



CITY OF WAUWATOSA HEALTH DEPARTMENT
7725 WEST NORTH AVENUE WAUWATOSA, WI 53213
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<http://www.wauwatosa.net/health>



Board of Health Meeting Minutes
Tuesday, November 18, 2014 8:00 - 9:15 a.m.
Wauwatosa Health Department Conference Room

Present: Cheryl Davies, John Dunn, Chris Shaw, Leslie Martin, Lori Nielsen, Bobby Pantuso, Jim Beix, Lisa Simonds

Excused: Nancy Kreuser

Recorder: Lisa Simonds

1. Call to Order – The meeting was called to order at 8:10 AM by Chairperson John Dunn.
2. Approval of agenda: Motion to approve the agenda
 - Motion: Leslie Martin
 - Second: Chris Shaw
 - Motion carried unanimously.
3. Approval of 9/16/14 Meeting Minutes: <http://www.wauwatosa.net/index.aspx?NID=199>
 - Motion: Leslie Martin
 - Second: Cheryl Davies
 - Motion carried unanimously.
4. Comments from the public - none
5. Comments from the Board of Health - none
6. New Business: Wauwatosa Health Department Reports - none

Administration: Dr. Nancy Kreuser, Health Officer (Lori presented updates)

- Accreditation Update:
 - Progress update –Evidence collection and domain review in process. PHAB day today – Evidence collection day for staff.
 - Deadline for electronic loading of evidence moved to February 28, 2015. We are on schedule to submit and load our evidence.
- Financial updates:
 - Budget updates: Final council vote to pass the budget.
 - Hart Park Adult Health Center CDBG Grant – Interfaith chosen to oversee Hart Park and to report to the Health Department and present updates to the Senior Commission. Final approval by council tonight. Hart Park will eventually expand programming. Senior assessment is being conducted right now and these results will be incorporated into the programming.
- Role of the City of Wauwatosa Health Department in the communicable disease situation and preparedness: UW Health, Froedtert Health and Children's Hospital of WI named as a regional Ebola treatment centers for WI: Discussed procedure with the police, fire and legal department. The southeastern area of Wisconsin would be treated by Froedtert for adults, which has 12 beds for emergencies, and Children's for those aged less than 17 years. The CDC would provide technical assistance. Four countries are currently monitored for travel. City of Milwaukee currently monitoring 10 residents.

Public Health Nursing: Lori Nielsen, Nursing Supervisor

- **Annual report:** Report was emailed to the Board members. For Healthy Growth & Development, Lori will add a note that the health department provides ASQ's (Ages and stages) for clients as a screening tool. Also, Lori will make a notation that alcohol is an

underlying factor for violence and injuries. Leslie Martin motioned to approve the annual report, Cheryl Davies (1st) and John Dunn (2nd) approved.

Communicable Disease (CD) Update:

SENTINEL EVENTS

Global Ebola Outbreak preparation #5096: In the fall of 2014, the Centers for Disease Control began issuing guidance for the nation on how to conduct surveillance, treat, and control for suspect and confirmed cases of Ebola. The WHD conducted several local discussions with community partners on strategies and interventions if a suspect or confirmed Ebola case presents in the community. Local preparedness activities continue. Details discussed during the Administration Report.

Child Care Varicella Outbreak #5097: On October 13, the WHD was notified of a Varicella (chickenpox) exposure at a child care facility. Two siblings who attended the day care were ill with Varicella. Infection control measures were implemented. Letters informing parents of the exposure were distributed. An outbreak was declared when 2 more children were diagnosed with Varicella during the incubation period. The investigation was resolved on October 29.

School Pertussis Outbreak #5098: On November 5, the WHD was notified of a pertussis exposure at a school beginning on October 22. On November 10, the WHD declared an outbreak when more children connected with the school were diagnosed with Pertussis; exposures may have started with a sports team. Letters informing parents of the exposure were distributed. To date, 5 confirmed Pertussis cases are linked to the school. The investigation continues.

Adult Living Facility Enteric Outbreak #5099: On November 14, the WHD was notified of an enteric outbreak at an adult assisted living facility. 4 residents were ill. Infection control measures were implemented. No stool samples were tested due to the limited duration of symptoms; Norovirus was the suspected organism but not confirmed. The investigation was resolved on November 17.

School Pertussis Outbreak #5100: On November 12, the WHD was notified of a pertussis exposure at an elementary school. Letters informing parents of the exposure were distributed. On November 17, the WHD declared an outbreak when 3 more children connected with the school were diagnosed with Pertussis. The investigation continues.

OTHER

VFC Audit: The Division of Public Health's (DPH) Immunization Program conducted an unannounced visit to the WHD to audit its vaccine management practices. The WHD passed with no deficiencies. See copy of audit.

Tuberculosis After Action meetings: The WHD continues to meet with selected Milwaukee Regional Medical Complex entities to debrief the tuberculosis exposure and discuss ways to better communicate and partner with each other. The finalized after action report will be presented at the next meeting.

Group facility meetings: The WHD continues to meet with a group facility to discuss adolescent immunizations and sanitation needs.

Staying Healthy presentations: Nurses conducted two "Staying Healthy this Winter" presentations at two group living facilities this fall. The presentation included information on local health departments' requirements for communicable disease investigation and control, facilities' requirements to report outbreaks, measures to contain outbreaks, and interventions that individuals can do to stay healthy. Another presentation at a group living facility is planned for January.

