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CERTIFICATE

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DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to municipal lockups were duly approved and adopted by this Department on November 28, 1989.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 28th day of November, 1989.

SEAL:



Patricia A. Goodrich, Secretary
Department of Health and Social Services

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
ADOPTING RULES

To create ch. HSS 349, relating to the design, construction and security of municipal lockup facilities, and maintenance of sanitary and safe conditions in those facilities.

Analysis Prepared by the Department of Health and Social Services

The Department currently has one chapter of rules for county, village and city jails. This is ch. PW-C 50. Through another rulemaking order, ch. PW-C 50 is being repealed and replaced by updated rules that are only for county jails and county-state shared correctional facilities. This rulemaking order creates a separate chapter of rules for village and city jails which are also known as lockup facilities. Lockup facilities are rooms in police stations which are used to confine persons under arrest before they are brought before a court.

The rules in this order establish minimum standards for the design, construction and security of lockups, and for sanitary and safe conditions in those facilities. Requirements cover minimum room size and furnishings; sanitation; fire safety; health care; security; use of force; and records and reporting.

The Department's authority to create these rules is set forth in ss.46.03(6)(e), 46.17(1), and 227.11(2)(a), Stats. The rules interpret ss.46.03(6)(e), 46.17, 53.30 to 53.45, 61.24 and 62.09(13), Stats.

SECTION 1: HSS 349 is created to read:

Chapter HSS 349

MUNICIPAL LOCKUP FACILITIES

HSS 349.01	Purpose and Authority
HSS 349.02	Applicability
HSS 349.03	Definitions
HSS 349.04	Prohibited Uses
HSS 349.05	Construction Plans
HSS 349.06	Physical Environment For New or Substantially Remodeled Lockups
HSS 349.07	Physical Environment for Existing Lockups
HSS 349.08	Sanitation
HSS 349.09	Health Care and Hygiene
HSS 349.10	Fire Safety
HSS 349.11	Records and Reporting
HSS 349.12	Security
HSS 349.13	Use of Force
HSS 349.14	Discipline
HSS 349.15	Exceptions to Requirements

HSS 349.01 PURPOSE AND AUTHORITY. The purpose of this chapter is to establish minimum standards for the design, construction and security of municipal lockup facilities and for maintaining sanitary and safe conditions in lockups. The rules are promulgated under the authority of ss.46.03(6)(e), 46.17(1) and 227.11(2)(a), Stats.

HSS 349.02 APPLICABILITY. This chapter applies to all lockup facilities operated by municipalities under ss.53.30, 61.24, and 62.09(13), Stats.

HSS 349.03 DEFINITIONS. In this chapter:

(1) "Cell" means a secure room designed and used as a sleeping room for one person confined in a lockup facility.

(2) "Confinement" means placement in a cell or holding room of a person who has been arrested and is awaiting an initial appearance in court or to post bond.

(3) "Contraband" means any item not allowed in a lockup by the lockup administrator.

(4) "Department" means, before January 1, 1990, the Wisconsin department of health and social services, and, beginning January 1, 1990, the Wisconsin department of corrections.

(5) "Detention strength" means strong enough to resist damage an inmate could inflict with tools or equipment that would normally be in his or her possession.

(6) "Division" means the division of the department responsible for regulating lockups.

(7) "Holding room" means a secure room in the lockup designed for holding, after arrest, one or more inmates of the same sex and security classification and segregated according to the requirements specified in s.53.36, Stats., for purposes of processing admissions and releases.

(8) "Lockup administrator" means the person in charge of lockup operations or a designee.

(9) "Lockup facility" or "lockup" means a temporary place of detention within a police station which is used exclusively for confinement of persons under arrest before those persons are brought before a court or post bond.

(10) "Secure detention area of the lockup" means the area within the secure outer boundaries of a lockup.

(11) "Security classification" means a grouping of inmates based on the level of supervision required, the nature of the offense or offenses for which the inmates were arrested and any other criteria set by the lockup administrator.

HSS 349.04 PROHIBITED USES. (1) Pursuant to s.53.30, Stats., a lockup may not be used to hold persons pending trial who have appeared in court or persons who have been committed to imprisonment for nonpayment of fines or forfeitures.

