TABLE OF CONTENTS
INDEX

TITLE 1

General Provisions for Use of Code of Ordinances

Chapter 1 Use and Construction of Code of Ordinances
Chapter 2 Enforcement of Ordinances; Issuance of Citations

TITLE 2

Government and Administration

Chapter 1 City Government; Elections
Chapter 2 Mayor; Common Council
Chapter 3 Municipal Officers and Employees
Chapter 4 Boards, Commissions and Committees
Chapter 5 Ethics Code
~~Chapter 6 Personnel Code~~ (Repealed Ord. 2014-08)
Chapter 7 Municipal Court

TITLE 3

Finance and Public Records

Chapter 1 Finance
Chapter 2 Special Assessments
Chapter 3 Public Records
Chapter 4 Disposal of Lost, Abandoned and Surplus Property
Chapter 5 Room Tax
Chapter 6 Impact Fees

TITLE 4

Administrative Determinations Review

Chapter 1 Review of Administrative Determinations

TITLE 5

Public Safety

Chapter 1	Law Enforcement
Chapter 2	Fire Prevention and Protection Code
Chapter 3	Hazardous Materials
Chapter 4	Regulation of Private Alarm Systems
Chapter 5	Emergency Management
Chapter 6	Sex Offender Residency Restrictions and Child Safety Zones
Chapter 7	Public Safety Fees
Chapter 8	Fire Department

TITLE 6

Public Works

Chapter 1	Official Map; Grades
Chapter 2	Streets and Sidewalks
Chapter 3	Driveways
Chapter 4	Trees and Shrubs

TITLE 7

Licensing and Regulation

Chapter 1	Licensing of Dogs and Cats; Regulation of Animals
Chapter 2	Fermented Malt Beverages and Intoxicating Liquor
Chapter 3	Cigarette License
Chapter 4	Direct Sellers
Chapter 5	Newspaper Vending Devices
Chapter 6	Transient and Temporary Entertainments
Chapter 7	Taxicabs
Chapter 8	Regulation and Licensing of Fireworks
Chapter 9	Street Use Permits
Chapter 10	Regulation of Non-Metallic Mining
Chapter 11	Parade Permits
Chapter 12	Horse & Carriage
Chapter 13	Licensees to Pay Local Claims; Appellate Procedures
Chapter 14	Festival Celebration Permit

Chapter 15 Filming Permit
Chapter 16 Weights and Measures Regulations
Chapter 17 Employee Benefits for Private Business

TITLE 8

Health and Sanitation

Chapter 1 Health and Sanitation
Chapter 2 Pollution Abatement
Chapter 3 Refuse Disposal and Collection
Chapter 4 City Cemeteries

TITLE 9

Public Utilities

Chapter 1 Water Utility Regulations
Chapter 2 Sewer Utility Regulations
Chapter 3 Cable Television
Chapter 4 Storm Water Sewer Districts
Chapter 5 Miscellaneous Utilities Regulations

TITLE 10

Motor Vehicles and Traffic

Chapter 1 Traffic and Parking
Chapter 2 Bicycles/Skateboards/In-Line Skates
Chapter 3 Snowmobiles
Chapter 4 All-Terrain Vehicles, Utility Terrain Vehicles, and Off-Road Motor Vehicle Operation
Chapter 5 Abandoned and Junked Vehicles
Chapter 6 Neighborhood Electric Vehicles (NEVs) and Golf Carts

TITLE 11

Offenses and Nuisances

Chapter 1 State Statutes Adopted

Chapter 2 Offenses Against Public Safety and Peace
Chapter 3 Offenses Against Property
Chapter 4 Obscenity
Chapter 5 Offenses Involving Alcoholic Beverages
Chapter 6 Offenses by Juveniles
Chapter 7 Public Nuisances

TITLE 12

Parks and Navigable Waters

Chapter 1 Park Regulations
Chapter 2 Bulkhead Lines

TITLE 13

Zoning

Chapter 1 Zoning Code

TITLE 14

Land Division, Subdivision and Condominium Regulations

Chapter 1 Land Division, Subdivision and Condominium Regulations
Chapter 2 Stormwater Management

TITLE 15

Building Code

Chapter 1 Building, Electrical and Plumbing Codes
Chapter 2 Construction Site Erosion Control
Chapter 3 Fair Housing
Chapter 4 Grievances by Handicapped Persons Regarding Access to Public Buildings
Chapter 5 Regulation of Signs

TITLE 16

Community Development Authority

Chapter 1 Findings; declaration of necessity.
Chapter 2 Creation; status as a public body
Chapter 3 Composition; powers; compensation
Chapter 4 Appointment; vacancies
Chapter 5 Meetings; quorum; bylaws.
Chapter 6 Selection of Officers
Chapter 7 Powers and duties of the CDA
Chapter 8 Construction

Index

INDEX TO CODE

(References are to section numbers)

USE OF INDEX: This index is designed for user ease. To locate information found in the code, formulate a specific question. The key words in that question then become guides for using the index. In the event you do not locate the desired information on your first attempt, the following checklist may help.

(1) Cross-references (when needed) are always located at the beginning of entries. Have you overlooked any?

(2) Frequently initial questions are too general. Reformulating a more specific question may help.

(3) Information on officials can be found two ways. The entry for an official's name contains general duties as well as conditions of his office, such as compensation and tenure. Duties assigned to him by ordinances on specific subjects will be found under those subjects.

(4) Definitions can be located under the "DEFINITIONS" main heading or in specific subject areas through the subheading "Definitions of terms."

A

ABANDONED REFRIGERATORS
Prohibited, 10-4-8, 11-3-4

ABANDONED AND LOST PROPERTY
City disposal of, 3-4-2

ABANDONED VEHICLES
Conflict with other Code provisions, 10-5-7
Disposal of abandoned vehicles, 10-5-4
Junked vehicles and appliances on private property, 10-5-8
Owner responsible for costs, 10-5-6
Removal and impoundment, 10-5-2,10-5-3
Report of sale or disposal, 10-5-5
Violations, 10-5-1

ACCOUNTS RECEIVABLE, 3-1-14

ADDRESS SYSTEM, 6-2-13

ADMINISTRATIVE DETERMINATIONS, REVIEW OF
Administrative appeal, 4-1-9
Determinations not subject to review, 4-1-3
Determinations reviewable, 4-1-2
Final determination, 4-1-11
Hearing on administrative appeal, 4-1-10
Judicial review, 4-1-12
Legislative review, 4-1-13
Municipal authority defined, 4-1-4
Persons aggrieved, 4-1-5
Reducing determination to writing, 4-1-6
Request for review of determination, 4-1-7
Review of administrative determinations, 4-1-1
Review of determination, 4-1-8

AIR GUNS
Carrying or discharge in city, 11-2-1

ALARM SYSTEMS, PRIVATE
Regulation and permits for, 5-4-1 through 5-4-11

ALCOHOLIC BEVERAGES See also OPERATOR'S LICENSES
Application for license, 7-2-6
Approval of application, 7-2-9
Beer Garden, 7-2-17
Classes of licenses, 7-2-4
Closing hours, 7-2-15
Conditions of license, 7-2-14
Definitions, 7-2-2
Fees, 7-2-5
Granting of license, 7-2-10
Investigation, 7-2-8
License required, 7-2-3
Numbering of license, 7-2-12
Pay local taxes, assessments, claims, 7-13-1
Penalties, 7-2-30
Pharmacists' permits, 7-3-1
Posting of licenses, 7-2-13
Qualifications of applicant, 7-2-7

Quotas, 7-2-7(g)
Restrictions on licenses, 7-2-14, 7-2-15
Restrictions on Temporary Class B Retail Licenses, 7-2-16
Revocation and suspension of licenses, 7-2-18
Separate premises license required, 7-2-7(f)
State statutes adopted, 7-2-1
Transfer and lapse of license, 7-2-11
Wholesaler's Fermented Malt Beverage License, 7-2
Wine license (Class C), 7-2-7(j)

ALCOHOLIC BEVERAGES, OFFENSES INVOLVING
Adults permitting underage violation, 11-5-8
Defense of sellers, 11-5-5
False identification cards, 11-5-6
Minors presence in places of sale, 11-5-3
Misrepresentation of age, 11-5-6
Outside consumption, 11-5-1
Parks, 11-5-1(a)(2)
Private property for public use, 11-5-1(a)(3)
Open containers off premise, 11-5-1(a)(4)
Penalties, 7-2-30
Possession of alcoholic beverages by minors, 11-5-4
Possession of alcoholic beverages on school grounds, 11-5-7
Qualifications of applicant & premises, 7-2-7
Sale to minors or intoxicated persons, 11-5-2
Sellers, defense of, 11-5-5
Solicitation of drinks, 11-5-9
Underage persons, 11-5-2, 11-5-3, 11-5-4, 11-5-5

ALDERMANIC DISTRICTS AND WARDS
Description of, 2-1-3

ALDERPERSONS
Election and term, 2-2-2

ALL-TERRAIN VEHICLES, UTILITY TERRAIN VEHICLES, AND OFF-ROAD VEHICLES See also SNOWMOBILES
Penalties, 10-4-3
Restrictions, 10-4-2
State laws adopted, 10-4-1
Unauthorized operation on property, 10-4-4

ANIMALS AND FOWL

Animal feces, 7-1-10
Barking dogs or crying cats, 7-1-12
Bees, 7-1-24
Bird display in food establishments, 7-1-22
Bird sanctuary, 7-1-23
Bites, duty in case of, 7-1-9
Cats at large, 7-1-6(e)
City designation as bird sanctuary, 7-1-23
Cruelty prohibited, 7-1-18
Dog and cat licenses required, 7-1-1, 7-1-3
Late fees, 7-1-4
Dognapping and catnapping, 7-1-20
Dogs and cats restricted on public grounds and cemeteries, 7-1-8
Dogs at large, 7-1-6(c)
Food and drink for animals, 7-1-15
Injury to property by dog or cat, 7-1-11
Impoundment of animals, 7-1-7
Kennel, not allowed, 13-1-24(c)
License required, 7-1-1
Limitation on Number 7-1-3(b), 7-1-6(f)
Neglected or abandoned animals, 7-1-17
Noisy animals/fowl, 11-7-5(j)
Parks, prohibited, allowed on leashes, 12-1-1(b)(3)
Penalty for failure to obtain rabies vaccination, 7-1-5
Penalties, 7-1-25
Prohibited and protected animals, 7-1-13
Rabies quarantine, 7-1-5
Rabies vaccination required, 7-1-2
Restrictions on keeping of animals, 7-1-6
Sale of rabbits, chicks, and artificially colored animals, 7-1-14
Shelter of, 7-1-16
Trapping, 7-1-19
Trapping in parks, 12-1-1(b)(7)
Vehicle accidents involving, 7-1-21
Vicious animals, 7-1-6

ANNEXATIONS

See 13-1-40(f)

ANTENNAS

See 13-1-25(c)

ARCHITECTURAL REVIEW
Sec. 13-1 (article F)

ARROWS
Shooting restricted, 11-2

ART
Public Art Committee, 2-4-19

ASSESSMENTS See SPECIAL ASSESSMENTS

ASSESSOR
Selection and duties, 2-3-9

AUTOMOBILES See TRAFFIC AND PARKING
Neighborhood Electric Vehicles (NEVs), 10-6-1

AUXILIARY POLICE
Appointment of, 5-1-9

B

BB GUNS
Carrying or discharge in city, 11-2-1

BARTENDER (see Operator License)