Hand washing demos: PHNs continue to educate the community on sufficient and proper handwashing techniques with the glow germ demo. One demo was conducted at the Briggs & Stratton Employee

Wellness Fair and another through the library program. Six training sessions are planned for Curative employees in December.

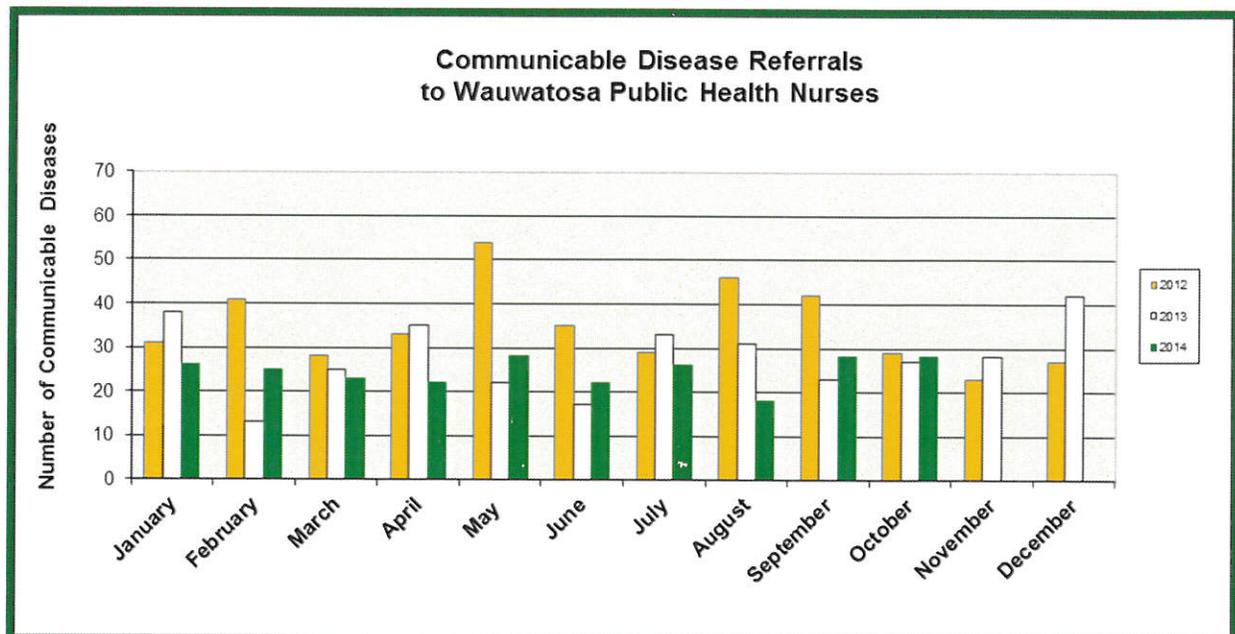
School Vaccine Summary: The WHD reported to the DPH Immunization Program the summary of school children who are up-to-date or behind on their vaccines. This is a requirement of all local health departments to complete this report by November 15 of each year. Details on the percentages will be provided at the next meeting.

Pertussis statewide outbreak: The number of statewide-pertussis cases has continued. Wauwatosa has experienced and increased number Pertussis cases among children in the past month. The WHD is monitoring 2 more entities with Pertussis exposures for a possible outbreak designation.

Flu Vaccine / Clinics: WHD conducted several city employee and community flu clinics this fall. WHD provided free children's flu vaccine at the 3 mass flu clinics this past the fall.

Sexually Transmitted Diseases (STDs): STDs continue to account for the majority of reported communicable diseases during 2014. PHNs are revising the STD investigation protocols.

Trends: See graph below for trends.



Healthiest Wauwatosa 2014 Programs and Initiatives Highlights:

Accreditation and Quality Improvement (QI) Process:

- PHAB accreditation: Discussed during the Health Officer's Report.
- 2013 WHD Annual Report needs approval.
- YRBS: WHD in partnership with the school district and Tosa United will administer the YRBS in late January/early February of this school year. Adding questions on e-cigarettes, sunscreen usage, and

routine medical and dental care. The WHD and the Tosa United coordinator will meet November 19 to finalize the questions and begin other preparations for the survey.

- CHIP forum: Preparations are underway to host a Community Health Improvement Plan forum in February 2015. The forum's purpose is for community partners to report their progress to date and discuss their future CHIP initiatives. More details to follow.
- The WHD is assisting the Senior Commission in conducting an updated Senior Assessment. This is a modified update of the 2002 Adding Life to Years and 2008 Adding Life to Years II senior surveys. UWM was contracted to conduct and analyze the survey.
- IRB policy: The WHD is revising its IRB policy. Please forward questions, comments or input into the IRB policy to Nancy.

Alcohol, Tobacco, and Other Substances:

- Next tobacco compliance check is in the planning stages for December.
- An alcohol compliance check was conducted on Saturday, November 8. 20 establishments were checked and no establishment sold alcohol to an under-aged student. Please see the attached for the list of businesses that successfully passed the compliance check. WHD secured grant monies to pay for the police overtime and student training for the compliance checks.
- In partnership with Tosa United, the WHD hosted the community Medicine Collection Day on Saturday, September 20. Volunteers collected unused medications to fill almost four 40 pound boxes.