(2) A lockup may not be used for the secure detention of juveniles as defined under s. HSS 346.03(4).

HSS 349.05 CONSTRUCTION PLANS. (1) Before design development begins, a village or city which intends to build or remodel a lockup shall file a letter of intent with the division's regional detention facilities specialist.

(2) Copies of original and updated design drawings of the area for the lockup shall be submitted to the division's regional detention facilities specialist at the same time the drawings are submitted to the village or city.

(3) All sites, plans and specifications for construction or remodeling of a lockup shall comply with the state building code, chs. ILHR 50 to 64.

(4) Prior to approval by the department of industry, labor and human relations under s. ILHR 50.12 and prior to publication of bid documents, 2 complete sets of plans and specifications shall be forwarded to the division for its review and approval.

(5) Upon approval by the division, one set of plans and specifications shall be marked to indicate approval by the division and returned to the office that submitted the plan. The remaining set shall be filed in the division. If the plans and specifications are not approved, both sets shall be returned to the sender.

HSS 349.06 PHYSICAL ENVIRONMENT FOR NEW OR SUBSTANTIALLY REMODELED

LOCKUPS. (1) APPLICABILITY. This section applies only to lockups that are constructed or substantially remodeled on or after the effective date of this chapter.

(2) EQUIPMENT AND MATERIALS. The following equipment and materials in a lockup shall be of detention strength and manufactured, sold and installed by firms that specialize in jail and prison equipment or ordered from a firm that will follow the specifications for detention strength equipment in this chapter:

- (a) Windows;
- (b) Glazing;
- (c) Security screens;
- (d) Grills over vents and windows;

- (e) Security doors;
- (f) Security locks;
- (g) Keys;
- (h) Hinges;
- (i) Food passes;
- (j) Observation ports;
- (k) "Contraband proof" sills;
- (l) Speaking ports;
- (m) Seats;
- (n) Benches;
- (o) Lights;
- (p) Locking mechanism housings;
- (q) Key cabinets;
- (r) Walls;
- (s) Window and door frames;
- (t) Bunks;
- (u) Tables;
- (v) Toilets;
- (w) Urinals;
- (x) Wash basins;
- (y) Drinking fountains;
- (z) Showers;
- (za) Desks;
- (zb) Clothing hooks;
- (zc) Shelves;
- (zd) Door pulls;
- (ze) Screws;
- (zf) Bolts;
- (zg) Mirrors;
- (zh) Floor drains; and
- (zi) Ceilings.

(3) CELLS. (a) This subsection applies to all cells except holding rooms. Requirements for holding rooms are specified under sub. (4).

(b) Each cell shall be designed and used for single occupancy only.

(c) Each cell shall have a floor area of at least 54 square feet. The distance between the floor and ceiling may not be less than 8 feet and the distance between opposite walls may not be less than 6 feet.

(d) Each cell shall have:

1. A rigidly constructed metal bed with the frame bracketed to the wall or bolted to the floor or a bed built in masonry construction of a similar strength;

2. A detention strength, metal, institution-type wash basin and toilet. The wash basin and toilet may be combined in one unit. The wash basin shall have hot and cold running water; and

3. Detention strength light fixtures that provide at least 10 footcandles of illumination 30 inches above the floor. Lights shall have a dimming capability or there shall be a night light to allow for comfortable sleeping.

(4) HOLDING ROOMS. (a) A person under arrest who is in the process of being admitted or released may be placed in a holding room for a period of time not to exceed 4 hours, but only after the decision has been made, in the case of a person being admitted, to admit the person to the lockup facility and a proper entry has been made in the register of inmates required under s. HSS 349.11(1). Holding rooms shall be located in an area that allows continuous staff observation or electronic surveillance of inmates. Supervision shall be in accordance with the requirements of ss.53.41 and 53.42, Stats.

(b) Holding rooms may be designed and used for multiple occupancy for inmates of the same security classification who are properly segregated as required under s.53.36, Stats.

(c) Each lockup which has a holding room shall have at least one cell that is designed and used for single occupancy.