BEES
Keeping of, 7-1-24

BEER See ALCOHOLIC BEVERAGES

BERMS
Regulations, 13-1-29

BICYCLES
Lighting equipment, 10-2-3
Manner of operation, 10-2-2
Parking of, 10-2-4
Registration and licensing of, 10-2-6
Regulations, 10-2-6

Rules of operation, 10-2-6
Rules of the road, 10-2-5
Skateboards, 10-2-7

BIDDING PROCEDURES
Public construction, 3-1-16

BIRD SANCTUARY
City designated, 7-1-23

BLASTING AND ROCK CRUSHING
Regulation of, 7-10-7

BLOCK PARTY (see Street Use Permit), 7-9-1

BOARD OF APPEALS
Composition and duties, 2-4-4
Procedures of, 13-1-190 through 13-1-193

BOARD OF PUBLIC WORKS
Appointment and duties, 2-4-2

BOARD OF REVIEW
Composition, 2-4-1(a)
Duties, 2-4-1(b)
Meeting, 2-4-1(c)

BOND SCHEDULE, 2-7-1

BOARDS AND COMMISSIONS, GENERAL REQUIREMENTS
Meeting notice requirements, 2-4-16
Alternates of certain Boards, Committees, and Commission, 2-4-13

BUDGET, 3-1-3
Changes, 3-1-4
Fiscal year, 3-1-6

BUILDING/HISTORIC CODE See also CONSTRUCTION SITE EROSION CONTROL; ELECTRICAL CODE; PLUMBING CODE
Article A - Building/Historic Code, 15-1-1 to 15-1-29
Article B - Electrical Code, 15-1-30 to 15-1-49
Article C - Plumbing Code, 15-1-50 to 15-1-99

Article D - Penalties and Fees, 15-1-100 to 15-1-101

Address system, 6-2-13
Basements, 15-1-9
Building permits, 15-1-1, 15-1-2, 15-1-3
Certificate of Occupancy 15-1-2(n)
Decks, 15-1-13
Definitions, 15-1-17
Disclaimer on inspections, 15-1-7
Enforcement, 15-1-3(c)
Erosion control, 15-2
Excavations, 15-1-9
Fees, 15-1-101
Garages/accessory buildings, 15-1-12
Historic building restoration/rehab, 15-1-14
Inspections, 15-1-2
Moving buildings, 15-1-10
New construction/addition in HPD, 15-1-15
New methods and materials, 15-1-5
Non-residential construction standards, 15-1-4
Power and duties of the building inspector, 15-1-6
Razing buildings, 15-1-8
Security and lockset requirements, 15-1-12
Site plan approval, 15-1-2(c)
Uniform dwelling code, 15-1-3

BULKHEAD LINES
Established, 12-2-1

BURNING
Open burning prohibited, 5-2-78

C

CABLE TELEVISION
See index at start of Title 9, Chapter 3

CATS See ANIMALS

CEMETERIES, CITY
Care of, 8-4-7
Interments, 8-4-10

Management
Immanuel, 8-4-3
Zur Ruhe, 8-4-2
Monuments and markers, 8-4-11
Ownership rights of interment, 8-4-6
Platting of new lots, 8-4-4
Privileges and restrictions, 8-4-8
Purchase of lots, 8-4-5
Rules for visitors, 8-4-9
Trees, flowers, shrubs in cemeteries, 8-4-13
Vaults and mausoleums, 8-4-12

CEMETERY PROPERTY
Disturbing, 11-3-10

CHECKS
Issuance of worthless, 11-3-6

CHIEF OF POLICE
Employment and general duties, 2-3-7, 5-1-5

CIGARETTES/CIGARS
Retailer's licenses, 7-3-1
Smoking prohibited conditions, 5-2-81; 8-1-8

CITATIONS
Form of, 1-2-3
Information contained in, 1-2-2
Issuance of, 1-2-5
Method of enforcement, 1-2-1
Nonexclusivity, 1-2-7
Procedure, 1-2-6
Schedule of deposits, 1-2-4

CITY ADMINISTRATOR
Appointment and duties, 2-3-3

CITY ATTORNEY
Appointment, 2-3-6

CITY CLERK
Appointment and duties, 2-3-4

CITY ENGINEER
Appointment and duties, 2-3-11

CITY FORESTER
Appointment and duties, 6-4-3

CITY OFFICERS
Selection and terms, 2-3-2

CITY COMPTROLLER/TREASURER
Appointment and duties, 2-3-5

CLAIMS
Financial claims against city, 3-1-8

CODE OF ORDINANCES See ORDINANCES, CODE OF

COIN MACHINES
Tampering prohibited, 11-3-8

COMMITTEE OF THE WHOLE
Membership and duties, 2-4-14

COMMON COUNCIL
Council Members, 2-2-2
Amendment of rules, 2-2-21
Call for previous question, 2-2-20
Call of the Council, 2-2-19
Committees, standing, 2-2-5
Conduct of deliberations, 2-2-17
Cooperation with other municipalities, 2-2-7
General powers of, 2-2-6
Internal powers of, 2-2-8
Introduction of business, 2-2-16
Mayor, 2-2-3
Meetings, 2-2-10
Open meetings, 2-2-12
Order of business, 2-2-15
Ordinances, 2-2-16
Petitions/Communication, 2-2-17
President of the Council, 2-2-4

Presiding officers, 2-2-14
Publication and effect of ordinances, 2-2-20
Quorum, 2-2-13
Reconsideration of questions, 2-2-18
Salaries, 2-2-9
Special meetings, 2-2-11
Suspension of rules, 2-2-22
Term Limits - Council, 2-2-2(a)
Term Limits - Mayor, 2-2-3(a)

COMMUNITY DEVELOPMENT AUTHORITY
Creation, 16-2-1
Composition; Powers; Compensation, 16-3-1
Appointment; Vacancies, 16-4-1
Meetings; Quorum and Bylaws, 16-5-1
Selection of Offices, 16-6-1
Powers and Duties, 16-7-1
Construction, 16-8-1

COMMUNITY EXHIBITION DISTRICT
Regulations, 13-1-71

COMMUNITY POOL COMMISSION
Appointment and duties, 2-4-17

CONCEALED WEAPONS
Carrying of prohibited, 11-2-2

CONDOMINIUM REGULATIONS
See Subdivision and Condominium Regulations

CONDUCT
Disorderly prohibited, 11-2-10

CONSTRUCTION SITE EROSION CONTROL
Requirements for, 15-2-1 through 15-2-11

CONTROLLED SUBSTANCES
Possession of, 11-2-11
Parks, 12-1-1(b)(23)

COOPERATIVE ARRANGEMENTS

Authority to enter into, 2-2-7

CROSSING GUARDS, 10-1-54

CURFEW
Minors, 11-6-1

D

DELINQUENT UTILITIES REGULATIONS
Assessment for, 9-5-2

DEPOSITORIES
Designated, 2-5-7

DESIGN REVIEW BOARD
Appointment and duties, 2-4-7

DEVELOPMENTS See SUBDIVISIONS

DIRECT SELLERS
Agent for service of process, 7-4-4[c(2)]
Appeal, 7-4-6
Cancellation of sale, buyer's rights, 7-4-7[b(2)]
Definitions of terms, 7-4-2
Disclosure requirements, 7-4-7(b)
Exemptions from provisions, 7-4-3
Fees, 7-4-4(c)
Hours, 7-4-8(a)
Investigation, 7-4-5
Location, 7-4-8(a)(3)
Orders for late delivery, information furnished buyer, 7-4-7[b(3)]
Penalties for violations, 7-4-10
Prohibited practices, 7-4-8(a)
Records of violations, 7-4-9
Registration/Application, 7-4-17-4-7
Regulation of, 7-4-8
Revocation of registration, 7-4-10
Surety Bond, 7-4-7(d)

DISABLED
Administrative provisions, 13-1-235

Modifications to nonconforming uses, 13-1-147

DISBURSEMENTS
Procedures, 3-1-8

DISORDERLY CONDUCT
Regulated, 11-2-10

DISPOSAL COMMISSION (Disbanded per Ord. No. 96-18)

DISPOSAL OF SURPLUS CITY PROPERTY; 3-4-1

DOCUMENTS
Incorporation into code by reference, maintenance and availability of copies, 1-1-8

DOGS AND CATS See ANIMAL

DOOR-TO-DOOR SALESMEN See DIRECT SELLERS

DRIVEWAYS
Liability for damages, 6-3-2
Permit and specifications, 6-3-1

E

E911
Misuse of, 11-2-7

EASEMENTS
Prohibiting interference with drainage/utility, 6-1-5

ECONOMIC DEVELOPMENT COMMITTEE
Economic Development Committee, 2-4-18

ELECTIONS
Aldermanic districts, 2-1-3
Election times, 2-1-4
Election officials, 2-1-4
Primary elections, 2-1-5
Voter registration, 2-1-6

ELECTRICAL CODE See also BUILDING CODE, PLUMBING CODE,

CONSTRUCTION SITE EROSION CONTROL
Certificate of inspection, 15-1-36
Construction requirements, 15-1-34
Electrical inspector, 15-1-31
Fees, 15-1-101
Inspection, 15-1-35
Interference with radio or television, 15-1-37
Licenses for electricians, 15-1-32
Penalties, 15-1-100
Permits for electrical work, 15-1-33
State codes adopted, 15-1-30

EMERGENCY MANAGEMENT
Adopting State Law and Appointing Director, 5-5-1

EROSION CONTROL, 15-2

ETHICS
Advisory Opinion, 2-5-7
Conflict of interest, 2-5-6
Declaration of policy, 2-5-1
Dedicated service, 2-5-4
Distribution of Ethics Code, 2-5-10
Fair and equal treatment, 2-5-5
Jurisdiction and application, 2-5-8
Responsibility of public office, 2-5-3
Sanctions, 2-5-9
Statutory provisions, 2-5-2

EXPENDITURES See DISBURSEMENTS

F

FACSIMILE SIGNATURES
Authorized, 3-1-10

FAIR HOUSING
Definitions, 15-3-2
Enforcement, 15-3-5
Exemptions, 15-3-4
Statement on, 15-3-1
Unlawful practices, 15-3-3

FALSE ALARMS 5-4-9

FAMILY
Definition of 13-1-240(52)

FENCES
Regulations of, 13-1-109

FESTIVAL CELEBRATION PERMIT
Issuance of, 7-4-1, 7-14-1

FILMING PERMIT 7-15

FINANCE
Accounts receivable, 3-1-14
City budget
budget, 3-1-3
changes in budget, 3-14
funds to be spent in accordance with budget, 3-1-5
Claims against city, 3-1-8
Duplicate treasurer's bond eliminated, 3-1-2
Facsimile signatures, 3-1-10
Fiscal year, 3-1-6
Insufficient check funds, 3-1-1
Investment of funds, 3-1-9
Public depositories, 3-1-7
Public works without bids, 3-1-16
Purchases by city administrator, 3-1-11
Receipt for monies received, 3-1-12
Statement of real property status, 3-1-13
Tax payments, 3-1-15

FIRE CHIEF
Selection, 2-3-8, 5-2-7

FIRE DEPARTMENT
Establishment, 5-8-1 to 5-8-4

FIRE PREVENTION CODE
Article A - General Provisions, Adoption of Codes, 5-2-1 to 5-2-10
Article B - Automatic Fire Sprinkler, 5-2-11 to 5-2-15

