

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA  
ADMINISTRATION COMMITTEE  
Third Floor Council Chambers  
140 Main Street, Menasha  
June 7, 2010  
6:30 PM  
or immediately following Common Council  
AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
  - 1. [Administration Committee, 5/17/10](#)
- D. ACTION ITEMS
  - 1. [Agreement to Administer a Retail Food Program for the Department of Agricultural Trade and Consumer Protection](#)
  - 2. [Memorandum of Understanding for Tuberculosis Clinical Services](#)
  - 3. [Smoking Ban Ordinance Discussion](#)
  - 4. [Set 2011 Budget Review Session Dates \(Alderman Taylor\)](#)
- E. ADJOURNMENT

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 24-hours in advance of the meeting for the City to arrange special accommodations."

CITY OF MENASHA  
ADMINISTRATION COMMITTEE  
Third Floor Council Chambers  
140 Main Street, Menasha  
May 17, 2010

DRAFT

A. CALL TO ORDER

Meeting called to order by Chairman Wisneski at 7:11 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Wisneski, Langdon, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor

ALSO PRESENT: Mayor Merkes, CA/HRD Captain, Lt. Brunn, DPW Radtke, CDD Keil, C/T Stoffel, Clerk Galeazzi and the Press

C. MINUTES TO APPROVE

1. Administration Committee, 5/3/10

Moved by Alderman Hendricks, seconded by Alderman Benner to approve minutes.

Motion carried on unanimous voice vote.

D. ACTION ITEMS

1. Accept quote of The Post Crescent as the official City newspaper,  
May 2010-May 2011.

A memo from the Clerk stated the Post Crescent is the only quote received and the is the same as last year's.

Moved by Alderman Hendricks, seconded by Alderman Roush to recommend approval to Common Council.

Motion carried on unanimous voice vote.

2. Amendment to Listing Contract with Core Development for Lake Park Square commercial lots.

CDD Keil explained the amendment is for a six month extension to the Listing Contract approved in October 2009. This will extend the contract to October, 2010.

It was requested that a representative of Core Development attend the next Council meeting to give an update.

Moved by Alderman Hendricks, seconded by Alderman Benner to recommend approval to Common Council.

E. ADJOURNMENT

Moved by Alderman Zelinski, seconded by Alderman Hendricks, to adjourn at 7:15 p.m.

Motion carried on unanimous voice vote.

Respectfully submitted by  
Deborah A. Galeazzi, WCMC,  
City Clerk

TERMS OF AGREEMENT TO ADMINISTER A RETAIL FOOD PROGRAM  
FOR THE WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

The parties to this Agreement are the Wisconsin Department of Agriculture, Trade and Consumer Protection ("department"), and **City of Menasha Health Department** ("local agent"). This Agreement is made under s. 97.41, Stats., which authorizes the department to enter into a written agreement designating a local health department defined under Wis. Stat. s. 250.01(4) to act as the department's local agent to administer a retail food establishment licensing program ("retail food program"). This Agreement is subject to the requirements of s. 97.41, Stats. and ch. ATCP 75, Wis. Adm. Code.

- I. The department agrees to provide the following services:
  - A. Coordinate the designation of local agents with the Department of Health Services to ensure similarity with the inspection program administered under s. 254.69, Stats.
  - B. Develop standards and approve all forms for administration of the local agent's retail food program.
  - C. Evaluate the local agent's retail food program on an annual basis, under s. ATCP 75.12(1), Wis. Adm. Code.
  - D. Provide education and training to the local agent.
  - E. Inspect retail food establishments licensed by the local agent only under the conditions set forth in s. 97.41(8), Stats.
  
- II. The local agent agrees to provide the following services to **the City of Menasha**
  - A. Administer a retail food program under Subchapter III of Ch. ATCP 75, Wis. Adm. Code, within the local agent's jurisdiction, which includes:
    1. Licensing and inspection of all retail food establishments as defined in ss. ATCP 75.01(7) and 75.02(1), Wis. Adm. Code, except:

- a) Retail food establishments that are mobile and requiring licensure under s. 97.30(2)(a), Stats., unless all retail sales are conducted within the local agent's jurisdiction; or
  - b) Food processing plants licensed under s. 97.29, Stats.
2. Inspection of unlicensed retail food sales operations, as defined in s. ATCP 75.06(1)(a)1. and 2., Wis. Adm. Code.
3. Investigation of food-related consumer complaints involving retail food establishments and retail food sales operations.
4. Enforcement of ch. 97, Stats., ch. ATCP 75, Wis. Adm. Code, and other relevant administrative regulations, including food sampling from retail food establishments as requested by the department for laboratory analysis.
- a) The local agent may conduct the analysis if its laboratory is capable of performing the required test procedures.
    - (1) The local agent shall assume all costs involved in collecting the samples and running the analysis.
    - (2) The local agent shall inform the department of the analysis results.
  - b) Those local agents who do not have the laboratory capability of performing the analysis or who choose not to perform the analysis shall submit the samples to the Department Bureau of Laboratory Services.
    - (1) The local agent shall fund the cost of acquiring the food samples and the shipping of the samples to the state laboratory.
    - (2) The department shall fund the cost of the laboratory analysis of the food samples.