Injury & Violence Prevention:

- Home Safety Visits: PHNs continued offering and conducting home safety visits. More Wauwatosa families are requesting home visits this year.
- In October, the WHD met with the Tosa Skateboarders United (TSU) organization to discuss visual and written messaging on safe skateboarding practices. Discussed future partnering opportunities, especially when the skateboarding park breaks ground and subsequently opens in summer 2015.

Access to Care:

- During 2014, the WHD conducted a pilot program to provide limited programming and I&R outreach to individuals accessing the Tosa Cares program out of Mt. Zion Church. The October outreach session focused on linking families to community resources. WHD hosted a pilot program debriefing meeting with the Tosa Cares' coordinator and board member. Tosa Cares' coordinator reported that half of the program participants are Wauwatosa residents. The WHD's participation will continue through 2015.
- In partnership with Froedtert & Medical College and the Milwaukee Enrollment Network, the WHD planned an Affordable Care Act (ACA) enrollment event for Thursday, December 11 from 1:30 – 4:30 pm in the Wauwatosa Library's Firefly Room. 'Marketplace' navigation specialists will be onsite to help guide individuals to enroll on the healthcare.gov website.
- Work continues on drafting an 'Access to Healthcare' logic model/action plan.

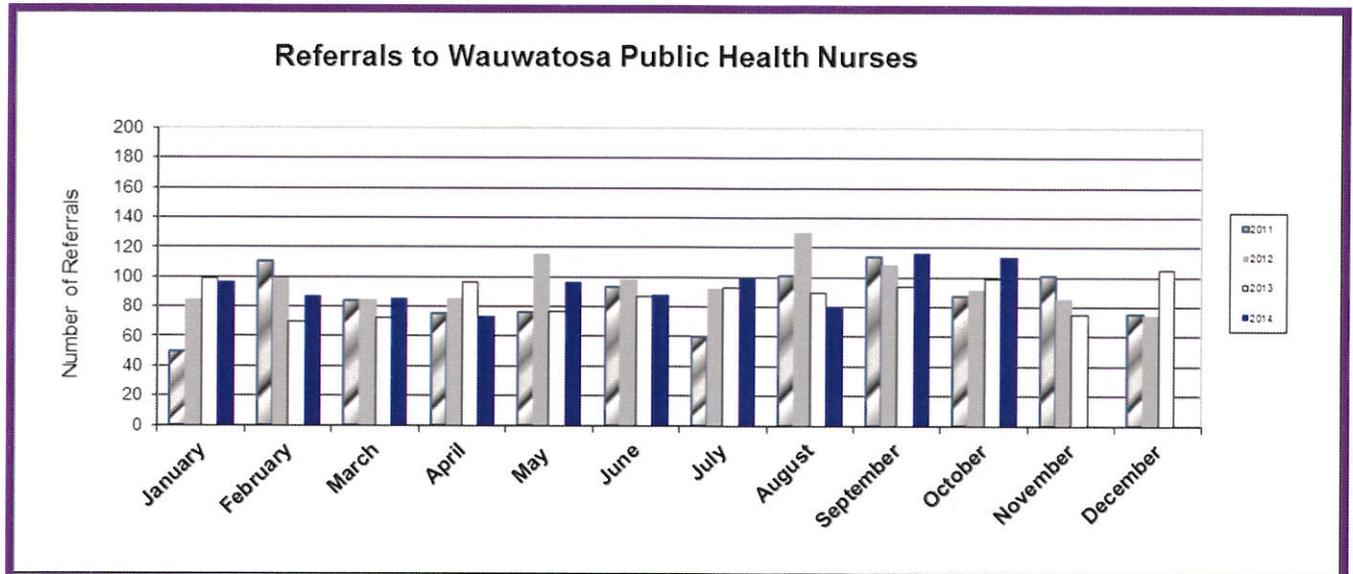
Physical Activity and Nutrition:

- In September, the WHD assisted the school district in revising the Wauwatosa School District (WSD) Wellness Policy, including its "healthier snack" educational materials.

- In September, the WHD met with the Wauwatosa Safe Routes to School Coalition to discuss providing technical assistance with data collection and selected activities. PHNs participated in the October 8th National “Walk to School Day” at six local schools.
- The WHD will conduct a retrospective ‘Infant Feeding Survey’ in December. This is a randomized phone survey of mothers who gave birth in 2012.

Other:

- Workforce development: A WHD staff member presented on the use of data in public health for a masters health informatics class.
- Public Health Database: The Program Tracker database continues is in production mode or is “live”. However, plans are underway to train staff in December before “live” data entry can occur.
- Referrals to the public health nurse remain steady. See graph below for trends.



November 2014 Inspection Results

Alcohol sale compliance investigations were conducted by the Wauwatosa Police Department (WUPD) and students from a local school on Saturday, November 8, 2014. Minors under the supervision of WUPD entered 20 local establishments and attempted to purchase alcohol. The students were unsuccessful in their attempts to purchase alcohol at all 20 establishments.

Be sure to support the following establishments as they continue to abide by the laws that protect our youth from alcohol:

Walgreens - 6600 W. State St.

Metcalf's Sentry - 6700 W. State St.

CVS Pharmacy - 7520 W. Bluemound Rd.

Pick 'N Save - 6950 W. State St.

Walgreens - 2656 Wauwatosa Ave.

Buy Rite Liquor - 6002 W. North Ave.

Tosa Liquor - 6607 W. North Ave.

Sendik's - 8616 W. North Ave.

Outpost - 7000 W. State St.

Ray's Liquor - 8930 W. North Ave.