Article C - Standpipe and Hose Systems, 5-2-30 to 5-2-31
Article D - Smoke and Heat Detection Systems, 5-2-40 to 5-2-46
Article E - Required Access for Fire Apparatus, 5-2-50 to 5-2-54
Article F - Fire Hydrants Required, 5-2-60 to 5-2-62
Article G - Hazards to Life and Property, 5-2-70 to 5-2-81
Article H - Definitions

FIREARMS
Carrying or discharge in city, 11-2-1, 11-2-2
Throwing or Shooting of Arrows, Stones, and Other Missiles Prohibited, 11-2-3
Facsimile Firearms Prohibited, 11-2-4

FIREWORKS
Definition, 7-8-1(a)
Nuisance, 11-7-5(g)
Parental liability, 7-8-1(e)
Permit required, 7-8-1(c)
Restrictions and permits for displays, 7-8-1, 11-2-6
Sale and discharge prohibited, 11-2-6, 7-8-1(b)
Storage and handling, 7-8-1(d)

FISCAL YEAR, 3-1-6

FLOODPLAIN ZONING See also ZONING, SHORELAND-WETLAND ZONING
Please refer to chapter index at start of Title 13, Chapter 2

FOWL (see Animals/Fowl)

G

GARBAGE (see Refuse)

GENERAL PENALTY
For Code of Ordinances, 1-1-7

GOLF CARTS
Definition, Permitted Use, 10-6-2

GOVERNMENT
Division of responsibilities, 2-1-1

GRADES
Alteration of, 6-1-2
Establishment of, 6-1-1
Regulation of underground utilities, 6-1-3

GUNS
Carrying or discharge in city, 11-2-1
Safe transportation of, 11-2-3

H

HANDBILLS
Regulation of, 11-3-2

HANDICAPPED ACCESS
Administrative provisions, 13-1-235
Grievances procedures, 15-4-1
Modifications to nonconforming uses, 13-1-147

HARASSMENT
Prohibited, 11-2-15

HAZARDOUS MATERIALS
Cost of extinguishing fires involving, 5-3-2
Disclosure of, 5-3-1

HEALTH AND SANITATION See also BOARD OF HEALTH
Compulsory connection to sewer and water, 8-1-9
Control of weeds and grasses, 8-1-5, 8-1-6, 8-1-7
Deposit of deleterious substances prohibited, 8-1-4
Disposal of storm and other clear water wastes, 8-1-10
Health nuisances, 8-1-2
Livestock, 8-1-3
Natural Lawns, 8-1-6
Noxious Weeds, 8-1-5
Rules and regulations, 8-1-1
Smoking regulations, 8-1-8

HEALTH OFFICER
Appointment and duties, 2-3-10, 8-1-1

HISTORIC/BUILDING CODE

See Building/Historic Code

HOME OCCUPATION, 13-1-24
Signs, 15-5-15(d)

HORSE AND CARRIAGE RIDES
Licensing and regulation of, 7-12-1
In parks, 12-1-1(b)(16)

HOUSE NUMBERS, 6-2-13(g) & (h)

I

ICE
Sidewalks, removal from, owner's responsibility and liability, 6-2-7

IMPACT AND DEVELOPMENT FEES
Administration and review, 3-6-10
Appeals, 3-6-11
Biosolids Management Facility, 3-6-5
Library Facility, 3-6-6
Park Facilities, 3-6-8
Park fee, 14-1-84 & 14-1-100(g)
Police Department Facility, 3-6-7
Recreational facilities, 3-6-3
Reserve Capacity at Wastewater Treatment Plant, 3-6-4
Sewer Connection fee, 8-1-9(d) & 9-2-6(c)
Swimming Pool Facilities, 3-6-3
Water Utility Fee 3-6-9
Wastewater Capacity, 8-1-9(d)(1)(b) & 9-2-6(e)

IN-LINE SKATING
Definition of, 10-2-1
Regulation of, 10-2-8
Penalties for, 10-2-9

INTERGOVERNMENTAL COOPERATION
Authorized, 2-2-7

INTOXICATING LIQUOR See ALCOHOLIC BEVERAGES

ITINERANT MERCHANT See DIRECT SELLERS

J

JUNK
Nuisance, 11-7-5(p)
Storage of, 10-5-8, 11-3-5
Yards, 11-7-5(p)(3)

JUNK DEALERS
Licensing of, 7-11-1, 7-11-2

JUVENILES
City jurisdiction over ages 14 to17 years, 11-6-5
Curfew, 11-6-1
Enforcement and penalties, 11-6-7
Petty theft by, 11-6-3
Possession of controlled substances by, 11-6-2
Receiving stolen goods, 11-6-4
Truancy, 11-6-6

K, L

LANDMARKS COMMISSION
Appointment and duties, 2-4-10

LAND DIVISION REGULATIONS
See Subdivision, Land Division and Condominium Regulations

LAW ENFORCEMENT See POLICE DEPARTMENT

LAWFUL ORDER
Failure to obey, 11-2-13

LAWNS
Length of, 8-1-6, 8-1-7, 8-1-8
Natural Lawns, 8-1-6

LEWD LANGUAGE AND CONDUCT See OBSCENITY

LIBRARY
Theft of material, 11-3-7

LIBRARY BOARD

Organization and duties, 2-4-3

LICENSES/PERMITS
Alarm system, 5-4
Bicycles, 10-2
Blasting, 7-10
Building, 15-1
Cigarette, 7-3
Dog/cat, 7-1
Direct Sellers, 7-4
Electrical, 15-1
Employee Benefits for Private Business, 7-17
Fermented Malt & Intoxicating Liquor, 7-2
Festival Celebration Permit, 7-14
Filming, 7-15
Fireworks, 7-8
Horse and Carriage Rides, 7-12
Limousine, 7-5
Natural lawns, 8-1
Newspaper Vending Devices, 7-5
Nonmetallic Mining, 7-10
Occupancy, 13-1-225
Outdoor Alcoholic Beverage, 7-2-17
Parade, 7-11
Parks, 12-1
Plumbing, 15-1
Special Event Vending, 6-2-11
Street Privilege Permit, 6-2-6
Street Use Permits, 7-9
Taxicabs, 7-5
Temporary Zoning Permit, 13-1-22(f); 13-1-225; 13-1-230;
Transient/Temporary Entertainment, 7-6
Payment of local taxes, assessments and claims 7-13-1(a)
Weights & Measures, 7-16
Wholesalers, 7-2-5

LIGHT AND WATER COMMISSION
Appointment and duties, 2-4-8

LIMOUSINE
See Taxicabs

LIQUOR See ALCOHOLIC BEVERAGES

LITTERING
Handbills, 11-3-2(d)
Prohibited, 11-3-2

LIVESTOCK, 8-1-3

LOADING ZONES 10-1-34

LOITERING
Prohibited, 11-2-8

M

MARIJUANA
Prohibited, 11-2-11

MASTER PLAN
Plan Commission, 2-4-5
Council confirmation, 13-1-240(b)(99)

MAYOR
Duties, 2-2-3(b)
Election, 2-2-3(a)

MINING, NONMETALLIC
Blasting, 7-10-7
Definitions, 7-10-2
Exempt activities, 7-10-4
Existing nonmetallic mining operations, 7-10-3
Permits, 7-10-5, 7-10-6
Statutes adopted, 7-10-1

MINORS
Alcohol/sale to minors, 11-5-2
Circuit court jurisdiction over persons 14 through 17 years of age, 11-6-5
Defense of sellers, 11-5-5
False IDs, 11-5-6
Harmful material exposure, 11-4-1
Penalties, 11-5-4
Presence on premises, 11-5-3

MISSILES
Throwing of, 11-2-4
In parks, 12-1-(b)(5)

MUNICIPAL COURT
Establishment of, 2-7

N

NATURAL LAWNS
Regulation of, 8-1-7

NEIGHBORHOOD ELECTRIC VEHICLES (NEVs) AND GOLF CARTS
Regulation of, 10-6-1

NEWSPAPER VENDING DEVICES
Permit for, 7-5-1

NOISE
Disturbance of peace with motor vehicle, 10-1-50
Loud and unnecessary prohibited, 11-2-9
M-3 Business Park District, 13-1-176

NONMETALLIC MINING RECLAMATION
Regulation of, 13-1-30 – 13-1-34

NOXIOUS WEEDS
Destruction of, 8-1-5

NUISANCES
Abatement of public nuisances, 11-7-6
Cost of abatement, 11-7-7
Defined, 11-7-2
Exterior appearance of building, 11-7-5(p)(5)
Garbage accumulation, 8-3-12
Nuisances affecting health, 8-1-2, 11-7-3
Nuisances affecting peace and safety, 11-7-5
Nuisances offending morale and decency, 11-7-4
Nuisances prohibited 11-7-1
Penalties, 11-3-11
Prohibited, 11-7-1

O

OATHS OF OFFICE
Required, 2-3-15

OBSCENE TELEPHONE CALLS
Prohibited, 11-2-5

OBSCENITY
Exposing minors to harmful materials, 11-4-1
Obscenity prohibited, 11-4-2

OBSTRUCTING STREETS AND SIDEWALKS
Prohibited, 11-2-7

OCCUPANCY PERMIT
Requirements for, 13-1-225

OFFENSES
State statutes adopted, 11-1-1
Penalties, 11-3-11

OFFICIAL MAP
Definition, 13-1-240 (109-110)
Description/intent/changes, 6-1-1
Zoning map, 13-1-41

OFFICIAL NEWSPAPER
Designation of, 2-1-2

OFFICIALS
Bonds, 2-3-15
Combination of appointive offices, 2-3-16
Eligibility for office, 2-3-13
General provisions, 2-3-1
Oath of office, 2-3-15
Property, public, standards for custody of, 2-3-14
Rule making authority, 2-3-17

OPEN MEETINGS
Minutes, 2-4-19

Notice for committee and board meetings, 2-4-19

OPEN WELLS
Prohibited, 11-3-3

OPERATOR'S LICENSE (Also See ALCOHOLIC BEVERAGES)
Application procedure, 7-2-21
Denial, 7-2-24
Display, 7-2-25
Duration, 7-2-22
Fee, 7-2-23
Issuance, 7-2-24
Required, 7-2-20
Revocation, 7-2-26

ORDINANCES, CODE OF
Citing, manner of, 1-1-1
Codify Code, 1-1-8
Conflicting provisions, interpretation of, 1-1-3
Construction, rules of, 1-1-2
Definition of terms, 1-1-2
Documents incorporated by reference, maintenance by clerk-treasurer and availability for inspection, 1-1-8
Effective date, 1-1-5
Enforcement of/issuance of citations, 1-2
General penalty for Municipal Code, 1-1-7
Name, official, 1-1-1
Penalties for violations, 1-1-7
Separability of provisions, 1-1-4
Repeal of, 1-1-6