- B. Establish and collect reasonable license fees. Under s. ATCP 75.06(4)(c), Wis. Adm. Code., retail food establishment license fees charged by a local agent may exceed the amounts specified in s. ATCP 75.03(3), Wis. Adm. Code, but the amount of license fees collected less the amount paid to the department under s. ATCP 75.11(2), Wis. Adm. Code may not exceed an amount reasonably required to reasonably cover the local agent's program costs under s. ATCP 75.10(2), Wis. Adm. Code.
  - C. Reimburse the department for license fees, as required by s. ATCP 75.11, Wis. Adm. Code.
  - D. Maintain adequate staffing and equip staff with appropriate equipment, as required by s. ATCP 75.07(1), Wis. Adm. Code.
  - E. Review plans for the construction or remodeling of food establishments, to the extent provided under s. ATCP 75.03(8), Wis. Adm. Code.
  - F. Maintain records documenting the cost of administering the program, as required by s. ATCP 75.10(2), Wis. Adm. Code.
  - G. Report to the department on a monthly basis, as required by s. ATCP 75.10(3)(b), Wis. Adm. Code.
  - H. Maintain all records relating to the administration of the program, as required by s. ATCP 75.10, Wis. Adm. Code.
- III. The local agent agrees to comply with all applicable statutes and regulations relating to the licensing of retail food establishments, including but not limited to s. 97.30(2), Stats., and s. ATCP 75.03(1), Wis. Adm. Code, which require that retail food establishment licenses may be issued for periods of no longer than one year and expire on June 30 annually.

- IV. This Agreement incorporates any changes to the statutes or administrative rules cited in this Agreement plus any additional statutes or rules related to retail food establishment licensing that may be enacted or adopted during the term of this Agreement. The local agent agrees that all of its obligations under this Agreement include conformance to any changes to the statutes or administrative rules cited in this Agreement plus any additional statutes or rules related to retail food establishment licensing that may be enacted or adopted during the term of this Agreement.
- V. The department assumes no liability for the job safety or welfare of local agent employees, or for the actions or omissions of local agent employees relating to the administration of the retail food establishment licensing program, except as otherwise provided by law.
- VI. In connection with the performance of work under this Contract, the local agent agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Stats., sexual orientation as defined in s. 111.32(13m), Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the local agent shall take affirmative action to ensure equal employment opportunities. The local agent shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the DATCP setting forth the provisions of the nondiscrimination clause.

## VII. PRIVACY AND CONFIDENTIAL INFORMATION

### A Definitions

- 1 “*Confidential Information*” means all tangible and intangible information and materials, including all Personally Identifiable Information, being disclosed in connection with this Agreement, in any form or medium (and without regard to whether the information is owned by the State or by a third party), that satisfy at least one of the following criteria:
  - a) Personally Identifiable Information;
  - b) Information not subject to disclosure under subch. II, Chapter 19, Wis. Stats., Public Records and Property, related to the department’s employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or
  - c) Information expressly designated as confidential in writing by the department.
- 2 “Personally Identifiable Information” means an individual’s last name and the individual’s first name or first initial, in combination with and linked to any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable:
  - a) The individual’s Social Security number;
  - b) The individual’s driver’s license number or state identification number;
  - c) The number of the individual’s financial account, including a credit or debit card account numbers, or any security code, access code, or password that would permit access to the individual’s financial account;
  - d) The individual’s DNA profile; or

- e) The individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation, and any other information protected by state or federal law.
- 3 "Corrective Plan of Action" means a plan developed by the local agent and approved by the department that the local agent must follow in the event of any threatened or actual use or disclosure of any Confidential Information not specifically authorized by this Agreement, or in the event that any Confidential Information is lost or cannot be accounted for by the local agent.

**B Duty of Non-Disclosure and Security Precautions**

- 1 The local agent shall not use Confidential Information for any purpose other than the limited purposes set forth in the Agreement, and all related and necessary actions taken in fulfillment of the obligations thereunder. The local agent shall not disclose such Confidential Information to any persons other than those local agent Representatives who have a business-related need to have access to such Confidential Information in furtherance of the limited purposes of this Agreement and who have been apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Agreement. The local agent shall be responsible for the breach of this Agreement by any said Representatives.
- 2 The local agent shall institute and maintain such security procedures as are reasonable to maintain the confidentiality of the Confidential Information while in its possession or control including transportation, whether physically or electronically.
- 3 The local agent shall insure that all indications of confidentiality contained on or included in any item of Confidential Information shall be reproduced by the local agent on any reproduction, modification, or translation of such confidential

Information. If requested by the department, the local agent shall make a reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the department, as directed.

- 4 The local agent shall return to the department all Personally Identifiable Information it maintains, possesses or controls, collected on behalf of this Agreement, upon termination of this Agreement and destroy all copies.

C Legal Disclosure. If the local agent or any of its Representatives shall be under a legal obligation in any administrative, regulatory or judicial circumstance to disclose any Confidential Information, the local agent shall give the department's Office of Legal Counsel prompt notice thereof (unless it has a legal obligation to the contrary) to allow the department to inspect the Confidential Information and seek a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, the local agent and its Representatives shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.

D Unauthorized Use, Disclosure or Loss

- 1 Immediately upon becoming aware of any threatened or actual use or disclosure of any Confidential Information that is not specifically authorized by the Agreement, or of any Confidential Information being lost or unaccounted for, the local agent shall notify the department's Office of Legal Counsel of the problem. Such notice shall include, to the best of the Local agent's knowledge at that time, the persons affected, their identities, and the Confidential Information disclosed.

2 The local agent shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure or loss. The local agent shall cooperate with the department's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Confidential Information, including complying with a Corrective Action Plan.