(d) Each holding room shall contain detention strength, rigidly constructed seats or benches bracketed to the wall or bolted to the floor or seats or benches of masonry construction of a similar strength.

(e) A detention strength, institution-type wash basin and toilet shall be provided for every 8 occupants and, for holding rooms designated for male occupancy, a urinal shall be provided.

(f) Hot and cold running water shall be provided.

(g) A holding room shall have a floor area of at least 50 square feet.

The maximum capacity for a holding room with at least 50 square feet of floor space but less than 60 square feet of floor space shall be 5 persons. The maximum capacity for a larger holding room shall be one more person for every additional 10 square feet of floor space.

(5) EXTERIOR WINDOWS. (a) This subsection applies only to lockup facilities that have exterior windows. In this subsection, "exterior window" means any window that faces the exterior of the lockup facility or an area outside the secure detention area of the lockup facility.

(b) All exterior windows shall be translucent or shall be located to prevent persons outside the secure detention area of the lockup facility from observing inmates within the lockup.

(c) Each exterior window that has an opening in any direction in excess of 5 1/2 inches shall be covered with security steel grills to prevent escape.

(d) If an exterior window is accessible to inmates and opens, the window shall be mounted in a detention strength frame and shall be covered on the inside with a security screen of at least 1600 pound per lineal inch tensile strength and made of at least .047 mil. diameter wire to prevent the passage of contraband.

(e) If an exterior window is not accessible to inmates and opens, the window's security screen need not meet the requirements of par.(d), but the screen shall have a tensile strength of at least 800 pounds per linear inch and shall be made of wire of at least .028 mil. diameter.

(f) If an exterior window does not open, whether or not it is accessible to inmates, the security screen required under par. (d) or (e) may be omitted if the window is mounted in a detention strength frame and the pane is security glass of sufficient strength to resist breakage and prevent the passage of contraband.

(6) EXTERIOR APPROACHES. The exterior of the lockup and approaches to the lockup shall be well lighted at night to permit observation of persons approaching the building.

(7) WALLS. (a) Walls on the exterior of the lockup shall be constructed of reinforced concrete or fully grouted concrete block at least 8 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

(b) Walls in the interior of the lockup shall be constructed of reinforced concrete or fully grouted concrete block at least 6 inches thick, or the walls shall be constructed of materials of similar strength which provide equivalent security.

(8) CEILINGS. Ceilings in areas accessible to inmates shall be constructed of pre-cast concrete or flat steel of at least 3/16 inch thickness, or ceilings shall be constructed of materials of similar strength which provide equivalent security.

(9) DOORS AND LOCKS. (a) Every door that leads to the exterior of the lockup facility or to an area outside the secure detention area of the lockup shall have a sill designed to prevent the introduction of contraband.

(b) Every door entering into the secure detention area of the lockup shall be of detention strength. Each of these doors shall have a vision panel or other means of observation to permit identification of individuals before they

enter the secure detention area of the lockup and to allow observation of the area before entering it. If the vision panel has an opening in any direction in excess of 5 1/2 inches, the opening shall be covered with detention strength steel grills to prevent escape.

(c) If locks to cell or holding room doors have an electric release, the electric release shall have a mechanical emergency release. The mechanical emergency release may be by key at the cell door provided that the inmate does not have access to the key hole mechanism.

(10) ACCESS TO CONTROLS. Inmates may not have access to plumbing, wiring, vents, thermostats, switches or controls.

HSS 349.07 PHYSICAL ENVIRONMENT OF EXISTING LOCKUPS. (1) This section applies to lockups that were constructed before the effective date of this chapter and have not been substantially remodeled on or after the effective date of this chapter.

(2) Each cell shall be designed and used for single occupancy only.

(3) Each cell shall be at least 5½ feet wide and 7½ feet long and provide 400 cubic feet of air space.

(4) Each cell shall contain a rigidly constructed metal bunk with the frame bracketed to the wall or bolted to the floor, a prison-type wash bowl, a prison-type toilet and a small institution-type shelf table and seat both fastened to the wall.

(5) There shall be at least one shower or bathtub for every 10 inmates in each section on all floors. The supply of hot and cold water shall be adequate.