ORIENTAL WEAPONS
Prohibited, 11-2-2

P

PARADES
Permits and conditions for, 7-12-1 through 7-12-10

PARK FEES
Fees in lieu of land, 14-1-84

PARKS AND NAVIGABLE WATERS
Alcohol in parks, 11-5-1(a)(5); 12-1-8(k)
Boating prohibited, 12-1-1(b)(26)
Camping prohibited, 12-1-1(b)(24)
Feeding waterfowl prohibited, 12-1-1(b)(27)
Fees in lieu of land, 14-1-84
Fires, 12-1-1(b)(8)
Glass bottles, 12-1-1(b)(13)
Horse and carriage, 12-1-1(b)(16)
Hours, 12-1-4
Metal detector usage, 12-1-3
Motorized vehicles, 12-1-1(b)(10)
Outside consumption of alcohol, 11-5-1(a)(2)
Parking, 12-1-1(b)(15)
Radio-controlled model airplanes prohibited in parks, 12-1-2
Regulations, 12-1-1
Reservation of park space, 12-1-8
Skateboards prohibited in some parks, 12-1-6
Snowmobiles, 12-1-1(b)(11)
Sound devices, 12-1-1(b)(2)
Swimming in Cedar Creek or quarries, 12-1-7
Temporary Class B Permit, 11-5-1(a)(2) & (5)
Turf protection, 12-1-3
Ultralight aircraft regulated, 12-1-5
Use of metal detectors on public property, 12-1-3

PARKS, RECREATION AND FORESTRY BOARD
Appointment and duties, 2-4-6

PARKING See TRAFFIC AND PARKING

PARKING LOTS
Design of, 13-1-82

PEDDLERS See DIRECT SELLERS

PEDESTRIAN
Regulations, 10-1-52

PENALTIES
Code violations, general, 1-1-7

PERSONNEL COMMITTEE
Appointment and duties, 2-4-15

PETS
See Animals/Fowl

PISTOLS
Carrying or discharge in city, 11-2-1,11-2-2
Safe transportation of, 11-2-3

PLAN COMMISSION
Composition and responsibilities, 2-4-5

PLUMBING CODE See also CONSTRUCTION SITE EROSION CONTROL, BUILDING CODE,ELECTRICAL CODE
Authority to enter premise, 15-1-55
Bond/Certificate of Insurance, 15-1-53
Catch basins/receptacles, 15-1-60
Connections during freezing weather, 15-1-63
Drain ends/connections guarded, 15-1-59
Drain junctions, record of, 15-1-57
Drain when constructed, 15-1-62
Fees, 15-1-101
Industrial waste, 15-1-66
Injury of drainage, 15-1-68
Inspection notice, 15-1-56
Obnoxious liquids, 15-1-67
Old pipe/drains, 15-1-61
Penalties, 15-1-100
Permits, 15-1-52
Pipes, defective/inferior, 15-1-58
Pipes, protected, 15-1-64
Roof water, 15-1-69, 15-1-70
Sewers/drains, protected, 15-1-65
Unsanitary installation (existing), 15-1-54

POLICE AND FIRE COMMISSION
Appointment and duties, 2-4-9

POLICE DEPARTMENT
Civilians to assist, 5-1-8

General power of police officers, 5-1-3
Maintenance of personnel records, 5-1-6
Organization of, 5-1-1
Records and reports, 5-1-2
Responsibilities of Chief of Police, 2-3-5, 5-1-4, 5-1-7
Rules and policies of, 5-1-5

POLLUTION ABATEMENT See also FIRE PREVENTION CODE
Clean-up of wastes, 8-2-1
Storage of polluting substances, 8-2-2

PRIVATE PROPERTY
Driveways, 11-7-5(p)(4)
Exterior appearance, 11-7-5(p)(5)
Maintain property, 11-7-5(p)
Yards, 11-7-5(p)(3)

PROPERTY (see Public Property or Private Property)

PUBLIC ART COMMISSION 2-4-19

PUBLIC DEPOSITORIES
Designated, 3-1-7

PUBLIC PROPERTY
Acquisition & disposal, powers of Council, 2-2-6 (b & c)
Cemetery property, 11-3-10
Damage to public property, 11-3-9
Lost and abandoned, 3-4-2
Penalties, 11-3-11
Surplus property, disposal of, 3-4-1

PUBLIC RECORDS See RECORDS, PUBLIC

PUBLIC SERVICE COMMISSION REGULATIONS
Incorporation of, 9-5-1

PUBLIC WORK CONSTRUCTION
Without bids, 3-1-16

PUBLIC WORKS COMMISSION
Appointment and duties, 2-4-2

PURCHASES
By City Administrator, 3-1-11

QR

RAILROAD REGULATIONS, 10-1-51

RECORDS, PUBLIC
Access procedures, 3-3-5
Definitions, 3-3-1
Destruction of records, 3-3-7
Duty to maintain records, 3-3-2
Legal custodian(s), 3-3-3
Limitations on right to access, 3-3-6
Preservation through microfilm, 3-3-8
Public access to records, 3-3-4

RECYCLING
Definitions, 8-3-14
Deciduous material, 8-3-8
Regulation, 8-3-14
Scavenging of, 11-2-18

REFUSE DISPOSAL AND COLLECTION
Accumulation, 8-3-12
Burning waste, 8-3-11(j)
Containers, 8-3-5
Collection of refuse, 8-3-6
Declaration of policy, 8-3-2
Definitions, 8-3-3
Deposit on public/private property, 8-1-4
Garbage accumulation as nuisance, 8-3-8
Noncollectable material, 8-3-11
Refuse from outside city, 8-3-13
Storage areas, 8-3-4, 11-7-5(p)(2)
Scavenging, 8-3-11; 11-2-18
Special collections, 8-3-9
Title to waste, 8-3-10

REFRIGERATORS
Abandoned prohibited, 11-3-3, 11-7-5(m)

RETAIL THEFT
Prohibited, 11-3-4

REVIEW BOARD See BOARD OF REVIEW

ROLLER DEVICES
Prohibited, 10-2-7 & 12-1-6

ROOM TAX, 3-5-1 to 3-5-12

RULE MAKING AUTHORITY
Approval of rules, 2-3-17(b)
Department heads, 2-3-17(a)
Effective date, 2-3-17(c)

S

SALE OR DISPLAY OF MERCHANDISE ON SIDEWALK
See Special Event Vending, 6-2-11

SCHOOL PROPERTY
Smoking prohibited on school property 8-1-8(a)(1) & (b)
Possession of alcohol on, 11-5-7
Unauthorized presence prohibited, 11-2-12

SETBACKS - ACCESSORY BUILDINGS 13-1-57

SEWER/WATER
Compulsory connection to, 8-1-9

SEWERAGE COMMISSION
Appointment and duties, 2-4-12

SEWER UTILITY REGULATIONS AND RATES
See index at start of Title 9, Chapter 2

SEX OFFENDERS
Residency restrictions and child safety zones, 5-6

SHOOTING MISSILES
Prohibited, 11-2-4

SHORELAND-WETLAND ZONING
See index at start of Title 13, Chapter 3

SIDEWALKS, 6-2-2

SIDEWALKS See STREETS AND SIDEWALKS

SIGN CODE
Abandoned signs, 15-5-10
Administration, 15-5-2
Appeals, 15-5-3(g)
Conditional permit, 15-5-13
Conditional Sign, 15-5-(d)
Construction specifications, 15-5-8
Definitions, 15-5-18
Denial, 15-5-(f)
Enforcement, 15-5-17
Fees, 15-5-3(e)
Indemnification for sign installation/maintenance, 15-5-4
Installation/maintenance, 15-5-9
Insurance, 15-5-5
Legal non-conforming, 15-5-16
Liability, 15-5-6
No permit required, 15-5-12
Permit, 15-5-3, 15-5-15
Physical requirements, 15-5-7
Prohibited signs, 15-5-11
Temporary permit, 15-5-3(c), 15-5-14

SKATES
Inline, 10-2-8
Penalties, 10-2-9

SKATEBOARDS
In Parks, 12-1-6
Penalties, 10-2-9
Restrictions on, 10-2-7,

SMOKING/TOBACCO PRODUCTS
Regulations, 8-1-8
Smoking Prohibited on School Property 8-1-8(a)(1) & (b)

SNOW
Public nuisance affecting peace & safety, 11-7-5(o)
Sidewalks, removal from, 6-2-7
Snow emergency routes, 10-1-12

SNOWMOBILES See also ALL-TERRAIN VEHICLES
Accidents, 10-3-8
Applicability of traffic regulations, 10-3-2
Enforcement, 10-3-11
Equipment restrictions, 10-3-3
Hours of Operation, 10-3-3
Operation on private premises prohibited, 10-3-6
Operation on sidewalks, 10-3-5
Penalty, 10-3-10
Restriction on operators, 10-3-7
Speed, 10-3-3
State snowmobile laws adopted, 10-3-1
Trails designated, 10-3-9
Unattended vehicles, 10-3-4

SOLICITORS See DIRECT SELLERS

SPECIAL ASSESSMENT LETTER, 3-1-13

SPECIAL ASSESSMENTS
Appeals, 3-2-10
Council actions after hearing, 3-2-6
Council levy, 3-2-1; 3-2-8
Council's power to amend special assessment, 3-2-8
Combined assessments, 3-2-7
Costs that may be paid, 3-2-3
Exemptions, 3-2-4
Improvement less than assessment, 3-2-9
Liens, 3-2-11
Miscellaneous provisions, 3-2-13
Notice of project, 3-2-5
Public improvements assessments, 3-2-14
Resolution and report required, 3-2-2
Special assessment a lien, 3-2-11
Special charges permissible, 3-2-12

SPECIAL EVENT VENDING

Regulation of, 6-2-11

STATE TRAFFIC LAWS
Administrative Code provisions, 10-1-2
Adopted 10-1-1
Speed Limits, 10-1-11

STATEMENT OF REAL PROPERTY, 3-1-13

STORM AND CLEAR WATER WASTES
Disposal of, 8-1-10

STORMWATER MANAGEMENT 14-2

STORMWATER SEWER DISTRICTS
Districts not to be dissolved, 9-4-2
Establishment of districts, 9-4-1
Method of assessment, 9-4-3

STREETS AND SIDEWALKS
Address system, 6-2-13
Curb and gutter, 6-2-2
Downspouts not to drain on sidewalks, 6-2-10
Excavation: streets, alleys, public ways & grounds, 6-2-3; 6-2-4
Grades, 6-1-1, 6-1-2
Obstructions and encroachments, 6-2-5, 11-2-7, 11-7-5(k)
Obstruction of intersections, 11-7-5(d)
Outside consumption of alcohol, 11-5-1
Parkway areas, 6-2-8
Raking leaves into street, 6-2-12
Regulations governing excavations and openings, 6-2-3, 6-2-4
Removal of rubbish and dirty, 6-2-1
Repair of sidewalks/curbs/gutters, 6-2-2
Requests for improvements, 6-2-12
Sale or display of merchandise on, 6-2-11
Sidewalk construction and repair, 6-2-2
Snow and ice removal, 6-2-7
On public streets, 6-2-7(b)(3)
Special Event Vending Permit, 6-2-11
Street construction, 6-2-2
Street numbers, 6-2-13
Street privilege permit, 6-2-6

Terrace areas, 6-2-8
Uniform street address system, 6-2-13
Vaults, 6-2-9
Wires over street, 11-7-5(i)

