons therefor.

(h) A decision by the health officer upon a request for review and reconsideration, which is not appealed to the board of health, or a decision by the health department on an appeal of a decision by the health officer of a request for review and reconsideration shall be a final determination under Wis. Stat. §68.12(2).

(i) Any party to a proceeding resulting in a final determination may seek review thereof by certiorari within 30 days after receipt of the final determination per Wis. Stat. §68.13.

**Sec. 22- 423. Construction or remodeling of restaurants and permanent retail food establishments; plan approval required.**

When a restaurant or a permanent retail food establishment is constructed or work is done that requires a permit from the building department, or when an existing structure is converted for use as a restaurant or a permanent retail food establishment, properly prepared plans and specifications for such construction, remodeling or alteration, showing the layout, arrangement and construction materials of the work area, and the location, size, type of fixed equipment and facilities, shall be submitted to the health officer for approval before such work is commenced.

**Sec. 22- 424. Regulations, rules and laws adopted by reference.**

The applicable laws, rules and regulations as set forth in Wis. Stat §§66.0417, and chapters 68, 97, 125, 251, 252 and 254; and Wisconsin State Administrative Code chapters ATCP 74 and 75, and HFS 172, 173, 175, 178, 192, 195, 196, 197 and 198, and COMM 90 and 95 and the Wisconsin Food Code are incorporated in this article by reference and they shall be construed, read and interpreted as fully set forth herein until amended and then shall apply

as amended. The expressed provisions of this article shall control where more restrictive.”

Part 2:

This ordinance shall take effect upon passage and the day after publication or on July1, 2006, whichever is later.

Passed by the Common Council:

\_\_\_\_\_

Approved:

\_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_

City Clerk

FISCAL NOTE:      N/A

06-1866

**Subject:** Communication from the Public Health Administrator requesting permission for the Mayor and City Clerk to sign a contract with Abri Health Plan, Inc. Abri Health Plan is an HMO provider for Medicaid recipients. The intent of the agreement is to arrange for the provision of designated healthcare services by the City of Racine Health Department to Abri Health Plan, Inc. and Medicaid/BadgerCare enrollees.

(Also refer to the Board of Health).

**Recommendation of the Finance & Personnel Committee 05-08-06:**

That the Mayor and City Clerk be authorized and directed to sign a contract with Abri Health Plan, Inc. to arrange provision of designated health care services by the City of Racine Health Department to Abri Health Plan and Medicaid/Badger Care enrollees.

**Fiscal Note:** N/A

Attachments:    [ABRI Communication.pdf](#)  
                          [ABRI MOU.pdf](#)

*Janelle Grammer, Public Health Administrator, appeared before the*

*Committee. The State requires if there is more than one HMO in a facility then there must be an option to choose an HMO. The City had only one to choose from since the first of 2005. Adding Abri Health Plan, Inc. will provide healthcare services to Medicaid and Badger Care clients and the City to be reimbursed.*

**06-1827**

**Subject:** Communication from the Public Health Administrator requesting permission for the Mayor and City Clerk to sign a contract with the State of Wisconsin Department of Health and Family Services, that will provide funding for West Nile Virus surveillance activities. The contract is for \$2,000 and there is no match required by the City.

(Also refer to Board of Health)

**Recommendation of the Finance & Personnel Committee 05-08-06:**

That the Mayor and City Clerk be authorized and directed to enter into an agreement with the State of Wisconsin Department of Health and Family Services, Division of Public Health (Grant Control No. 2006-021) in the amount of \$2,000 to be utilized for West Nile Virus surveillance activities to run from January 1, 2006 through December 31, 2006.

**Fiscal Note:** No match required on the part of the City.

**Attachments:** [West Nile Virus.pdf](#)

*Janelle Grammer, Public Health Administrator, appeared before the Committee. This is a continuation of the grant so that the City can collect and accept dead birds from the public to test for West Nile Virus.*

**06-1944**

**Subject:** The Public Health Administrator is requesting permission to enter into an agreement with Drexel University College of Nursing and Health Professionals. The agreement will allow students at the University to participate in training opportunities within the City of Racine Health Department.

**Attachments:** [Drexel University.pdf](#)

**06-1947**

**Subject:** The Public Health Administrator requests permission to accept funding and for the Mayor and City Clerk to enter into an agreement with the University of Wisconsin-Milwaukee Great Lakes WATER Institute. The amount of funding is \$6000 and would be used to conduct additional sampling of gull feces for the isolation of *Campylobacter spp*, which is a significant cause of gastrointestinal illness.

Refer to the Board of Health.

**Attachments:** [UWM WATER Institute.pdf](#)

**06-1999**

**Subject:** The Public Health Administrator requests permission to authorize the Mayor and City Clerk to sign an amended contract with the U.S. Department of Housing and Urban Development. The original contract (resolution number 6489) covered the period April 1, 2005 through March 31, 2006. The amended contract covers the period April 1, 2005 through March 31, 2007.

The amount funded remains \$6000, and the original communication is attached for review.

**Please refer to the Board of Health.**

**Attachments:** [HUD Amendment.pdf](#)  
[HUD 041105.pdf](#)

**06-2024**

**Subject:** The Public Health Administrator is requesting permission to accept funding and for the Mayor and City Clerk to sign a contract with the State of Wisconsin Department of Health and Family Services for additional funding in the amount of \$13,310. These funds will be utilized for preparedness pandemic influenza and are included in the consolidated grant. The new allocation increases the total amount of the con-grant from \$339,924 to \$353,234.

**Fiscal Note: \$13,310**

Please refer to the Board of Health.

**Attachments:** [Pandemic Influenza Preparedness.pdf](#)

**Old Business**

**New Business**

1. *Health Department Performance Audit - J. Grammer*

*This information was included in the Board of Health packets that were sent out last month.*

2. *2005 Annual Report (attached) - J. Grammer*

3. *2005 Status Indicators (attached) - J. Grammer*

4. *Healthiest Racine-2008, End-Of-Year Reports 2005 - J. Grammer*

*The reports can be accessed at [www.cityofracine.org](http://www.cityofracine.org). Go to the Health Department home page, select Community Health Plan, End Of Year Reports.*

## **Reports**

*Monthly reports (May) from the Public Health Administrator and Division Managers*

*The April monthly reports were included in the Board of Health packets that were sent last month.*

## **Adjournment**