VIII. This Agreement shall remain in force from the last date of signature of either party or until terminated by either the department or the local agent. Either party may terminate this Agreement in accordance with the procedures set forth in s. 97.41(2), Stats., and s. ATCP 75.06(7) and (8), Wis. Adm. Code, as applicable.

**DEPARTMENT OF AGRICULTURE, TRADE  
AND CONSUMER PROTECTION**

Signature \_\_\_\_\_  
Rodney J. Nilsestuen  
Secretary

Date \_\_\_\_\_

City of Menasha Health Department  
316 Racine Street  
Menasha, WI 54952

**Approved:**

\_\_\_\_\_  
Mayor Don Merkes

\_\_\_\_\_  
Date

Memorandum of Understanding for Tuberculosis Clinical Services

This Memorandum of Understanding (MOU) is between the Wisconsin Division of Public Health, Bureau of Communicable Diseases (hereafter referred to as "Bureau") and the **City of Menasha Health Department** (hereafter referred to as "Health Department") and reflects the responsibilities of both parties with respect to tuberculosis (TB) clinical services as set forth in Wisconsin State Statute 252.10 and Wisconsin Administrative Code HFS 145.12 and HFS 145.13.

The Bureau Agrees

To reimburse the Health Department quarterly for the TB dispensary services established, maintained and delivered in accordance with Wisconsin Statutes, Wisconsin Administrative Code, Centers for Disease Control (CDC) protocols and the WI Tuberculosis Program Guidelines.

To provide reimbursement to the Health Department in accordance with HFS 145.12 and HFS 145.13 of Administrative Rule. Reimbursement shall be at the medical assistance program rate. The cost of this agreement is not to exceed **\$3,500 for the period of July 1, 2010 through June 30, 2011**. Costs in excess of this maximum will not be reimbursed unless there is prior, written amendment to this agreement. Reimbursement rate changes and increases made by the medical assistance program during the time period of this agreement may be reflected in the amounts billed for TB dispensary services within this maximum or any amended amount.

To provide reimbursement to the Health Department for providing or ensuring the provision of necessary services that are ordered by a physician and/or are implemented in accordance the above identified statutes, rules, guidelines and as established in the plan for tuberculosis prevention and control by the health department. These services include the following:

- Tuberculin skin testing.
- Medication for treatment of tuberculosis disease and infection.
- Directly observed therapy.
- Tuberculosis contact investigation.
- Case management.
- Sputum specimen collection and induction.
- Medical evaluation by a physician or nurse.
- Chest radiographs.
- Collection of serologic specimens.

To provide reimbursement to the Health Department for the above activities with the following additional criteria

Tuberculin skin testing of high-risk persons is done as defined by the CDC (MMWR June 9, 2000, Vol. 49, No. RR-6) The administration and reading of a skin test shall be considered one visit.

Screening skin tests given in school programs, employee health programs, etc. that are not done as part of a contact investigation or are not done for a person with a medical or population risk factor will not be reimbursed.

The provision of X-rays, including interpretation, to determine the presence or absence of active disease, or to document response to therapy.

Physician services for medical evaluations and public health nursing visits to patients who have suspected or confirmed active TB disease and for persons who meet the classification of high-risk persons.

To purchase medications necessary for the treatment of *M. tuberculosis*, both active disease and infection and to arrange for their delivery to the Health Department for medication administration as part of Directly Observed Therapy (DOT) or for instructing patients in self administration. The medication program is also provided to promote the completion of therapy and the monitoring of the patient for disease symptoms and medication side effects.

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Approved

  
\_\_\_\_\_  
City Attorney

Memorandum of Understanding for Tuberculosis Dispensary Services

The Health Department Agrees

To provide or arrange for public health dispensary services for the diagnosis and treatment of persons suspected of having or diagnosed with *M. tuberculosis* according to federal regulations, state statutes and rules, the CDC and the WI TB Program guidelines.

To maintain records of services provided and billed to the Bureau as well as costs and receipts which the Health Department will make available for audit by the Department of Health Services to include at least the following:

- The initials and DOB for each person served (ex: JLD08031943)
- The type of patient (case, LTBI, suspect, contact)
- The date of service
- The type of service, MA code for service, and length of service (if applicable)
- The amount billed for service

To maintain and submit such records as required by the Health Department and the Bureau to enable them to carry out their responsibilities.

To use net income in excess of expenses from fees collected from recipients of public health dispensary services (if applicable) to finance case finding, targeted testing and treatment programs in the community as approved by the Bureau and in accordance with the health department plan for tuberculosis control and prevention at the local level.

To not seek reimbursement for services provided to patients who are Medicaid recipients or meet the screening criteria for presumed Medicaid eligibility at the time of service. If the Health Department is aware of a person's third party payment coverage for services, such as Medicare or private insurance, arrangements for that care and billing as a primary billing source should be made, if possible, without losing the person to care.

Changes made in federal regulations, state statutes or administrative rules during the time period of this agreement are binding to both parties.

Funding provided by the Wisconsin TB program is to complement the efforts of the local health department to prevent, control and eventually eliminate TB in Wisconsin and is not to be used to supplant local funding.

TB Program payments are subject to recoupment if the provider bills for the same service twice.