STREET USE PERMITS
Special events, 7-9-1

SUBDIVISION, LAND DIVISION AND CONDOMINIUM REGULATIONS
Administrative and Other Fees, 14-1-100
Definitions, 14-1-10
Design Standards, 14-1-70
Enforcement; Penalties and Remedies, 14-1-91
Extraterritorial Plat Approval Jurisdiction, 14-1-22
Fees, 14-1-100
General Street Design Standards, 14-1-70
General Provisions, 14-1-20
Final Plat or Condominium Declaration Review , 14-1-33
Final Subdivision Plat or Condominium Declaration Approval, 14-1-34
Improvements Required, 14-1-50
Introduction and Purpose, 14-1-1
Jurisdiction, 14-1-7
Land Division and Condominium Procedures, 14-1-30
Park & Public Land Dedication, 14-1-80
Preliminary Plat or Condominium Review, 14-1-31
Preliminary Subdivision or Condominium Plat, 14-1-32
Required Agreement Providing for Proper Installation of Improvements
Required Construction Plans; City Review; Inspections
Street Improvements, 14-1-53
Technical Requirements of Preliminary Subdivision or Condominium Plats, 14-1-40
Technical Requirements for Final Subdivision Plat or Condominium Declaration, 14-1-41
Variances, penalties & violations, 14-1-90

SUNSET PROVISION
On Site Plan Approvals, 13-1-126

SWIMMING POOLS, 13-1-23

SURPLUS CITY PROPERTY
Disposal of, 3-4-1

T

TAX ASSESSOR See ASSESSOR

TAX EXEMPT REPORTING
Regulations, 3-1-17 & 18

TAX/ROLE/RECEIPTS
Preparation of, 3-1-1
Payment of, 3-1-15

TAXICABS
Conditions of license, 7-7-3, 7-7-4
Exemptions, 7-7-5
Inspection required, 7-7-3
Insurance required, 7-7-2
Refusal to pay, 7-7-6
Regulation of taxicabs, 7-7-1
Revocation of license, 7-7-7

TELEPHONES
Harassing/obscene telephone calls, 11-2-5
Misuse of E911, 11-2-17

TEMPORARY ZONING USE PERMIT
Temporary occupancy permit, 13-1-22(f), 13-1-225(a)(3), 13-1-230
Requirement, 13-1-225
Restrictions, 13-1-22(f)

THEFT
Retail, 11-3-4

TOBACCO
License, 7-3
Sale to minors, 11-2-6

TOURISM COMMISSION, 2-4-18

TRAFFIC AND PARKING
Accident reports, 10-1-5
Angle parking, 10-1-26
Barriers across street for play purposes, 10-1-57
Blue warning lights on police vehicles, 10-1-6
Bus, 10-1-31(b)

Compact vehicles, 10-1-31(a)
Controlled intersections, 10-1-15
Curbing or safety island, 10-1-55
Disabled parking, 10-1-23
Disturbing peace with vehicle, 10-1-50
Driving over curbing, 10-1-55
Enforcement, 10-1-61
Heavy traffic routes, 10-1-14
Illegally parked vehicles, 10-1-40
Inoperable, wrecked or discarded vehicles, 10-1-41
Lane & turn control, 10-1-56
Large vehicles (12,000 lbs., 16 ft.), 10-1-36
Leaving keys in motor vehicles prohibited, 10-1-24
Left turns prohibited, 10-1-17
Loading zone parking, 10-1-34
Long-term parking, 10-1-32
Miscellaneous lane and turn controls, 10-1-56
Motor vehicles on pedestrian ways, 10-1-53
Motors running, 10-1-24
Municipal parking lots, 10-1-35
Official traffic control devices, 10-1-3
One-way streets, 10-1-13
Operations of vehicles in parking lots and ramps, 10-1-39
Operators to obey traffic control devices, 10-1-10
Parking (long term), 10-1-32
Parking citation removal, 10-1-38
Parking lots (municipal), 10-1-35
Parking prohibited, 10-1-20; 10-1-22, 10-1-23, 10-1-27
Parking reserved for vehicles of disabled, 10-1-23
Parking restrictions - 10-1-20; 10-1-21; 10-1-28, 10-1-29
Parking vehicles with motor running, 10-1-24
Pedestrian regulations, 10-1-52
Penalties, 10-1-60
Railroad regulations, 10-1-51
Recreational vehicle parking, 10-1-30, 13-1-82
Registration record of vehicle as evidence, 10-1-4
Removal of illegally parked vehicles, 10-1-40
Right turns prohibited, 10-1-17
School crossing guards, 10-1-54
School district grounds traffic and parking regulations, 10-1-37
Signs/control devices, 10-1-3
Snow emergencies, 10-1-33

Snow emergency routes, 10-1-12
Snow removal parking, 10-1-21(c)
Speed limits, 10-1-11
State administrative code provisions adopted, 10-1-2
State traffic laws adopted, 10-1-1
Stopping prohibited, 10-1-22
Street barriers for play purposes, 10-1-57
Temporary parking for special events, 10-1-21(b)
Through streets, 10-1-12
Truck parking, 10-1-36
Turns prohibited, 10-1-17
U-turns, 10-1-17
Unattended motorized machinery, 10-1-25
Unlawful removal of citations, 10-1-38
Winter parking, 10-1-33
Yield signs, 10-1-16

TRANSIENT AND TEMPORARY PUBLIC ENTERTAINMENTS
License for, 7-6-1

TREES
Abatement of Dutch elm & other diseases, 6-4-5; 6-4-6
Adoption of state statutes, 6-4-14
Appeal from orders, 6-4-13
Assessment of costs, 6-4-6
City forester, 6-4-3; 6-4-4
Cost of maintaining in terrace areas, 6-4-11
Dangerous trees, 11-7-5(f)
Definitions, 6-4-2
Injury to trees, 6-4-12
Obstruction of view at intersection, 6-4-10
Permits required, 6-4-7
Planting of trees and shrubs, 6-4-8
Prohibited acts, 6-4-12
Removal of trees and shrubs, 6-4-11
Tree limbs, 11-7-5(e)
Tree preservation 6-4-14
Tree protection removal in parks, 12-1-(b)(17)
Trimming, 6-4-9

TRESPASS
Prohibited, 11-2-14

TRUANCY
Regulation of, 11-6-6

TRUCKS See TRAFFIC AND PARKING

U

UNRELATED PEOPLE
Number constituting a family, 13-1-240(52)

UTILITIES
Cable Television, 9-3
Misc. utilities regulations, 9-5
Sewer Use, 9-2
Stormwater sewer districts, 9-4
Water, 9-1
Sewer and Water Connections Outside Municipal Boundaries, 9-5-3

UTILITIES, UNDERGROUND
Regulation of, 6-1-4

V

VEHICLES
Abandoned, failure to maintain property 11-7-5(p)
Abandoned/junked, 10-5-1, 11-7-5(p)(1)
Accident report, 10-1-5
Conflict with other Code provisions, 10-5-7
Disposal of abandoned vehicle, 10-5-4
Disturbing peace with, 10-1-50
For Sale, 13-1-26
Owner's responsibility for abandoned/junked vehicles, 10-5-6
Police vehicles, blue warning lights, 10-1-6
Removal/impoundment, 10-5-2
Registration record as evidence, 10-1-4
Sale or disposal reporting, 10-5-5
Storage, 10-5-3
Vehicles & appliances on private property, 10-5-8

VENDING
Newspaper vending machines, 7-5

Outdoor soda water vending machines, 13-1-226
Special event vending permit, 6-2-11

VOTER REGISTRATION
Requirement for, 2-1-6

W

WARDS
Boundaries, 2-1-3

WASTES
Cleanup, 8-2-1
Storage, 8-2-2

WASTEWATER, CLEAR
Disposal of, 8-1-10

WATER UTILITY REGULATIONS AND RATES
See index at start of Title 9, Chapter 1

WEAPONS
Regulation of, 11-2-1
Carrying concealed weapons prohibited, 11-2-2
Throwing or shooting of arrows, stones and other missiles prohibited, 11-2-3
Facsimile Firearms Prohibited, 11-2-4

WEIGHTS & MEASURES
Application for License, 7-16-5
Appointment of Inspectors, 7-16-3
Change of Ownership, 7-16-9
Definition, 7-16-1
Enforcement for Non-Renewal, 7-16-8
Fees Assessment, 7-16-7
License Term, 7-16-6
Weights and Measures License Required, 7-6-4
Weights and Measures Regulations, 7-16-2

WEED COMMISSIONER
Appointment and duties, 2-3-12
Control of weeds, 8-1-6, 8-1-7

WEEDS AND GRASSES
Regulation of length, 8-1-6, 8-1-7, 8-1-8
Noxious, 8-1-5
WELFARE See PUBLIC ASSISTANCE

WINE See ALCOHOLIC BEVERAGES

Z

ZONING See also FLOODPLAIN ZONING, SHORELAND-WETLAND ZONING
See index at start of Title 13, Chapter 1
Article A - Introduction, 13-1-1 to 13-1-19
Article B - General Provisions, 13-1-20 to 13-1-39
Article C - Zoning Districts, 13-1-40 to 13-1-79
Article D - Traffic, Loading, Parking and Access, 13-1-80 to13-1-89
Article E - Modifications, 13-1-100 to 13-1-119
Article F - Site Plan and Architectural Review Board, 13-1-120 to 13-1-139
Article G - Nonconforming Uses, Structures, and Lots, 13-1-140 to 13-1-159
Article H - Performance Standards, 13-1-160 to 13-1-168
M-3 Business District, 13-1-169 to 13-1-178
Article I - Changes and Amendments, 13-1-180 to 13-1-199
Article J - Zoning Board of Appeals, 13-1-200 to 13-1-219
Article K - Administration, 13-1-220 to 13-1-239
Fees, 13-1-230, 13-1-231
Article L - Definitions and Illustrations, 13-1-240 to 13-1-241

ZONING BOARD OF APPEALS See also ZONING, FLOODPLAIN ZONING, SHORELAND-WETLAND ZONING
Composition and powers, 2-4-4

TITLE 1

General Provisions for Use of Code of Ordinances

Chapter 1 Use and Construction of Code of Ordinances
Chapter 2 Enforcement of Ordinances; Issuance of Citations

CHAPTER 1

Use and Construction of Code of Ordinances

1-1-1 Title of Code; Citation
1-1-2 Principles of Construction
1-1-3 Conflict of Provisions
1-1-4 Separability of Provisions
1-1-5 Effective Date of Ordinances
1-1-6 Repeal of General Ordinances
1-1-7 General Penalty
1-1-8 Clerk to Maintain Copies of Documents Incorporated by Reference

SEC. 1-1-1 TITLE OF CODE; CITATION.

These collected Ordinances shall be known and referred to as the "Code of Ordinances, City of Cedarburg, Wisconsin." References to the Code of Ordinances, City of Cedarburg, Wisconsin, shall be cited as follows: "Sec. 2-1-1, Code of Ordinances, City of Cedarburg, Wisconsin."

SEC. 1-1-2 PRINCIPLES OF CONSTRUCTION.

The following rules or meanings shall be applied in the construction and interpretation of ordinances codified in this Code of Ordinances unless such application would be clearly inconsistent with the plain meaning or intent of the ordinances:

(a) **Acts by Agents.** When an ordinance requires an act be done by a person, which may be legally performed by an authorized agent of that principal person, the requirement shall be construed to include all acts performed by such agents.

(b) **Code and Code of Ordinances.** The words "Codes," "Municipal Code" and "Code of Ordinances" when used in any section of this Code, shall refer to this Code of Ordinances of the City of Cedarburg unless the context of the section clearly indicates otherwise.

(c) **Computation of Time.** In computing any period of time prescribed or allowed by these Ordinances, the day of the act or event from which the period of time begins to run shall not be included, but the last day of the period shall be included, unless it is a Saturday, a Sunday or a legal holiday. If the period of time prescribed or allowed is less than seven (7) days,

Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Section, "legal holiday" means any statewide legal holiday specified by state law and any other City holiday designated by the Common Council.