Tobacco Outlet - 11712 W. North Ave.

Walgreens - 2275 N. Mayfair Rd.

Aldi - 12120 W. Burleigh St.

Target - 3900 N. 124th St.

Walgreens - 10800 W. Capitol Dr.

Pick N Save- 1717 N. Mayfair Rd

Swan Pharmacy - 9130 W. North Ave.
Rd.

Mayfair Liquor Mart - 3122 N. Mayfair

Breeze-Thru Wine & Spirits - 11108 W. Bluemound Rd.

Tosa Wine and Spirits - 11500 W. North Ave.

Environmental Health/Preparedness Division: James Beix, Public Health Manager

Environmental Health Division

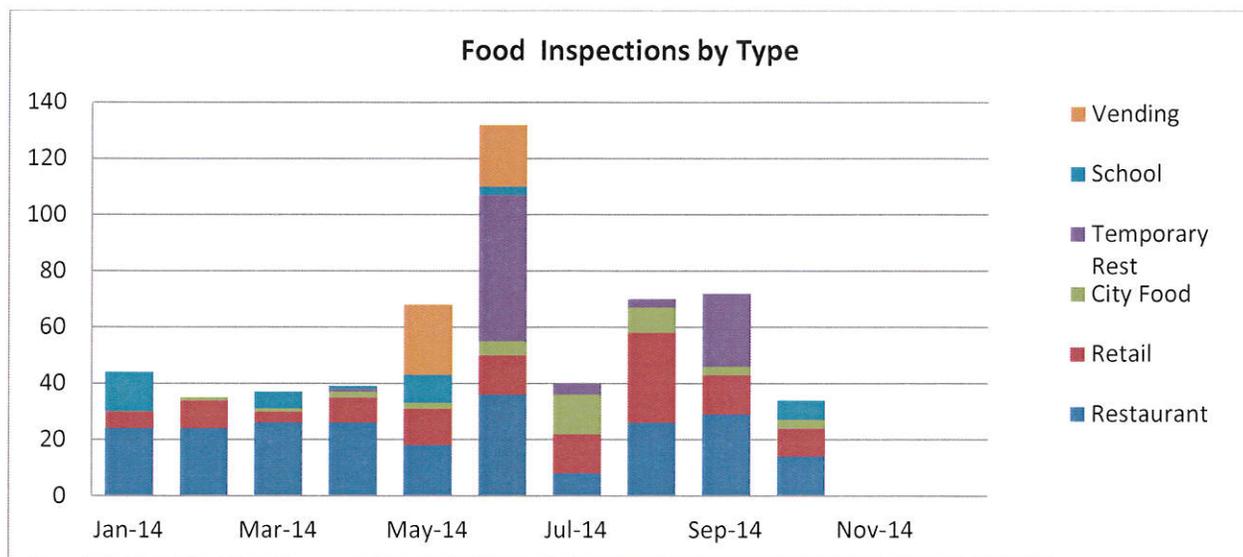
State Agent Inspection Program

Inspections – All licensed establishments will receive at least one inspection as mandated by the State Agent Contract. WHD staff have completed all outdoor pools and annual temporary events for 2014. Lower complexity establishments such as City Food Licensed establishments are approximately 90% completed. WHD staff is ahead of schedule for pending restaurants and retail food establishment inspections.

Licensing – As part of the State agent contract, WHD must remit 10% of the fees collected for licensing establishment to the State of Wisconsin. This remittance was submitted by September 30th. WHD submitted \$6,744.00 to the Wisconsin Department of Human Services and \$2,045.00 to the Wisconsin Department of Agriculture Trade and Consumer Protection.

New establishments – Below are new food establishments for the City of Wauwatosa. The level of completeness is noted:

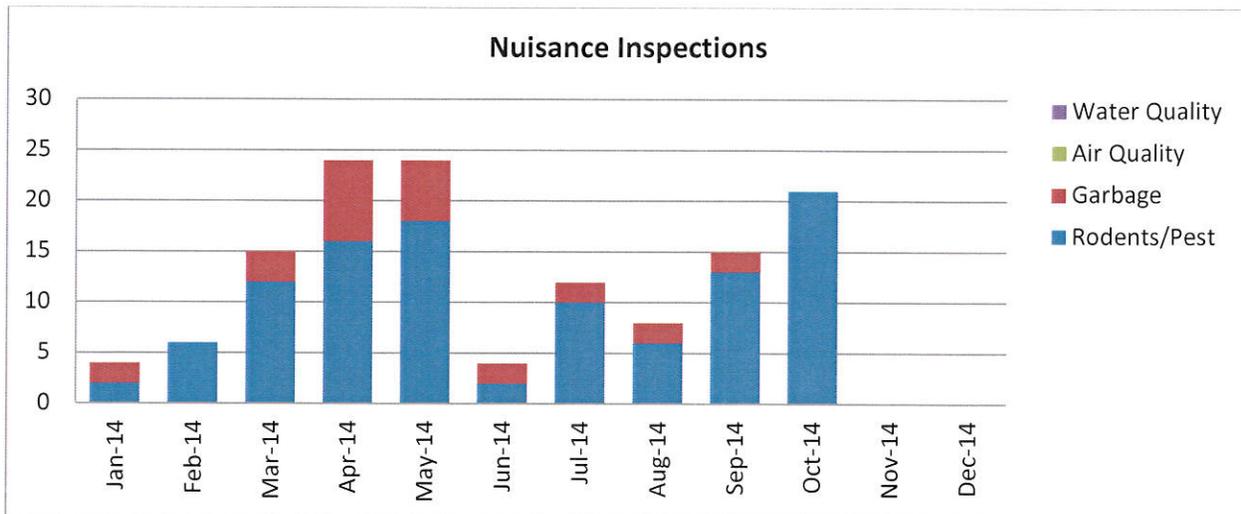
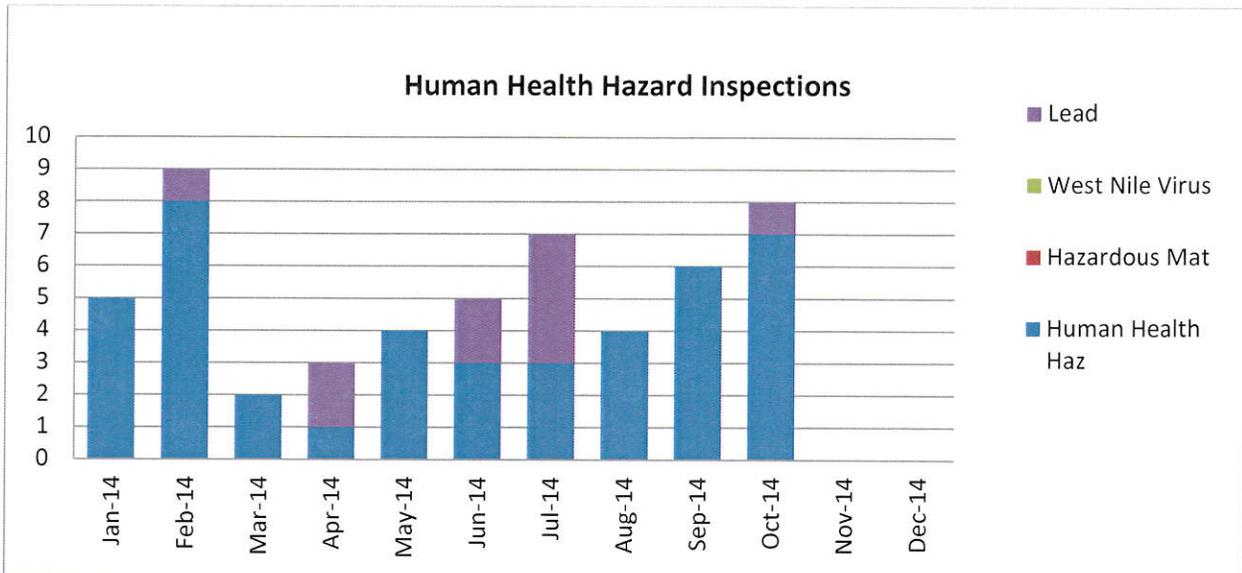
- The Corner Bakery – 11500 W Burleigh St #102 – Restaurant
- Hue Vietnamese - 6519 N Mayfair Rd - Restaurant



Nuisances/Human Health Hazards

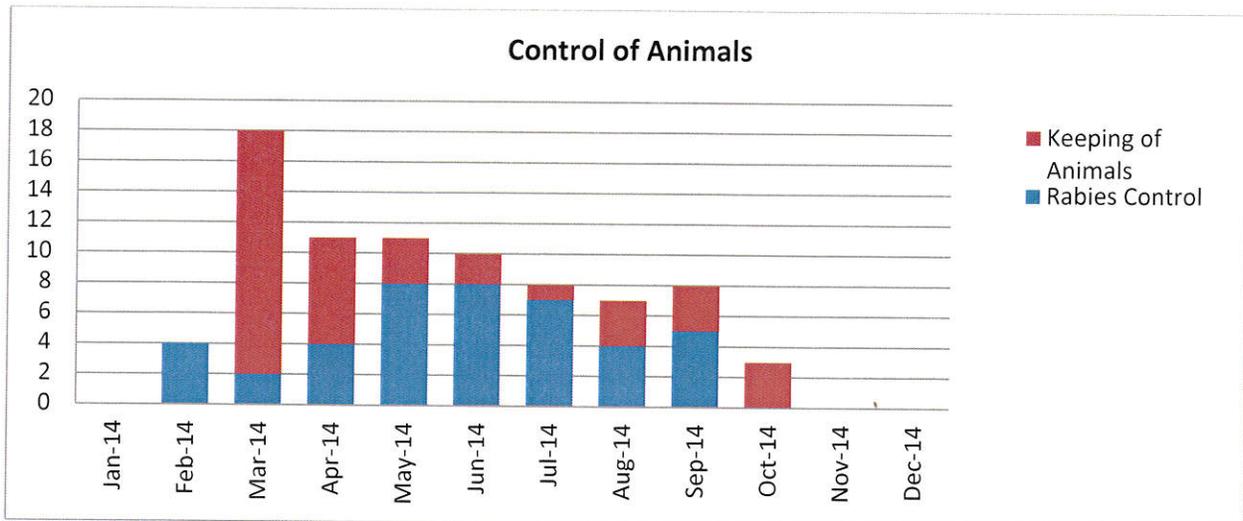
Nuisance complaints consist of rodent and pest complaints. WHD staff will continue to monitor and respond to complaints as they occur.

Orders to abate unsanitary conditions (update) – Orders were issued to abate the unsanitary conditions in a private residence. Accumulation of clutter and materials made the residence unsafe for the owners or emergency responders. Remediation of the property has been completed and the property will be rented. The order were officially completed on October 9th.