(6) All windows accessible to prisoners shall be covered with a heavy gauge screen of $\frac{1}{4}$ " mesh or less or a detention screen to prevent passage of contraband.

(7) An approved security door with a security glass observation opening shall be provided for each entrance into the confinement area of a lockup facility. The door may not be unlocked except to admit authorized persons and inmates.

(8) A modern locking device shall be installed on each security door. Lockup sections having multiple cells shall be provided with selective locking devices so that doors may be opened and closed either individually or collectively.

(9) The exterior of and approaches to the lockup shall be well lighted at night to permit observation of persons approaching the building.

HSS 349.08 SANITATION AND HYGIENE. (1) The lockup administrator shall provide:

(a) Clean cloth towels or paper towels and soap to each inmate upon request;

(b) Upon request, toilet articles sufficient for the maintenance of inmate cleanliness and hygiene, including toothpaste, a toothbrush, a comb and toilet paper. Shaving materials and basic feminine hygiene materials shall be provided to inmates upon request. There shall be no common use of towels, toothbrushes, combs, shaving materials or feminine hygiene materials;

(c) Adequate and appropriate clothing and footwear for an inmate whose clothing has been confiscated, for use while the inmate is in custody;

(d) Clean blankets to each inmate upon request during normal sleeping hours. Blankets shall be laundered or sterilized before reissue; and

(e) When an inmate is detained overnight, a mattress at least 3 inches thick and of proper size to fit the bed. Each mattress and each pillow shall be covered with a fire retardant, waterproof, easy-to-sanitize material. Mattresses and pillows shall be kept in good repair and in a clean and sanitary condition. Suppliers of mattresses and pillows shall provide evidence to the lockup administrator that the products are fire retardant, waterproof and easy to clean.

(2) Each cell shall be cleaned and the toilet area sanitized after an occupant is released. Each holding room shall be cleaned and the toilet area sanitized at least twice a week.

(3) If the facility where the lockup is located has a kitchen where food is prepared for inmates, the kitchen shall meet the requirements for food service and dishwashing provided in ss. HSS 190.09 and 190.10.

(4) All food served to inmates shall be clean, free from spoilage, free from adulteration and misbranding and safe for human consumption.

HSS 349.09 HEALTH CARE. (1) Upon admission, each inmate shall be screened for mental and physical health problems by the lockup staff who shall make use of a screening format developed in conjunction with medical personnel, including mental health care personnel.

(2) The lockup administrator shall provide or secure necessary medical treatment for persons in custody, including treatment for inmates who appear to be seriously ill or injured, inmates who exhibit significant mental or emotional distress and inmates who appear to be so significantly under the influence of a controlled substance or alcohol as to have impaired functioning.

(3) The lockup administrator shall provide or secure emergency dental care for inmates.

(4) No prescription medication or treatment may be administered to an inmate unless prescribed by a physician. If a nurse or physician is not available, lockup staff may deliver prescribed doses of oral medication at prescribed times.

(5) A written record shall be maintained of the administration or delivery of all treatments and prescription medications, including who administered or delivered them and the date and hour of administration or delivery.

(6) Any medications kept at the lockup shall be stored in a secure area that is not accessible to inmates.

(7) If an inmate dies or becomes acutely ill while in custody, the next of kin shall be notified as soon as possible.

(8) An itemized list shall be kept for 90 days of all food and beverages served during normal meal times.

HSS 349.10 FIRE SAFETY. (1) Each lockup shall have and shall properly maintain fire alarms, smoke and thermal detectors, fire extinguishers, fire attack equipment and self-contained breathing apparatuses which operate for at least 30 minutes. This equipment shall be placed in the lockup facility in accordance with the advice of the local fire department.

(2) Each lockup shall develop written policies on fire protection, evacuation, including evacuation of persons with disabilities, and training of staff in equipment use and evacuation. The policies shall comply with local fire department recommendations.

(3) The evacuation route developed as part of the evacuation policy under sub. (2) shall be posted in a conspicuous place for lockup staff within the lockup facility.

(4) The lockup administrator shall arrange for a fire inspection by the local fire department at least once every 6 months. Documentation of fire inspections shall be included in facility files.