(d) **Fine**. The term "fine" shall be the equivalent of the word "forfeiture," and vice versa.

(e) **Gender.** Every word in these Ordinances referring to the masculine gender shall also be construed to apply to females, and vice versa.

(f) **General Rule.** All words and phrases shall be construed according to their plain meaning in common usage. However, words or phrases with a technical or special meaning shall be understood and construed according to that technical or special meaning if such is the intent of the Ordinances.

(g) **Joint Authority.** All words purporting to give a joint authority to three (3) or more City officers or employees shall be construed as giving such authority to a majority of such officers of other persons.

(h) **Person**. The word "person" shall mean any of the following entities: natural persons, corporations, partnerships, associations, bodies politic or any other entity of any kind which is capable of being sued.

(i) **Repeal**. When any ordinance having the effect of repealing a prior ordinance is itself repealed, such repeal shall not be construed to revive the prior ordinance or any part thereof, unless expressly so provided.

(j) **Singular and Plural.** Every word in these Ordinances referring to the singular number only shall also be construed to apply to several persons or things, and every word in these Ordinances referred to a plural number shall also be construed to apply to one (1) person or thing.

(k) **Tense.** The use of any verb in the present tense shall not preclude the interpretation of the verb in the future tense where appropriate.

(I) **Wisconsin Statutes.** The term "Wisconsin Statutes" and its abbreviation as "Wis. Stats." shall mean, in these Ordinances, the Wisconsin Statutes for the year 1985-86, as amended.

(m) **Wisconsin Administrative Code.** The term "Wisconsin Administrative Code" and its abbreviation as "Wis. Adm. Code" shall mean the Wisconsin Administrative Code as of the adoption of this Code, as amended or renumbered from time to time.

State Law Reference: Legal holidays, Sec. 256.17, Wis. Stats.

SEC. 1-1-3 CONFLICT OF PROVISIONS.

(a) If the provisions of different chapters conflict with each other, the provisions of each individual chapter shall control all issues arising out of the events and persons intended to be governed by that chapter.

(b) If the provisions of different sections of the same chapter conflict with each other, the provision which is more specific in its application to the events or persons raising the conflict shall control over the more general provision.

SEC. 1-1-4 SEPARABILITY OF PROVISIONS.

If any provision of this Code of Ordinances is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of these Ordinances.

SEC. 1-1-5 EFFECTIVE DATE OF ORDINANCES.

(a) **Code.** The Code of Ordinances, City of Cedarburg, Wisconsin, shall take effect from and after passage and publication as provided by state law.

(b) **Subsequent Ordinances.** All Ordinances passed by the Common Council subsequent to the adoption of the Code of Ordinances, except when otherwise specifically provided, shall take effect from and after their publication.

State Law Reference: Municipal Code, Sec. 66.035, Wis. Stats.

SEC. 1-1-6 REPEAL OF GENERAL ORDINANCES.

(a) **Ordinances Repealed.** All general Ordinances heretofore adopted by the Common Council are hereby repealed. This shall not include any Ordinances or parts of Ordinances or resolutions relating to the following subjects and not conflicting with the provisions of this Code, except that some of the following provisions may be amended by this Code of Ordinances:

(1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance;

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the City, or any contract or obligations assumed by the City;

(3) The administrative Ordinances or resolutions of the City not in conflict or inconsistent with the provisions of the Code;

(4) Any appropriation ordinance or resolution;

(5) Any right or franchise granted by the Common Council to any person, firm or corporation;

(6) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way in the City;

(7) Any ordinance or resolution establishing or prescribing the street grades of any streets in the City;

(8) Any ordinance or resolution providing for local improvements or assessing taxes or special assessments therefor;

(9) Any ordinance or resolution dedicating or accepting any plat or subdivision in the

City;

(10) Any ordinance annexing property to the City;

(11) Any ordinance or resolution regulating the erection, alteration, repair, maintenance, demolition, moving or removal of buildings or other structures;

(12) Zoning ordinances; dwelling building code; and other building code ordinances.

(13) Charter ordinances.

(14) The issuance of corporate bonds and notes of the City of whatever name or description.

(15) Water, sewer and electric rates, rules and regulations and sewer and water main construction.

(b) **Effect of Repeals.** The repeal or amendment of any provision of this Code or of any other ordinance or resolution of the Common Council shall not:

(1) Affect any rights, privileges, obligations or liabilities which were acquired or incurred or which had accrued under the repealed or amended provision, unless the City has expressly reserved the right to revoke such right, privilege, obligation or liability.

(2) Affect any offense, penalty or forfeiture, or prosecution for any offense, or levy of any penalty or forfeiture which has arisen prior to the repeal or amendment of the relevant provision of any ordinance of resolution. The preceding sentence shall not preclude the application of a lesser penalty or forfeiture if the new amending or repealing provision contains such a lesser penalty or forfeiture. The procedure for prosecution of any violations of Ordinances repealed or amended shall be conducted according to the procedure set forth in the new amending or repealing provision or other procedure currently in effect.

SEC. 1-1-7 GENERAL PENALTY.

(a) **General Penalty.** Except where a penalty is provided elsewhere in this Code, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(1) First Offense -- Penalty. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00), together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.

(2) Second and Subsequent Offenses -- Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00) for each such offense, together with costs of prosecution and, in

default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

(b) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) **Other Remedies.** The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

(d) **Execution Against Defendant's Property.** Whenever any person fails to pay a forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the City, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

(e) **Citation Procedure.** All City officers and other City personnel charged with responsibility on enforcing the provisions of this Code of Ordinances are hereby authorized pursuant to Section 66.119(1)(a) Wis. Stats. to issue citations for violations of this Code of Ordinances, including ordinances for which a statutory counterpart exists.

SEC. 1-1-8 CLERK TO MAINTAIN COPIES OF DOCUMENTS INCORPORATED BY REFERENCE.

Whenever any standard code, rule, regulation, statute or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein and the City Clerk shall maintain in his office a copy of any such material as adopted and as amended from time to time. Materials on file at the City Clerk's office shall be considered public records open to reasonable examination by any person during the office hours of the City Clerk subject to such restrictions on examination as the Clerk imposes for the preservation of the material.

CHAPTER 2

Enforcement of Ordinances; Issuance of Citations

1-2-1 Method of Enforcement
1-2-2 Information Contained in Citation
1-2-3 Form of Citation
1-2-4 Schedule of Deposits
1-2-5 Issuance of Citation
1-2-6 Procedure
1-2-7 Nonexclusivity

SEC. 1-2-1 METHOD OF ENFORCEMENT.

The City of Cedarburg hereby elects to use the citation method of enforcement of ordinances. All City officers and other City personnel charged with responsibility of enforcing the provisions of this Municipal Code are hereby authorized pursuant to Sec. 66.119(1)(a), Wis. Stats., to issue citations for violations of this Code of Ordinances including Ordinances for which a statutory counterpart exists.

SEC. 1-2-2 INFORMATION CONTAINED IN CITATION.

The citation shall contain the following:

(a) The name and address of the alleged violator.
(b) Factual allegations describing the alleged violation.
(c) The time and place of the offense.
(d) The section of the ordinance violated.
(e) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
(f) The time at which the alleged violator may appear in court.
(g) A statement which in essence informs the alleged violator:
    (1) That a cash deposit based on the schedule established by this Chapter may be made which shall be delivered or mailed to the Clerk of Circuit Court or Chief of Police prior to the time of the scheduled court appearance.
    (2) That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
    (3) That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
    (4) That if no cash deposit is made and the alleged violator does not appear in court at

the time specified, an action may be commenced to collect the forfeiture.

(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Subsection (g) above has been read. Such statement shall be sent or brought with the cash deposit.

(i) Such other information as the City deems necessary.

SEC. 1-2-3 FORM OF CITATION.

The form of the citation to be used by the City is on file in the City Clerk's office and is adopted by reference as though fully set forth herein.

SEC. 1-2-4 SCHEDULE OF DEPOSITS.

(a) The schedule of cash deposits shall be established for use with citations issued under this Chapter by the Common Council according to the penalty provision of this Code.

(b) Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court who shall provide a receipt therefor.

SEC. 1-2-5 ISSUANCE OF CITATION.

(a) **Law Enforcement Officer.** Any law enforcement officer may issue citations authorized under this Chapter.

(b) **City Officials.** The following City officials may issue citations with respect to those specified ordinances which are directly related to their official responsibilities:

(1) Any police officer
(2) Building and Plumbing Inspector
(3) Fire Chief
(4) City Engineer
(5) Director of Engineering and Public Works
(6) Electrical Inspector
(7) Weed Commissioner

(c) **Delegated Authority.** The City officials named in this Subsection (b) above may delegate their authority to issue citations to their subordinates.

SEC. 1-2-6 PROCEDURE.

Section 66.119(3), Wis. Stats., relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

SEC. 1-2-7 NONEXCLUSIVITY.

(a) **Other Ordinance.** Adoption of this Chapter does not preclude the Common Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

TITLE 2

Government and Administration

Chapter 1 City Government; Elections
Chapter 2 Mayor; Common Council
Chapter 3 Municipal Officers and Employees
Chapter 4 Boards, Commissions and Committees
Chapter 5 Ethics Code
~~Chapter 6 Personnel Code~~ (Repealed Ord. 2014-08)
Chapter 7 Municipal Court

CHAPTER 1

City Government; Elections

2-1-1 City Government
2-1-2 Official Newspaper
2-1-3 Aldermanic Districts and Wards
2-1-4 Elections
2-1-5 Non-Partisan Primary for City Offices
2-1-6 Voter Registration

SEC. 2-1-1 CITY GOVERNMENT. (Ord. 2004-23)

(a) **Mayor-Council Government.** The City of Cedarburg is a body corporate and political with the powers of a municipality at common law and governed by the provisions of Chapters 62 and 66 of the Wisconsin Statutes, laws amending those chapters, other acts of the legislature and the Constitution of the State of Wisconsin. The City of Cedarburg operates under the Mayor-Council form of government under Chapter 62, Wis. Stats.

(b) **Division of Responsibilities.**

(1) Legislative Branch. The Common Council is the legislative branch of City Government. Its primary business is the passage of laws in the form of ordinances or resolutions which shall prescribe what the law shall be, not only in relation to the particular facts existing at the time, but as to all future cases arising under it. The Common Council shall fix the salaries of all officers and employees of the City, and be charged with the official management of the City's financial affairs, its budget, its revenues and the raising of funds necessary for the operation of the City.

(2) Executive Branch. The Mayor shall be the chief executive officer. He shall take care that all City ordinances and state laws are observed and enforced and that all City

officers, boards, and commissions discharge their duties. When present, he shall preside at the meetings of the Common Council. He shall from time to time give the Council such information and recommend such measures as he may deem advantageous to the City.

State Law Reference: Wis. Const., Art. XI, Sec. 3.

SEC. 2-1-2 OFFICIAL NEWSPAPER.

The official newspaper of the City of Cedarburg shall be designated by the Common Council at its annual organizational meeting.

State Law Reference: Sec. 985.06, Wis. Stats.