IN WITNESS THEREOF, the parties hereto execute this Understanding:

\_\_\_\_\_  
Health Department Official \_\_\_\_\_  
Date

\_\_\_\_\_  
Health Department Financial Official \_\_\_\_\_  
Date

\_\_\_\_\_  
Seth Foldy, MD, MPH \_\_\_\_\_  
Date  
State Health Officer and Administrator  
Division of Public Health  
Wisconsin Department of Health Services

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## League of WI Municipalities

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### June 2010 Note

#### **Holes in Statewide Smoking Ban Cause Confusion: Municipal Ordinances Can Clear up Ambiguity**

**By Curt Witynski, Assistant Director**

The new statewide smoking ban that takes effect July 5, 2010 may allow smoking in some indoor areas. An ambiguous definition of "enclosed place" in the new state law has caused confusion about whether certain indoor areas are subject to the prohibitions on smoking. Municipalities and bar owners may disagree over how to interpret the law. Under the new state law, communities retain the ability to enact more stringent indoor no smoking ordinances. Communities may wish to adopt an ordinance that more clearly defines the indoor areas in which smoking is prohibited.

#### **Where Smoking is Prohibited by the New State Law**

2009 Wisconsin Act 12 prohibits smoking in certain listed "enclosed places", including restaurants, taverns, and any other enclosed place of employment or public place.

Act 12 defines an "enclosed place" as a structure or area that has a roof and more than two substantial walls. The legislature recently changed the definition of "substantial wall" to mean "a wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area."

#### **Where the Confusion Lies**

These two key definitions are confusing and could be interpreted to permit smoking in areas thought by many to be indoor areas subject to the ban. For example, some might argue that a room with four walls in which 25 percent of two of the walls is covered by windows that are cracked open does not come within the definition of enclosed place and is therefore open to smoking.

Similarly, a business with sliding doors and large windows on two of its four walls could argue that the law permits smoking within the room when the windows and sliding doors are open.

Under such an interpretation, smoking would be allowed in a long narrow building with large doors on each end when the doors are kept open.

This ambiguity in the law is particularly problematic when tavern owners seek to build shelters for their patrons to use when smoking outdoors. A municipality and tavern owner may disagree over whether a proposed shelter is an "enclosed place" where smoking is disallowed.

Municipal officials may want to consult their legal counsel about adopting a no smoking ordinance that clarifies the definition of "enclosed place," thereby reducing confusion.

#### **Local Authority to Regulate Smoking**

Under Act 12 municipalities retain the same authority they had under prior law to enact ordinances regulating indoor smoking. Namely, municipalities can enact ordinances that, complying with the purposes of the state law, protect the health and comfort of the public. Wis. Stat. Sec. 101.123(4m).

We read this to mean that municipalities can adopt more, but not less, stringent regulations of indoor smoking. Pursuant to this grant of authority, a municipality can adopt an ordinance that clarifies what indoor areas are subject to the smoke-free law.

Municipal officials should consult their legal counsel if the municipality is interested in adopting a no

smoking ordinance that provides an unambiguous definition of "enclosed place" or uses different language to describe indoor areas subject to the smoking ban.

### **Possible Solutions**

One option would be to adopt language similar to what the Department of Commerce was considering as part of a rulemaking on the smoking ban. While the agency has decided not to proceed with the rulemaking, the language they were considering could serve as a model for municipalities. The proposed rule would have prohibited smoking in any "enclosed indoor areas."

An "enclosed indoor area" was defined to mean "all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall."

This definition is clearer and easier to apply than the definition of "enclosed place" in Act 12.

Another option would be to adopt language similar to the City of Verona's no smoking ordinance. That ordinance prohibits smoking in "any enclosed area of a place of employment." "Enclosed area" is defined as "all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows (exclusive of doorways), which extend from the floor to the ceiling."

A municipality may adopt an ordinance clarifying application of the no smoking law to indoor areas in their community at any time before or after the state law takes effect on July 5th.

### **Local Regulation of Outdoor Areas Preempted.**

Bear in mind that Act 12 greatly limits municipal authority to regulate smoking outside of buildings. Under the Act, municipalities only have authority to prohibit outdoor smoking on municipally owned property. This means, for example, that municipalities may not prohibit smoking in outdoor seating areas of restaurants.

The state law explicitly provides that the person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is within a reasonable distance from any entrance to the establishment where customers, employees, and other associated persons may smoke. A local ordinance may not define what qualifies as a "reasonable distance" from the establishment and bars.

### **Conclusion**

The new state smoking ban that takes effect July 5 has some holes in it that could be filled by adopting a local ordinance. The new state law prohibits smoking in enclosed places of employment, including bars and restaurants. The definition of enclosed place is confusing and open to interpretation. Municipalities may want to adopt a no smoking ordinance that provides an unambiguous definition of "enclosed place" or uses different language to describe indoor areas subject to the smoking ban.

Smoke-Free Wisconsin has published a helpful FAQ on the state smoking ban written by the Boardman Law Firm. It appears in this issue of the Municipality. We have posted the FAQ and other information on the smoking ban on our Website: <http://www.lwm-info>.

[Powers of Municipalities 913](#)



AN ORDINANCE: By Public Services & Safety  
Committee  
Re: Amending Ord. §8-32 to **repeal** the restaurant  
smoking ban and **adopt** Wis. Stat. §101.123  
relating to the statewide smoking ban

ORDINANCE NO. 1406

Introduced: June 2, 2010

Committee/Commission Action:

**RECOMMENDED FOR PASSAGE**

## AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

**Section 1.** Section 8-32 repealed and recreated to read as follows:

### **Sec. 8-32 – Statewide Smoking Ban**

- (a) *Smoking Ban Adopted.* The City hereby adopts, by reference, the provisions of Wis. Stat. §101.123, Smoking prohibited, pertaining to the statewide smoking ban.
- (b) *Definitions.* For purposes of enforcing the smoking ban in the City of Neenah, the following definition shall apply instead of the definition found in state statutes:
- “*Enclosed place*” shall mean all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
- (c) *Inspection and enforcement.* The City Health and/or Police Department shall have the power to enter any premises subject to the smoking ban under state law to ascertain whether the premises are in compliance with this section and take appropriate enforcement action pursuant to Wis. Stat. §101.123.