HSS 349.11 RECORDS AND REPORTING. (1) REGISTER OF INMATES. Each lockup shall keep a register of all inmates. The register shall contain identifying information on each inmate that includes name, residence, age, sex, date of birth, race, time and date of confinement, cause and authority for the confinement, time and date of release, and the releasing authority. If an inmate escapes from confinement, the date, time and manner of the escape shall be recorded in the register.

(2) LOCKUP LOG. Each lockup shall have a log which shall include the information required in s. HSS 349.12(1) and (5). The log shall be maintained by shift on a daily basis.

(3) STORAGE OF RECORDS. Records shall be kept in a secure area.

(4) REPORTING REQUIREMENTS. (a) The lockup administrator shall notify the division's regional detention facilities specialist within 48 hours after occurrence of any of the following events:

1. An inmate dies or attempts suicide and is hospitalized;
2. An inmate receives an injury and is hospitalized due to the injury;
3. An inmate escapes or attempts to escape from confinement; or
4. There is any significant damage to the lockup.

(b) Information requested by the division shall be promptly furnished by the lockup administrator.

HSS 349.12 SECURITY. (1) Lockup staff shall physically inspect all areas of the lockup occupied by inmates at irregular intervals but at least once every 60 minutes during the day and night, to ensure that inmates are in custody and are safe, except that areas occupied by inmates who have been identified by lockup staff as having a special problem, such as mental disturbance, a suicidal tendency or severe alcohol or drug withdrawal, shall be physically inspected at least once every 15 minutes. Lockup staff shall record each inspection in the lockup log, including the time of the inspection and the inspecting staff member's initials.

(2) There shall be at least 3 complete sets of lockup and fire escape keys, one set in use, one set stored in a secure place within the secure detention area which is accessible only to lockup personnel for use in an emergency, and one set stored in a secure place outside the secure detention area.

(3) All lockup personnel shall be given instructions concerning the use and storage of lockup and fire escape keys and shall be held strictly accountable for keys assigned to them.

(4) All lockup personnel shall be familiar with the locking system of the lockup facility and shall be able to release inmates promptly in the event of a fire or other emergency.

(5) The lockup administrator shall ensure that lockup staff make monthly inspections to determine if cell and fire escape locks and doors are in good working order. Each inspection shall be recorded in the lockup log.

HSS 349.13 USE OF FORCE. (1) Lockup staff may use physical force against an inmate only if force is necessary to change the location of the inmate or to prevent death or bodily injury to the staff member, the inmate or someone else, unlawful damage to property or escape of an inmate from the lockup facility. Staff may use only the amount of force reasonably necessary to achieve the objective for which force is used.

(2) Any staff member who has used force to control an inmate shall submit a written report to the lockup administrator or the staff member's immediate supervisor describing the incident. The report shall include all known relevant facts.

(3) Corporal punishment of inmates is forbidden.

HSS 349.14 DISCIPLINE. Lockup staff may not give an inmate disciplinary authority over another inmate.

HSS 349.15 EXCEPTIONS (a) The department may grant a variance to a requirement found in s. HSS 349.06 or 349.07, except that no variance may be granted for the requirement of single occupancy cells under s. HSS 349.06(3)(b) or 349.07(2) or for the minimum cell space requirement under s. HSS 349.06(3)(c) or 349.07(3).

(b) In order to obtain a variance, the lockup administrator shall demonstrate in writing that strict enforcement of the rule would result in unreasonable hardship for administration of the lockup and that the variance would provide equivalent or better protection for the health, safety, welfare and rights of inmates and the public.


(c) The department may impose specific conditions, including time limits on a variance, in order to protect the health, safety, rights or welfare of inmates or the public.

(d) Violation of any condition under which a variance is granted constitutes a violation of these rules. Upon finding that there has been a violation of a condition of a variance, the department may revoke the variance and strictly enforce the rule.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s.227.22(2), Stats.

WISCONSIN DEPARTMENT OF
HEALTH AND SOCIAL SERVICES

Dated: November 28, 1989

By: 
Patricia A. Goodrich
Secretary

Seal:

bh-legal/adm