SEC. 2-1-3 ALDERMANIC DISTRICTS AND WARDS. (Ord. Nos. 2001-28 and 2001-45) (Ord. No. 2009-10) (Ord. No. 2011-09) (Ord. No. 2011-10)

The City of Cedarburg shall consist of seven (7) Aldermanic Districts, the respective boundaries of which are described as follows:

(a) **Aldermanic District 1.** Alderman District No. 1 shall consist of Ward No. 1 as follows:

(1) Ward No. 1. Commencing at the intersection of the city limit and Susan Lane; thence east approximately 730 feet along the city limit; thence north approximately 1000 feet along the city limit; thence east approximately 1300 feet along the city limit to the intersection of CTH I; thence north along the centerline of CTH I to the intersection with STH 60; thence west along the centerline of STH 60 approximately 1200 feet; thence north approximately 2050 feet along the city limit; thence east approximately 1270 feet along the city limit to the intersection of CTH I; thence south along the centerline of CTH I to the intersection of CTH I and STH 60; thence east along the centerline of STH 60 approximately 1160 feet to the intersection with the city limit; thence south approximately 260 feet south along the city limit; thence east approximately 200 feet along the city limit; thence south approximately 1070 feet along the city limit; thence east along the city limit to the west bank of Cedar Creek; thence south approximately 1120 feet along the west bank of Cedar Creek; thence west approximately 150 feet along the city limit; thence south approximately 320 feet along the city limit; thence southwest approximately 450 feet along the city limit; thence south approximately 330 feet along the city limit; thence east along the city limit to the west bank of Cedar Creek; thence south approximately 420 feet along the west bank of Cedar Creek; thence east to the east bank of Cedar Creek; thence south approximately 1100 feet along the east bank of Cedar Creek; thence east along the city limit to the centerline of Hawthorne Lane; thence south along the centerline of Hawthorne Lane to the intersection of Hawthorne Lane and Alpine Drive; thence

west along the extended centerline of Alpine Drive to Cedar Creek; thence southwest along Cedar Creek to the intersection of Riveredge Drive and the extended centerline of Jefferson Avenue; thence south approximately 320 feet along the extended centerline of Jefferson Avenue; thence west approximately 60 feet along north cul-de-sac lot property line; thence southeast approximately 140 feet to the Jefferson Avenue north cul-de-sac center; thence south along the centerline of Jefferson Avenue to the intersection of Jefferson Avenue and Bridge Road; thence east along the centerline of Bridge Road to the intersection with Harrison Avenue; thence north along the centerline of Harrison Avenue to the intersection of Hickory Street; thence east along the centerline of Hickory Street to its intersection with Pine Street; thence southeast along the centerline of Pine Street to the intersection of Evergreen Boulevard; thence east along the centerline of Pine Street to the intersection of Washington Avenue; thence Northwest along the centerline of Washington Avenue to the intersection of Cambridge Avenue; thence northeast along Cambridge Avenue; thence north along Cambridge Avenue to the intersection with Fieldcrest Street; thence east along the centerline of Fieldcrest Street to the intersection with Lexington Street; thence northwest along the centerline of Lexington Street to the intersection with Susan Court; thence 375 feet north along Susan Court to Susan Lane to the point of beginning.

(b) **Aldermanic District 2.** Aldermanic District No. 2 shall consist of Ward No. 2 as follows:

(1) Ward No. 2. Commencing that the intersection of Wauwatosa Road and Bridge Street: thence north approximately 1300 feet to a point north of the intersection of Wauwatosa Road and Top View Trail; thence west approximately 2600 feet along the city limit; thence south approximately 1300 feet to the intersection of the city limit with Bridge Road; thence east approximately 1850 feet along the centerline of Bridge Road to the intersection with the city limit; thence south approximately 330 feet along the city limit; thence west approximately 600 feet along the city limit; thence south approximately 650 feet along the city limit; thence east approximately 1300 feet along the city limit to the intersection with Wauwatosa Road; thence south approximately 1000 feet along the centerline of Wauwatosa Road to the city limit; thence east approximately 630 feet along the city limit; thence south approximately 650 feet along the city limit; thence west approximately 125 feet along the centerline of Western Road to the city limit; thence south approximately 360 feet along the city limit; thence west approximately 125 feet along the city limit; thence north approximately 360 feet along the city limit; thence west approximately 1700 feet along the centerline of Western Avenue to the city limit; thence south approximately 680 feet along the centerline of Ridgeway Lane; thence west approximately 650 feet along the city limit; thence south approximately 1280 feet along the city limit; thence east approximately 650 feet along the city limit; thence south approximately 300 feet along the city limit; thence east approximately 1300 feet along the city limit; thence

north along the centerline of Wauwatosa Road to the intersection of Lincoln Avenue; thence east along the centerline of Lincoln Avenue to the intersection with Cedar Pointe Avenue; thence northeast along the centerline of Cedar Pointe Avenue to the intersection with Buchanan Road; thence southeast along the centerline of Buchanan Road to the intersection with Fox Pointe Avenue; thence northeast along the centerline of Fox Pointe Avenue to the intersection with Wilson Street; thence southeast along the centerline of Wilson Street to the intersection with Evergreen Boulevard; thence northeast along the centerline of Evergreen Boulevard to the intersection with Cleveland Street; thence east along the centerline of Cleveland Street to the intersection with Madison Avenue; thence north along the centerline of Madison Avenue approximately 570 feet to the intersection with Bridge Road; thence west along the centerline of Bridge Road to Harrison Avenue; thence west along the centerline of Harrison Avenue to the intersection with Oak Street; thence west along the centerline of Oak Street and then southwest along the centerline of Oak Street to the intersection with Chestnut Street; thence northwest along the centerline of Chestnut Street to the intersection with Tower Avenue; thence south along the centerline of Tower Avenue to Bridge Road; thence west along the centerline of Bridge Road to the point of beginning.

(c) **Aldermanic District 3.** Aldermanic District No. 3 shall consist of Ward No. 3 as follows:

(1) Ward No. 3. Commencing at the intersection of Washington Avenue and Bridge Road; thence west along the centerline of Bridge Road to the intersection at Madison Avenue; thence south approximately 570 feet to the intersection with Cleveland Street; thence west along the centerline of Cleveland Street to the intersection with Evergreen Boulevard; thence south along the centerline of Evergreen Boulevard to the intersection with Wilson Street; thence northwest along the centerline of Wilson Street to the intersection with Fox Pointe Avenue; thence southwest along the centerline of Fox Pointe Avenue to the intersection with Buchanan Street; thence west along the centerline of Buchanan Street to the intersection with Cedar Pointe Avenue; thence southwest Cedar Pointe Avenue to the intersection with Lincoln Boulevard; thence west along Lincoln Boulevard to Wauwatosa Road; thence south approximately 500 feet along Wauwatosa Road to the city limit; thence east approximately 1300 feet along the city limit; thence south approximately 680 feet along the city limit; thence east approximately 500 feet along the city limit; thence north approximately 150 feet along the city limit; thence east approximately 830 feet along the city limit; thence south approximately 460 feet along the city limit; thence west approximately 180 feet along the city limit; thence south approximately 66 feet along the city limit; thence east approximately 180 feet along the city limit; thence south approximately 300 feet along the city limit; thence west approximately 350 feet along the city limit; thence south approximately 1300 feet along the city limit to

the intersection of Pioneer Road; thence east approximately 300 feet along the centerline of Pioneer Road to its intersection with Evergreen Boulevard; thence north along the centerline of Evergreen Boulevard to the intersection with Lincoln Boulevard; thence east along the centerline of Lincoln Boulevard to the intersection with Hillcrest Lane; thence north along the centerline of Hillcrest Lane to the intersection with Jackson Street; thence east along the centerline of Jackson Street to the intersection with Washington Avenue; thence north along the centerline of Washington Avenue to the point of beginning.

(d) **Aldermanic District 4.** Aldermanic District No. 4 shall consist of the boundary of the area created by combining Ward Nos. 4 and 8 as follows:

(1) Ward No. 4. Beginning at the intersection of Highland Drive and the northerly bank of Cedar Creek; thence southwest along the bank of Cedar Creek; thence northwest along the bank of Cedar Creek to the intersection with Columbia Road; thence west along the centerline of Columbia Road to the intersection of Portland Road; thence southeast along the centerline of Portland Road to its intersection with the Canadian National Rail Road Line; thence south along the Canadian National Rail Road Line to its intersection with Lincoln Boulevard; thence east along the centerline of Lincoln Boulevard; thence south along the centerline of Lincoln Boulevard to the intersection with McKinley Boulevard; thence south along the centerline of McKinley Boulevard; thence east along the centerline of McKinley Boulevard; thence south along the centerline of McKinley Boulevard to the intersection of CTH C; thence east approximately 1120 feet along the centerline of CTH C to the intersection with the city limits; thence north approximately 1500 feet along the city limit; thence northwest approximately 150 feet along the city limit to the intersection with Fillmore Avenue; thence northeast along the centerline of Fillmore Avenue to the intersection with Hamilton Road; thence southeast approximately 255 feet along the centerline of Hamilton Road to the city limit; thence northeast along the city limit to the westerly bank of Cedar Creek; thence north along the bank of Cedar Creek to the city limit; thence north approximately 1900 feet along the city limit to Portland road; thence east approximately 200 feet along the centerline of Portland Road to the city limit; thence north approximately 500 feet along the city limit; thence west approximately 200 feet along the city limit; thence north along the city limit to the intersection with the Canadian National Rail Road; thence northeast approximately 1630 feet along the Canadian National Rail Road to the city limit; thence north approximately 600 feet along the city limit; thence southwest along the city limit; thence northwest along the city limit; thence north along the city limit; thence southwest along the city limit; thence north along the city limit to the point of beginning.

(2) Ward No. 8. Commencing at the intersection of Riverland Road and CTH C

(Pioneer Road); thence west approximately 1325 feet along the north line of CTH C (Pioneer Road); then north approximately 2650 feet along the city limit; thence east approximately 1315 feet along the city limit; thence north approximately 1360 feet across Cedar Creek along the city limit; thence east approximately 1120 feet along the city limit to the northwest corner of Cedar Creek and Milwaukee River; thence south approximately 1500 feet along the west side of the Milwaukee River; thence west approximately 830 feet along the city limit; thence south approximately 2650 feet along the city limit to the point of beginning.

(e) **Aldermanic District 5.** Aldermanic District No. 5 shall consist of Ward No. 5 as follows:

(1) Ward No. 5. Beginning at the intersection of Columbia Road and Washington Avenue; thence south along the centerline of Washington Avenue to the intersection with Jackson Street; thence west along the centerline of Jackson Street to the intersection with Hillcrest Avenue; thence south along Hillcrest Avenue to the intersection with Lincoln Boulevard; thence west along the centerline of Lincoln Boulevard to the intersection of Evergreen Boulevard; thence south along the centerline of Evergreen Boulevard to the city limit; thence east approximately 190 feet along the city limit; thence north approximately 330 feet along the city limit; thence east approximately 380 feet along the city limit; thence south approximately 725 feet along the city limit; thence east approximately 475 feet along the city limit; thence south approximately 780 feet along the city limit; thence east approximately 1690 feet along the city limit; thence south approximately 670 feet along the city limit; thence east approximately 1340 feet along the city limit; thence north approximately 1900 feet along the city limit; thence east along the centerline of CTH C to the intersection of CTH C and McKinley Boulevard; thence north along the centerline of McKinley Boulevard; thence west along the centerline of McKinley Boulevard; thence north along the centerline of McKinley Boulevard to the intersection of McKinley Boulevard and Lincoln Boulevard; thence west along the centerline of Lincoln Boulevard to the intersection with the Canadian National Rail Road; thence northeast along the Canadian National Rail Road to its intersection with Portland Road; thence northwest along the centerline of Portland Road to Columbia Road; thence west along the centerline of Columbia Road to the point of beginning.

