

**Appleton Health  
Department**

# Memo

**To:** Kurt Eggebrecht

**From:** Tim Mirkes

**cc:**

**Date:** August 1, 2016

**Re:** Recommended Ordinance changes – August 2016

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With the passing of 2015 Wisconsin Act 55, the Food Safety and Recreational Licensing section of the Department of Health Services was merged with the Division of Food Safety at the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP), creating a new “Division of Food and Recreational Safety” in WDATCP, effective July 1, 2016.

As a result of that merger, several existing City ordinances will require modification to correct Wisconsin Administrative Code references.

Also, with the merger, Wisconsin Local Public Health Departments (LPHD) that are Agents for WDATCP recently learned the Attorney for WDATCP issued an opinion that affects the LPHD’s ability, including the Appleton Health Department’s, to license Taverns that serve no food under our agent contracts with WDATCP. (Taverns that serve food, such as sandwiches or pizzas are considered to be classified as a restaurant and are not affected by this opinion.) Appleton currently licenses and inspects 10 such establishments that meets this definition.

The opinion issued also affects the LPHD’s ability, including the Appleton Health Department’s, to issue non-profit Food Stand permits to not for profit organizations occasionally preparing or serving food to the general public under our agent contract

with WDATCP. In fiscal year 2015/16, Appleton provided food service training and issued permits to 137 nonprofit organizations that fit this definition.

To rectify this, “Taverns” that serve no food will need to be addressed in a section of the Ordinance other than the current section, which adopts the Wisconsin Administrative code by reference. Taverns may be licensed under local authority, but not as an Agent of the State since ATCP-75 specifically exempts taverns from State licensing requirements.

Also, another section needed in the Ordinances is a section that addresses issuance of a “Certificate of Food Safety” rather than a “Non-profit Food Permit”. Nonprofit organizations may be issued a “Certificate” under local authority, but not as an Agent of the State since ATCP-75 specifically exempts taverns from State licensing requirements.

I think it’s critical that the Appleton Health Department maintain a continued public health presence in these areas to ensure the high standards established in our community.