Rabies/Animal Control Program

- There have been 39 rabies exposure so far in 2014. Twenty nine dog bites, 6 cats and 4 bat exposure have been reported to WHD.
- 2014 enforcement activities related to keeping of animals
 - 26 Quarantine orders have been issued for rabies observations
 - 7 specimens have been sent for rabies testing – all were negative
 - 2 municipal citations have been issued
- Currently no rabies exposures are under quarantine for rabies observations.
- One dog was declared vicious and was euthanized
- Two dogs were declared dangerous and are awaiting trial to rule on the declaration. Interim control measures are in place until the trial date to ensure public safety



Legal Update

Briggs & Stratton Memorandum of Understanding (MOU) – A MOU is being negotiated between Briggs & Stratton (B&S) and the City of Wauwatosa to formalize a working relationship to develop and train of Closed Points of Dispensing (POD) Mass Clinic plans. The MOU and plans will allow B&S to receive pharmaceutical interventions during a declared public health emergency and prophylax their own workforce. The MOU was approved by the Common Council 16-0 on September 16th and was signed by all parties on October 13th 2014.

Preparedness

Public Health Preparedness Grant (continuation)

The 2014/15 grant year began July 1, 2014. The objectives this year will focus on Community Recovery, Non-Pharmaceutical Interventions and Fatality Management.

- The 2014/15 grant year will be a transition year as the State is consolidating preparedness efforts into Health Care Coalitions. These coalitions will be combining the preparedness efforts of Public Health, Hospitals, Emergency Medical Services and Emergency Management.
- Milwaukee County Local Health Departments are planning meeting with the Milwaukee County Medical Examiner’s office and Emergency Management to discuss mass fatality planning. Final revisions of the plan are being considered. After the plan is approved, WHD staff will adapt the public health emergency response plan to reflect this new plan and identify WHD activation protocols.

Cities Readiness initiative (continuation)

The 2014/15 grant year is a continuation year with similar funding levels and objectives.

- WHD staff is revised the Health Department section of the City Emergency Operations Plan (EOP) in order to incorporate the Milwaukee County news Emergency Support Functions model. This will enhance our plans and become a template for other City departments. WHD staff will now begin reviewing and updating the mass sheltering sections of the City EOP.
- WHD met with Briggs and Stratton staff on October 13th to discuss closed point of dispensing models. A walkthrough of the facility was conducted to assess viable mass clinic models. Briggs & Stratton staff are working on internal plans and future meetings will be held once those plans are completed. WHD staff is available to consult and review the plans.

7. **Advocacy/Opportunities**

- Electronic nicotine devices/electronic cigarette ordinance draft – see 2 handouts (ordinance in draft form and 11/17/14 memo regarding electronic cigarettes) Ordinance is not a ban, but a restriction on where the e-cigarettes can be smoked. Eileen Miller Carter is working on wording for the proposal to include definitions of e-cigarettes and e-smoking devices and to also include new document from the American Medical Association. Nancy attended a meeting with the Planning Commission since this issue was not addressed in zoning. Board of Health members asked to provide feedback to Lori or Eileen by Thursday, November 30th.

8. **Old Business - none**

9. **Announcements:** Next meeting is February 17th at 8:00 am.

10. **Motion to adjourn 9:15 am**

- Motion: John Dunn
- Second: Cheryl Davies
- Motion Carried unanimously

Recorder: lms



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Memo

To: Development Committee
From: Dr. Nancy Kreuser, RN, PhD, City of Wauwatosa Health Officer
City of Wauwatosa Board of Health
Re: Electronic Devices and Electronic Cigarettes Ban Ordinance
Date: November 17, 2014

Issue

There is a need to clarify the ambiguities in the WI State Statute and restrict the use and possession of the devices by minors.

In September 2014, I was asked to provide information to the Plan Commission related to the public health perspective on the proposed electronic devices/electronic cigarettes and the impact on the public's health. This information is included below.

Background

In the health department's memo to the Plan Commission dated September 5, 2014, we recommended that the City of Wauwatosa set policy consistent with the City's Strategic Plan. One component of a Community of Choice is the 'Healthy Wauwatosa Initiative 2014-2017' which creates a culture of health.

City employees reported the presence of e-cigarettes by the public within City Hall. Our City's Invest in Wellness program aims to improve and maintain the health of our employees, and banning electronic devices and electronic cigarettes would be consistent with that mission.

Wisconsin State Statute does not define smoking to include electronic devices and electronic cigarettes. It does not address the restriction of sales to minors and possession by minors.

Public Health

Public health focuses on prevention of disease, risk factors, and supporting policies that make a safe and healthy environment for the entire community. The 2014 City of Wauwatosa Strategic Plan has as one of its goals the implementation of a comprehensive 'Healthy Wauwatosa' initiative. The strategies focus on aspects of health behaviors and policy making that reflect healthy choices for the community.

Smoking is the single most preventable cause of death, disease, and disability in the US. It is linked to over 480,000 deaths each year. More than 16 million Americans are living with smoking-related diseases such as cancer, diabetes, heart disease and stroke. Cigarette smoking of any kind is not without risk.

Electronic cigarette (e-cigarette) devices have been around for many years, however, with the passage of smoke-free laws there has been increased interest in smoking alternatives. E-cigarettes are the most common electronic nicotine delivery system (ENDS). It delivers an aerosol by heating a solution that users inhale.