**Section 2. Severability.** In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that

this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

**Section 3. Repeal and Effective Date.** All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect July 5, 2010.

Approved:

Moved by: \_\_\_\_\_

Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

\_\_\_\_\_  
George Scherck, Mayor

Attest:

\_\_\_\_\_  
Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:

City Attorney James G. Godlewski

211 Walnut Street

Neenah, WI 54956

State Bar No. 1005210

## CHAPTER 1

### Finance

#### **SEC. 3-1-1 PREPARATION OF TAX ROLL AND TAX RECEIPTS.**

- (a) Taxes shall be paid and collected in the City of Menasha as provided in Chapter 74.031, Wis. Stats., and as herein provided.
- (b) Twenty-five percent (25%) of real estate tax plus all special assessments shall be known as the first installment and shall be paid on or before January 31.
- (c) If a taxpayer complies with provisions of the preceding Subsection, the first one-third (1/3) of the remaining seventy-five percent (75%) may be paid without penalty on or before March 31 of each year, and such payment shall be known as the second installment. The second one-third (1/3) of the seventy-five percent (75%) of such postponed tax shall be known as the third installment and may be paid on or before May 31; the fourth installment may be paid on or before July 31. Any such payments not made within the time specified shall have added interest at the rate of one percent (1%) per month or fraction thereof from the date such payment became due until paid; provided, however, any such tax remaining unpaid after July 31 shall become subject to interest as provided by statute, namely, one percent (1%) per month as of January 1 until paid.

State Law Reference: Sections 70.65, 74.03(1)(6) and 74.08, Wis. Stats.

#### **SEC. 3-1-2 DUPLICATE TREASURER'S BOND ELIMINATED.**

- (a) **BOND ELIMINATED.** The City of Menasha elects not to give the bond on the City Treasurer provided for by Sec. 70.67(1), Wis. Stats.
- (b) **CITY LIABLE FOR DEFAULT OF TREASURER.** Pursuant to Sec. 70.67(2), Wis. Stats., the City shall be obligated to pay, in case the City Treasurer shall fail to do so, all state and county taxes required by law to be paid by such City Treasurer to the County Treasurer.

State Law Reference: Section 70.67, Wis. Stats.

#### **SEC. 3-1-3 CITY BUDGET.**

- (a) **DEPARTMENTAL ESTIMATES.** On or before September 1 of each year, each officer, department, board and committee shall file with the City Comptroller an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding fiscal year, and a detailed statement of receipts and disbursements on account of any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments

- (b) **CONSIDERATION OF ESTIMATES.** The Mayor shall consider such departmental estimates in consultation with the department head.
- (c) **PROPOSED BUDGET.** On or before October 15 of each year, the Mayor shall prepare and submit to the Common Council an executive budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall include the following information:
- (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year.
  - (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
  - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
  - (4) Such other information as may be required by the Common Council and by state law.
  - (5) The annual budget submitted by the Mayor and approved by the Common Council shall maintain the undesignated general fund balance at not less than 6% of the general fund budgeted expenditures.
- (d) **COPIES OF BUDGET.** The City Clerk shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens. The entire fiscal budget shall be available for public inspection in the Office of the City Clerk and City Library during regular office hours.
- (e) **HEARING.** The City Attorney shall submit to the Council after the annual budget is submitted the draft of an appropriation ordinance providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation ordinance to the Council, it shall be deemed to have been regularly introduced therein.
- (f) (1) The Common Council shall review the budgets on the first Thursday in November, the second Monday in November, and the second Thursday in November of each year. If the Common Council deems necessary, a fourth review date is established as the third Monday in November. Such review session shall start at 5:00PM, the Mayor shall distribute a listing of the individual budgets to be reviewed on each date.
- (2) Final Common Council action on the budget shall be on the third Monday in November of each year.
- (3) The provisions of Sec. 2-2-16(d)(2)b. shall not apply to the budget.

State Law Reference: Sec. 62.12, Wis. Stats.

#### **SEC. 3-1-4                    CHANGES IN BUDGET.**

- (a) Upon written recommendation of the Administration Committee, the Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such

City of Menasha  
Common Council  
2010 Budget Review Session  
Common Council Chambers  
November 5, 2009  
MINUTES

- A. Call to Order  
Meeting called to order by Mayor Merkes at 5:00 p.m.
- B. Pledge of Allegiance
- C. Roll Call/Excused Absences  
PRESENT: Alderman Roush, Taylor, Wisneski, Pack, Hendricks, Zelinski, Englebert,  
Benner (6:10pm)  
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, C/T Stoffel, IT Mgr Lacey,  
IT Supv James, DPW Radtke, PWS Jacobson, Asst. PW Nieland,  
Clerk Galeazzi, and the Press.
- D. People from the Gallery to be heard on matters pertaining to the agenda  
(five (5) minute time limit for each person)  
  
Daryl Jones, 900 Keyes Street. Recommends changing budget procedure to zero  
base budget.
- E. Information Technology Department, pp. 16-18  
Discussion/Questions/Answers.  
  