The World Health Organization (WHO) Report on ENDS (7/21/14) is calling for new Food and Drug Administration (FDA) regulations on e-cigarettes because they contain toxins and cancer-causing ingredients including nicotine, formaldehyde, and heavy metals. WHO is recommending indoor bans, stating that e-cigarettes are harmful to users and bystanders. They also proposed a ban on advertising and sale to minors to prevent nicotine addiction. The FDA is taking steps to regulate e-cigarettes and other products, require health warnings, prohibit free samples, require labeling and ban sales to minors.

In 2013 and most recently November 10, 2014, the American Medical Association (AMA) urged the FDA to act quickly to regulate e-cigarettes, marketing, and sales in order to protect the health of the public.

Research and public health impact

An article in the ASHRAE Journal (June 2014) concludes that e-cigarettes emit harmful chemicals into the air and need to be regulated in the same manner as tobacco smoking. Consumers should be warned that, while the health risks associated with the usage of e-cigarettes are less than those associated with tobacco smoking, there remains substantial health risks associated with the use of e-cigarettes.

The AMA (2014) recommends prohibiting e-cigarettes in all places where tobacco use is prohibited.

The trade-off between secondhand cigarette smoke and the e-cigarette vapor is marginal; at least ten chemicals in e-cigarette aerosol are on California's Proposition list of carcinogens and reproductive toxins. The AMA (2014) is concerned about the vaporized chemicals of unknown dose and identity.

There are concerns about manufacturing processes and quality standards for contaminants. Limited testing revealed wide variations in the nature of toxicity of content and emissions (WHO, 2014). Potential toxicity related to the concentration and number of flavorings used in the e-liquid is a concern. The aerosol usually contains some cancer-causing substances as well as variation in the range of particles delivered (WHO, 2014). There is growing concern of this product and use not being tested by independent scientists and limited research. It is not being regulated, labeled or monitored.

Nicotine can have adverse effects during pregnancy for a fetus. It may also contribute to heart disease and is considered a "tumor promoter" (WHO, 2014). Nicotine exposure has the potential for long-term consequences for brain development in adolescents (US DHHS, 2014).

Youth *smoking* rates in Wisconsin have been reduced to all-time lows. The Centers for Disease Control and Prevention (CDC) reported that 263,000 (up from 79,000 in 2011) middle and high school students who had never smoked cigarettes but used e-cigarettes last year were twice as likely to intend to smoke conventional cigarettes within the next year. There is concern about e-cigarettes using the same marketing techniques as were used with conventional cigarettes to youth with kid-friendly e-cigarette flavors such as bubble gum and fruit.

The AMA supports regulatory oversight of e-cigarettes to protect youth and overall public health. The AMA adopted a new policy to support regulations to establish the minimum legal age of purchase of 18 years old, place marketing restrictions on manufacturers, and prohibit claims that e-cigarettes are effective tobacco cessation tools (AMA, 11/10/14)

The main health risk is nicotine overdose. The American Association of Poison Control Centers reported that through July 31, 2014, they received 2,313 e-cigarette devices and liquid nicotine-reported exposures, a 219% increase. Slightly more than half of these reported exposures have occurred in young children under the age of six. The AMA recommends secure, child-proof and tamper-proof packaging and design. There are also disposal concerns for children and pets due to the toxic nature of the contents.

The ENDS marketing suggests use of e-cigarettes as a way of quitting smoking, however, no ENDS product has yet been evaluated and approved for smoking cessation by a governmental agency (WHO, 2014). The AMA recommends the same marketing and sales restrictions be applied that exist for tobacco cigarettes.

Accepted cessation methods such as nicotine patches, lozenges, gum, counseling and quit lines all have received approval by the FDA. The combination of cessation counseling and FDA-approved medications is the most effective in helping smokers quit. Individuals can access free quitting help by calling the Wisconsin Tobacco Quit Line at 1-800-QUIT-NOW.

Summary

Electronic devices and cigarettes are not regulated, however, proposed FDA regulation is under review. The AMA adopted a policy in November of 2014 that supports regulation of e-cigarettes, marketing, and sales. There are credible, effective cessation methods approved by the FDA. E-cigarettes and devices are not one of them.

Electronic cigarettes contain toxic chemicals that are harmful to the user and bystander. Concentration levels of chemicals are not consistent among manufacturers, including contaminants. Research suggests that youth who used e-cigarettes were more likely to use tobacco products and other regular cigarettes than those youth who did not use e-cigarettes. The devices need to be regulated with regard to marketing, sales, ingredients and researched thoroughly.

Recommendation:

The City of Wauwatosa Health Department and Board of Health support the need for the stronger definition of the state's smoking ban to include e-devices and e-cigarettes to protect our youth and the health of the public. This action would be consistent with the City's Invest in Wellness to improve and protect employee health as well as the City's Strategic Plan goal of a Community of Choice by taking measures improve the health and safety of the public

Thank you for your consideration.

AN ORDINANCE CREATING SECTION 8.13 OF THE CITY OF WAUWATOSA MUNICIPAL CODE TO BAN SMOKING OF ELECTRONIC DEVICES IN CERTAIN PLACES AND RESTRICT ACCESS OF ELECTRONIC CIGARETTES TO MINORS

THE COMMON COUNCIL OF THE CITY OF WAUWATOSA HEREBY DO ORDAIN AS FOLLOWS:

PART I. Subsection 8.13 of the Wauwatosa Municipal Code is hereby created to read in its entirety as follows.