Moved by Ald. Wisneski, seconded by Ald. Taylor to reduce by \$11,000 account  
#100-0403-513-30-15 Supplies-Tools & Equipment.  
Motion carried on roll call 7-0. (Ald. Benner was absent)  
  
Moved by Ald. Taylor, seconded by Ald. Zelinski to reduce by \$1,000 account  
#100-0403-513-30-15 Supplies-Tools & Equipment.  
Motion carried on roll call 6-1. Ald. Wisneski – no (Ald. Benner was absent)  
  
Moved by Ald. Taylor, seconded by Ald. Pack to reduce by \$1,000 account  
#100-0403-513-21-04 Professional Services-Computers.  
Motion carried on roll call 6-1. Ald. Wisneski – no (Ald. Benner was absent)
- 6:10p.m - Ald. Benner arrived
- Mayor Merkes requested to take up Item H (Public Works Dept.) at this time.  
No objection.
- F. Finance Department, pp. 10-15, 24, 132, 144, 149-150, 159-161, 163-167, 170, 173, 179,  
201-215  
Discussion/Questions/Answers.  
  
Moved by Ald. Wisneski, seconded by Ald. Benner to transfer \$2,000 from account  
#100-0408-552-22-03 Civic Commemorations-Electricity and \$75 from account  
#100-0408-552-22-05 Civic Commemorations-Water/Sewer to Parks Dept. budget.  
Motion carried on voice vote.

- F. Finance Department, pp. 10-15, 24, 132, 144, 149-150, 159-161, 163-167, 170, 173, 179, 201-215, Cont'd.

Moved by Ald. Zelinski, seconded by Ald. Pack to eliminate \$1,200 from account #100-0408-552-20-02 Civic Commemorations-Vending/Catering.

Motion carried on roll call 6-2.

Ald. Roush, Taylor, Pack, Hendricks, Zelinski, Benner – yes.

Ald. Wisneski, Englebert – no.

Moved by Ald. Wisneski, seconded by Ald. Benner to add \$200 to account #100-0408-552-20-02 Civic Commemorations-Vending/Catering.

Motion failed on roll call 4-4.

Ald. Roush, Wisneski, Englebert, Benner – yes.

Ald. Taylor, Pack, Hendricks, Zelinski – no.

Moved by Ald. Roush, seconded by Ald. Hendricks to reduce by \$4,000 account #100-0408-552-21-06 Civic Commemorations-Management.

Motion carried on roll call 7-1. Ald. Benner – no.

- G. Mayor/Council, pp. 1-5, 142  
Discussion/Questions/Answers

Moved by Ald. Pack, seconded by Ald. Zelinski to remove \$349,992 from account #100-0102-581-20-04 Steam Utility Operations-Mechanical Systems and not appropriate funds for the GE Capital lease and instruct CA Captain to draft a Resolution. GE Capital should receive a copy of the Resolution.

Motion carried on roll call 8-0.

Moved by Ald. Pack, seconded by Ald. Taylor to eliminate \$480 from account #100-0405-513-10-07 Common Council-Per Diem.

Motion carried on roll call 8-0.

Moved by Ald. Pack, seconded by Ald. Zelinski to eliminate \$100 from account #100-0405-513-33-01 Common Council-Mileage, \$100 from account #100-0405-513-34-01 Common Council-Mileage and \$200 from account #100-0405-513-34-03 Common Council Lodging/Meals.

Motion carried on roll call 8-0.

Moved by Ald. Roush, seconded by Ald. Englebert to eliminate \$200 from account #100-0405-513-34-02 Common Council-Registration.

Motion carried on roll call 8-0.

- H. Public Works Department, pp. 19-21, 81-108, 128, 130-131, 151-158, 161-162, 168, 172, 174-177, 180-198  
Discussion/Questions/Answers

Moved by Ald. Taylor, seconded by Ald. Zelinski to reduce by \$1,000 account #100-1001-514-22-04 Building Maintenance-Heat.

Motion carried on roll call 8-0.

Moved by Ald. Wisneski, seconded by Ald. Hendricks to reduce by \$1,700 account #100-1001-514-10-03 Building Maintenance-Overtime/Doubletime.

Motion carried on roll call 8-0.

H. Public Works Department, pp. 19-21, 81-108, 128, 130-131, 151-158, 161-162, 168, 172, 174-177, 180-198 Cont'd

Moved by Ald. Zelinski, seconded by Ald. Roush to reduce by \$5,125 account #100-1002-541-21-02 Professional Service-Engineering and reduced by \$1,000 account #625-1002-541-21-02 Engineering.

Motion carried on roll call 8-0.

Moved by Ald. Roush, seconded by Ald. Englebert to reduce by \$3,249 account #100-1002-541-10-03 Engineering-Overtime/Doubletime

Motion carried on roll call 8-0.

Moved by Ald. Wisneski, seconded by Ald. Taylor to give Director of Public Works the authority to lock in on the cost of fuel at his discretion.

Motion carried on roll call 8-0.

Moved by Ald. Wisneski, seconded by Ald. Taylor to reduce by #200 account 3731-1022-541-21-05 Public Works Facility-Medical.

Motion carried on roll call 8-0.

Moved by Ald. Pack, seconded by Ald. Zelinski to remove purchase of end-loader from Equipment Depreciation Fund.

Discussion ensued on what is the current balance of the Equipment Depreciation Fund.

Moved by Ald. Englebert, seconded by Ald. Wisneski to hold this item.

Item held.

I. Adjourn

Moved by Ald. Pack, seconded by Ald. Benner to adjourn at 10:15 p.m.

Motion carried on voice vote.

Respectfully submitted by  
Deborah A. Galeazzi, WCMC  
City Clerk

City of Menasha  
Common Council  
2010 Budget Review Session  
Common Council Chambers  
November 9, 2009  
MINUTES

- A. Call to Order  
Meeting called to order by Mayor Merkes at 6:20 p.m.
- B. Pledge of Allegiance
- C. Roll Call/Excused Absences  
PRESENT: Alderman Taylor, Wisneski, Pack, Hendricks, Zelinski, Englebort, Benner, Roush.  
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, C/T Stoffel, PHD Nett, SC Supr. Bull, Acting FC DeLeeuw, Clerk Galeazzi, and the Press.
- D. People from the Gallery to be heard on matters pertaining to the agenda  
(five (5) minute time limit for each person)
- Chris Klein, 730 Keyes St. Encourage more residents to speak at meetings; freeze all wages/benefits; should have no increase in budget, increase fees, take burden off tax payers.
- Lee Murphy, 812 Ida St. Member of Committee on Aging, Senior Center staff worked hard on their budget.
- Jeff Riedl, 408 Appleton St. Residents are concerned about financial condition of City.
- Mayor requested to have Health Dept/Senior Center (item F) budget reviewed first.  
No objection.
- E. Fire Department, pp. 34-38, 40-41  
Discussion/Questions/Answers
- Moved by Ald. Pack, seconded by Ald. Zelinski to eliminate \$9,645 from account #100-0501-522-80-03 Motorized Equipment.  
Motion carried on roll call 8-0.
- Moved by Ald. Taylor, seconded by Ald. Roush to reduce by \$5,000 account #100-0501-522-25-01 Other Municipal Entities (office furniture).  
Discussion  
Ald. Taylor and Ald. Roush removed their motion.
- Moved by Ald. Pack, seconded by Ald. Zelinski to reduce by \$2,500 account #100-0501-522-80-04 Capital Outlay-Office Equipment. (Menasha portion-\$1,011)  
Motion carried on roll call 8-0.
- Moved by Ald. Zelinski, seconded by Ald. Hendricks to reduce by \$20,000 #100-0501-522-25-01 Other Municipal Entities (maintenance of motor vehicles) (Menasha portion-\$8,090)  
Motion carried on roll call 8-0.

- E. Fire Department, pp. 34-38, 40-41 Cont'd.  
Moved by Ald. Zelinski, seconded by Ald. Englebert to reduce by \$4,500 account #100-0501-522-25-01 Other Municipal Entities (training) (Menasha portion-\$1,820)  
Motion failed on roll call 3-5.  
Ald. Taylor, Hendricks, Zelinski – yes  
Ald. Roush, Wisneski, Pack, Englebert, Benner – no.
- F. Health Department/Senior Center, pp. 24-26, 40, 42-66, 67-78, 199  
Discussion/Questions/Answers  
Moved by Ald. Taylor, seconded by Ald. Hendricks to reduce by \$500 account #100-0920-531-22-04 Heat.  
Motion carried on roll call 5-3.  
Ald. Roush, Taylor, Hendricks, Zelinski, Benner – yes  
Ald. Wisneski, Pack, Englebert – no
- G. Attorney/Personnel, pp. 6, 9, 191, 196  
Discussion/Questions/Answers  
Moved by Ald. Wisneski, seconded by Ald. Pack to reduce by \$200 account #100-0201-512-22-01 Telephone.  
Motion carried on roll call 8-0.  
  
Mayor Merkes asked if no objection they well adjourn the meeting and take up the remaining departments on Nov. 12, 2009  
No objection
- H. Clerk/Elections, pp. 7-8, 22-23  
Postponed to Nov. 12, 2009
- I. Any remaining budgets from November 5, 2009  
Postponed to Nov. 12, 2009
- J. Adjourn  
Moved by Ald. Englebert, seconded by Ald. Benner to adjourn at 9:15 p.m.  
Motion carried on voice vote.

Respectfully submitted by  
Deborah A. Galeazzi, WCMC  
City Clerk

City of Menasha  
Common Council  
2010 Budget Review Session  
Common Council Chambers  
140 Main Street, Menasha  
November 12, 2009  
MINUTES

- A. Call to Order  
Meeting called to order by Council President Hendricks at 5:00 p.m.
- B. Pledge of Allegiance
- C. Roll Call/Excused Absences  
PRESENT: Alderman Wisneski, Pack, Hendricks, Zelinski, Englebert, Benner, Roush, Taylor  
ALSO PRESENT: CA/HRD Captain, C/T Stoffel, LD Saecker, PC Stanke, CDD Keil, PRD Tungate, Lt. Brunn, Lt. Bouchard, Lt. Pershbacher, Lt. Styka, Lt. Sahr, AP Kester, Pk Supt Maas, and Clerk Galeazzi.
- D. People from the Gallery to be heard on matters pertaining to the agenda (five (5) minute time limit for each person)  
No one spoke.
- E. Library, pp. 109-114  
Discussion/Questions/Answers  
LD Saecker explained the Library budget is handled different than other departments. Under State Statute, Maintenance of Effort (MOE) Law local libraries must meet several requirements of system membership, including that the local library be funded at a level that is not lower than the average funding for the previous three years. The Mayor's version of the Library budget falls below the previous three years average.  
Moved by Ald. Wisneski, seconded by Ald. Englebert to increase the Library budget by \$12,135.00 to meet the requirements of the Maintenance of Effort. Motion carried on roll call 8-0.
- F. Police Department, pp. 27-34, 40, 66  
Discussion/Questions/Answers  
Moved by Ald. Taylor, seconded by Ald. Zelinski to reduce by \$1,000 account #100-0801-521-22-04 Heat.  
Motion carried on roll call 7-1. Ald. Wisneski – no.  
Moved by Ald. Zelinski, seconded by Ald. Pack to reduce by \$12,000 account #100-0801-521-80-03 Motorized Equipment (CSO Van).  
Ald. Zelinski and Pack removed their motion.  
Moved by Ald. Zelinski to reduce by \$10,200 account #100-0801-521-80-03 Motorized Equipment (CSO Van).  
No second, motion dies.