8.13.10. Findings. The Common Council of the City of Wauwatosa finds that:

- (a) It is recognized and supported by medical findings that smoking of cigarettes and tobacco products is hazardous to an individual's health and affects the health of nonsmokers when in the presence of smoking.
- (b) Breathing side-stream or secondhand smoke is a significant health hazard to nonsmokers, particularly to children, the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease, according to reliable scientific studies which include studies conducted the Surgeon General of the United States. Health hazards induced by breathing side-stream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, broncho-constriction and broncho-spasm.
- (c) Electronic nicotine delivery systems (ENDS) provide an alternative smoking experience to tobacco cigarettes. Electronic smoking devices which contain nicotine can create or sustain a nicotine addiction. Nicotine is addictive and harmful. Electronic smoking devices are widely available but currently are not subject to regulation by the Federal Food and Drug Administration (FDA) and are not recognized by the FDA as approved smoking cessation devices. While they are perceived by the public as cigarette smoking cessation measures for existing adult cigarette smokers, purported health benefits from electronic smoking devices have not been scientifically proven and use of these devices have not been proven safe for either users or bystanders. The contents of cartridges vary widely and may contain nicotine, traces of nicotine, carcinogens, antifreeze and other toxic substances which may pose health risks for users and bystanders. Packaging does not consistently include health warnings as required for conventional cigarettes and does not provide notice of harmful effects, nicotine concentration levels, or existence or content levels of toxic substances. The concentration and dosage of nicotine is not consistently included on manufacturing labels as is required for conventional cigarettes and FDA approved smoking cessation products.
- (d) Youth in particular may be more vulnerable to the marketing and appeal of electronic smoking devices because electronic smoking devices are widely available, flavors include a variety of candy, cocktail and fruit tastes which are intended to appeal to youth, and use may encourage youth to migrate from these devices to conventional cigarettes and tobacco products. Electronic smoking devices are considered a gateway

to addiction by creating users. Electronic smoking devices introduce nicotine to youth which is addictive and harmful. Access to these devices by youth should be restricted.

- (e) Indoor aerosol and vapor generated from electronic smoking devices that contain nicotine and toxins are distressing and harmful to people who have asthma, impaired respiratory function and other medical conditions.

8.13.020. Purpose and Authority.

The ordinance is adapted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the City of Wauwatosa. This ordinance is adapted under the authority of Wis. Stat. sec. 101.123(4m).

8.13.030. Definitions.

Except as set forth below, the definitions of Wis. Stat., sec. 101.123(1) are hereby adopted. In this subsection:

- (a) “City buildings”, “City premises” and “city property” mean all City owned or operated buildings and those portions of buildings leased or operated by the City, and municipal property such as motor vehicles.
- (b) “Electronic smoking device” means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. Electronic smoking device includes any component part of such product whether or not sold separately. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name.
“Electronic smoking device” is not included in any product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product or is being marketed and sold solely for approved purposes.
- (c) “Enclosed indoor area” means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50% 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.
- (d) “Smoking” or “Smoke” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking as outlined in this Code.

8.13.040. Prohibition against Smoking. No person may smoke in any of the following locations:

1. (a) Any place prohibited by Wis. Stat. sec. 101.123(2), which is expressly adopted and incorporated herein.

(b) Any enclosed indoor area prohibited by Wis. Stat. sec. 101.123(2).

(c) All city buildings, premises and property.

2. Exceptions. The prohibition against smoking shall not apply to those places or areas set forth in Wis. Stat. sec. 101.123(3).

3. Outside areas. Any person in charge of a restaurant, tavern, private club, or retail establishment that is subject to this section may designate an outside area that is a reasonable distance from the entrance to said establishment where customers, employees, or persons associated with the establishment may smoke electronic smoking devices. The designated smoking area shall contain receptacles for cigarette butts, electronic smoking cartridges and waste and shall be kept in a neat and orderly manner and all cigarette butts, smoking cartridges and waste shall be placed in a proper receptacles.

8.13.050. Sale of electronic smoking devices to persons under the age of 18. No person shall sell or offer for sale for nominal or no consideration any electronic smoking device or nicotine product to any person under 18 years of age.

8.13.060. Possession of electronic smoking device by persons under the age of 18. No person under 18 years of age shall possess any electronic smoking device or nicotine product.

8.13.070. Use of electronic smoking devices on school grounds. No person shall use an electronic smoking device in educational facilities, school buildings, or on their grounds.

8.13.080. Severability. Interpretation. Each section, paragraph, sentence, clause, word, and provision of this ordinance is severable, and if any such section or provision shall be held unconstitutional or invalid for any reason, such decision(s) shall not affect the remainder of the chapter nor any part thereof other than that affected by such decision.

Interpretation. Whenever the provisions of the Wisconsin Statutes and this chapter conflict, the provisions of this chapter shall apply.

8.13.090. Penalty.

(a) Any person who violates provisions of this section shall forfeit not less than \$100.00 or more than \$250,00 for each violation.

(b) Any person in charge who violates Wis. Stat. sec. 101.123(2m) shall forfeit \$100.00 for each violation.

(c) In addition to the forfeiture, any person who violates the provisions of this section shall pay the costs of prosecution except for the crime laboratories and drug enforcement surcharge under Wis. Stat. sec. 165.755(1)(a).

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PART II. This ordinance shall be effective two weeks after publication.