F. Police Department, pp. 27-34, 40, 66, Cont'd

Moved by Ald. Pack, seconded by Ald. Zelinski to reduce by \$6,000 account #100-0801-521-80-03 Motorized Equipment (CSO Van).  
Motion carried on roll call 7-1. Ald. Roush – no.

Moved by Ald. Pack, seconded by Ald. Zelinski to reduce by \$10,000 account #100-0806-532-25-01 Animal Impoundment.  
Motion failed on roll call 0-8.

Moved by Ald. Pack to eliminate summer crossing guard position.  
No second, motion dies.

Moved by Ald. Roush, seconded by Ald. Wisneski to increase to \$20,000 account #100-0806-532-25-01 Animal Impoundment.  
Motion carried on roll call 7-1. Ald. Pack – no.

G. Community Development Department, pp. 34, 39, 102, 136-142, 156, 162, 167, 168, 178

Discussion/Questions/Answers

H. Parks/Recreation/Forestry, pp. 79-80, 115-129, 133-135, 145-148, 180, 200  
Discussion/Questions/Answers

Moved by Ald. Taylor, seconded by Ald. Hendricks to reduce by \$1,000 account #100-0703-553-22-04 Heat.  
Motion carried on roll call 8-0.

Moved by Ald. Englebert, seconded by Ald. Benner to reinstate \$8,875 to Heckrodt Wetland Reserve account.  
Motion carried on roll call 8-0.

Moved by Ald. Roush, seconded by Ald. Englebert to reduce by \$3,000 account #100-0704-552-22-04 Swimming Pool-Heat.  
Motion carried on roll call 8-0.

Moved by Ald. Roush, seconded by Ald. Pack to eliminate \$4,000 from account #100-0704-552-21-02 Swimming Pool-Engineering.  
Motion carried on roll call 8-0.

Moved by Ald. Zelinski, seconded by Ald. Pack to eliminate \$14,000 from account #100-0704-552-82-01 Swimming Pool-Capital Projects-Boiler  
Motion failed on roll call 2-6.

Ald. Pack, Zelinski – yes.

Ald. Roush, Taylor, Wisneski, Hendricks, Englebert, Benner – no.

Moved by Ald. Wisneski, seconded by Ald. Roush to reduce by \$2,000 account #100-0703-553-20-09 Sanitation.  
Motion carried on roll call 8-0.

- H. Parks/Recreation/Forestry, pp. 79-80, 115-129, 133-135, 145-148, 180, 200  
Cont'd.

Moved by Ald. Pack, seconded by Ald. Zelinski to eliminate \$2,679 for Forestry Intern from account #100-0706-561-10-01 Forestry-Wages and eliminate \$3,000 from account #100-0706-561-21-02 Forestry Professional Svcs-Engineering. CA Captain to review resolution on Emerald Ash Borer grant.  
Ald. Pack and Zelinski removed their motion.

Moved by Ald. Pack, seconded by Ald. Zelinski to eliminate \$5,650 from account #100-0706-561-30-18 Forestry-Supplies (street & park trees).  
Motion failed on roll call 4-5.  
Ald. Roush, Pack, Hendricks, Zelinski – yes.  
Ald. Taylor, Wisneski, Englebert, Benner, Mayor Merkes – no.

Moved by Ald. Pack, seconded by Ald. Zelinski to change account #207-0000-441-38-00 Marina-Gasoline Sales to \$102,600.  
Motion carried on roll call 8-0.

- I. Any remaining budgets from November 5 & 9, 2009

Attorney/Personnel, pp. 6, 9, 191, 196  
Discussion/Questions/Answers

Moved by Ald. Hendricks, seconded by Ald. Englebert to increase by \$140 account #100-0201-512-15-02 City Attorney-Life Insurance and increase by \$76 account #100-0202-512-15-02 Personnel-Life Insurance.  
Motion carried on roll call 8-0.

Clerk/Elections, pp. 7-8, 22-23  
Discussion/Questions/Answers

- J. Adjourn

Moved by Ald. Pack, seconded by Ald. Roush to adjourn at 10:46 p.m.  
Motion carried on voice vote.

Respectfully submitted by  
Deborah A. Galeazzi, WCMC  
City Clerk

# November 2010

November 2010

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 2010

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
November 1 6:00pm Council/Comr Meetings	2 3:30pm Plan Commission	3	4 5:00pm Budget Review Session	5	6
8	9	10	11	12	13
5:00pm Budget Review Session 6:00pm Parks and Recreation Board		4:30pm Landmarks Commission	5:00pm Budget Review Session		14
15 6:00pm Council/Comr Meetings	16 3:30pm Plan Commission 6:30pm Sustainability Board	17	18	19	20
22	23	24	25	26	27
29	30				