(f) **Aldermanic District 6.** Aldermanic District No. 6 shall consist of Ward No. 6 as follows:

(1) Ward No. 6. Commencing at the intersection of Alpine Lane and Hawthorne Lane; thence north approximately 400 feet along the centerline of Hawthorne Lane to the intersection with the city limit; thence east approximately 850 feet along the city limit to the west line of Keup Road; thence north approximately 670 feet along the west line of Keup Road to the intersection with the city limit; thence west approximately 1275 feet along the city limit; thence northeast approximately 575 feet and north approximately 190 feet along the city limit;

thence west approximately 190 feet along the city limit; thence north approximately 240 feet along the city limit to the intersection with Cedar Creek; thence north approximately 790 feet along the east bank of Cedar Creek to the intersection with the city limit; thence east approximately 450 feet along the city limit; thence south along the city limit to the intersection with West Highland Drive, Village of Grafton, extended; thence northeast and east along the centerline of West Highland Drive, extended to the intersection with Keup Road; thence south approximately 1375 feet along the centerline of Keup Road; thence east approximately 400 feet along the city limits; thence south approximately 280 feet along the city limits; then west approximately 110 feet along the city limit; thence south along the city limits to the north property line for Thorson School; thence east along said property line to the intersection with the east property line of Thorson School; thence south approximately 2300 feet along said east property line, extended to the intersection with the city limit; thence west approximately 860 feet along the city limit; thence north approximately 200 feet along the city limit; thence west approximately 33 feet along the city limit; thence south approximately 200 feet along the city limit; thence west approximately 190 feet along the city limit; thence south approximately 190 feet to the city limit; thence west approximately 190 feet along the city limit to the intersection with the east line of Keup Road; thence north approximately 375 feet along the east line of Keup Road; then west approximately 66 feet to the west line of Keup Road; thence north along the west line of Keup Road to the south line of the Wisconsin Electric Power Company right of way; thence southwest approximately 260 feet along said line to the intersection with the city limit; thence south approximately 450 feet along the city limit; thence east along the city limit to the intersection with the west line of Keup Road; thence south along the west line of Keup Road to the intersection with the south line of Pine Road, Town of Cedarburg, extended; thence east approximately 260 feet along the south line of Pine Road to the city limit; thence south approximately 180 feet along the city limit; thence west approximately 230 feet along the city limit to the intersection with Keup Road; thence south along the centerline of Keup Road to the intersection with Columbia Road; thence east approximately 115 feet along the city limit; thence south along the city limit to the intersection with the north bank of Cedar Creek; thence southwest along the north bank of Cedar Creek to the intersection with Columbia Road; thence southeast along the centerline of Columbia Road to the intersection with Washington Avenue; thence north along the centerline of Washington Avenue to the intersection with Bridge Road; thence east along the centerline of Bridge Road to the intersection with Jefferson Avenue; thence north along the centerline of Jefferson Avenue to the center of the north cul-de-sac; thence northwest approximately 140 feet to the north cul-de-sac property's northwest corner; thence east approximately 60 feet along the cul-de-sac north

property line; thence north approximately 320 feet to the south bank of Cedar Creek; thence northeast along the south bank of Cedar Creek to the extended centerline of Alpine Drive; thence east along the extended centerline of Alpine Drive to the point of beginning.

(g) **Aldermanic District 7.** Aldermanic District No. 7 shall consist of Ward No. 7 as follows:

(1) Ward No. 7. Commencing at the intersection of Bridge Road and STH 181 (Wauwatosa Road); thence north approximately 1330 feet along the centerline of STH 181; thence west approximately 270 feet to the intersection with the city limit; thence north along the city limit to the centerline of Sherman Road; thence west approximately 2300 feet along the centerline of Sherman Road to the intersection of the city limit; thence north approximately 1330 feet along the city limit; thence east along the city limit to the centerline of STH 181; thence north approximately 1330 feet along the centerline of STH 181; thence east along the city limit to the centerline of Washington Avenue; thence northwest approximately 1500 feet along centerline of Washington Avenue; thence east approximately 2300 feet along the city limit; thence north along the city limit to the centerline of STH 60; thence east approximately 1330 feet along the northline of STH 60; thence south approximately 2070 feet along the city limit; thence west approximately 1330 feet along the city limit; thence south approximately 1330 feet along the city limit; thence west approximately 100 feet along the city limit; thence south to the south line of Susan Lane; thence west approximately 530 feet along the south line of Susan Lane; thence north 250 feet along the city limit; thence west along the city limit to the centerline of Washington Avenue; thence southeast approximately 510 feet along the centerline of Washington Avenue; thence east approximately 630 feet along the city limit; thence north approximately 160 feet along the city limit; thence east approximately 80 feet along the city limit; thence north approximately 420 feet along the city limit; thence east approximately 105 feet along the city limit; thence north approximately 20 feet along the city limit; thence east approximately 435 feet along the city limit; thence south to the north line of Susan Lane; thence east along the north line of Susan Lane to the extended centerline of Susan Court; thence south along the extended centerline of Susan Court to the intersection of Susan Court and Lexington Street; thence southeast along the centerline of Lexington Street to the intersection of Lexington and Fieldcrest Street; thence west along the centerline of Fieldcrest Street to the intersection of Fieldcrest and Cambridge Avenue; thence southwest along the centerline of Cambridge Avenue to the intersection of Cambridge Avenue and Washington Avenue; thence southeast along the centerline of Washington Avenue to the intersection of Washington Avenue and Pine Street; thence west along the centerline of Pine Street then northwest along the centerline of Pine Street to the intersection of Pine

Street and Hickory Street; thence west along the centerline of Hickory Street to the intersection of Hickory Street and Harrison Avenue; thence south along the centerline of Harrison Avenue to the intersection of Harrison Avenue and Oak Street; thence west along the centerline of Oak Street then southwest along the centerline of Oak Street to the intersection of Oak Street and Chestnut Street; thence northwest along the centerline of Chestnut Street to the intersection of Chestnut Street and Tower Avenue; thence south along the centerline of Tower Avenue to the intersection of Tower Avenue and Bridge Road; thence west along the centerline of Bridge Road to the point of beginning.

SEC. 2-1-4 ELECTIONS.

(a) **Annual City Election.** The annual City election shall be held on the first Tuesday in April.

(b) **Polling Hours.** The **polls for all elections shall** open at 7:00 a.m. and shall close at 8:00 p.m.

(c) **Election Officials.**

(1) Election Officials.

a. The City Clerk shall have the authority to determine the number of election officials to adequately staff each election, and to reduce the number of election inspectors to an odd number of not less than three (3) per aldermanic district at any given election. (Ord. 2003-06)

b. The City Clerk is authorized to select Tabulators and Registration Deputies for any election within the City at a compensation to be fixed by the Common Council.

(2) Appointment; Duties; Powers.

a. Such election officials shall have all of the powers and perform all of the duties prescribed for such officers by the statutes. Inspectors shall serve as clerk of election as may be necessary.

b. Such election officials shall be selected in the manner provided by law.

c. The City Clerk is authorized to select alternate officials or two (2) sets of officials to work at different times on Election Day. (Ord. 96-22)

d. Such election officials shall receive such compensation as fixed by resolution of the Common Council.

(3) Board of Canvassers. There shall be a Board of Canvassers which shall consist of the City Clerk and two (2) citizens of the City appointed by the Clerk. The Board of Canvassers shall canvass each election in the manner prescribed by the Wisconsin Statutes.

State Law Reference: Sec. 7.53, Wis. Stats.

SEC 2-1-5 NON-PARTISAN PRIMARY FOR CITY OFFICES.

Whenever three (3) or more candidates file nomination papers, candidates for elective City offices shall be nominated by a non-partisan primary conducted pursuant to Section 8.05(4), Wis. Stats. Such candidate shall file with his nomination papers a declaration that he will qualify for the office to which he may be elected.

State Law Reference: Sec. 8.05(4), Wis. Stats.

SEC. 2-1-6 VOTER REGISTRATION.

All electors for all elections shall be required to be registered. The City Clerk shall receive applications for registration at his office during regular office hours throughout the year, except that registration may also be completed at City polling places on election days upon presentation of proper identification and proof of residence.

CHAPTER 2

Mayor; Common Council

2-2-1 Common Council
2-2-2 Council Members
2-2-3 Mayor
2-2-4 President of the Council
2-2-5 Standing Committees; Action on Committee Reports
2-2-6 General Powers of the Common Council
2-2-7 Cooperation with Other Municipalities
2-2-8 Internal Powers of the Council
2-2-9 Salaries
2-2-10 Meetings
2-2-11 Special Meetings
2-2-12 Open Meetings
2-2-13 Quorum
2-2-14 Presiding Officers
2-2-15 Order of Business
2-2-16 Introduction of Business, Resolutions and Ordinances; Disposition of Communications
2-2-17 Publication and Effect of Ordinances
2-2-18 Conduct of Deliberations
2-2-19 Reconsideration of Questions
2-2-20 Call for the Previous Question
2-2-21 Amendment of Rules
2-2-22 Suspension of Rules

SEC. 2-2-1 COMMON COUNCIL.

The Council Members of the City shall constitute the Common Council. The Common Council shall be vested with all the powers of the City not specifically given some other officer, as well as those powers set forth elsewhere throughout this Code.

State Law Reference: Section 62.11, Wis. Stats.

SEC. 2-2-2 COUNCIL MEMBERS. (Ord. 94-19)

(a) **Election, Term, Number.** The City shall have seven (7) Council Members in addition to the Mayor, who is a member of the Common Council by virtue of his office as Mayor. The seven

(7) Council Members shall constitute the Common Council. There shall be one (1) Council Member elected from each of the even-numbered aldermanic districts at the annual spring election in the odd-numbered years. There shall be one (1) Council Member elected from each of the odd-numbered aldermanic districts in the even-numbered years at the annual spring election. The regular term of office of Council Member shall be two (2) years and shall commence on the third Tuesday of April following their election. No person shall be eligible to be appointed or elected to the office of Council Member in an aldermanic district if that person previously held such office for four (4) or more full consecutive terms, unless there is no candidate that files the required ballot access documents or a vacancy occurs during the subsequent term. (Charter Ordinance 95-15) (Charter Ordinance 2008-24)

(b) **Appointment as Mayor.** A Council Member shall be eligible for appointment as Mayor to fill an unexpired term.

State Law Reference: Sec. 62.09, Wis. Stats.

SEC. 2-2-3 MAYOR.

(a) **Election.** The regular term of the Mayor shall be three (3) years. No person shall be eligible to be appointed or elected to the office of Mayor if that person previously held the office of Mayor for three (3) or more full consecutive terms, unless there is no candidate that files the required ballot access documents or a vacancy occurs during the subsequent term. (Charter Ordinance 95-16) (Charter Ordinance 2008-24)

(b) **Duties.**

(1) The Mayor shall be the Chief Executive officer of the City. He shall take care that City ordinances and the State Statutes are observed and enforced and that all City officers and employees discharge their duties.

(2) The Mayor shall, from time to time, provide the Council such information and recommend such measures as he may deem advantageous to the City. - When present, he shall preside at the meetings of the Council.

(3) The Mayor shall review the development of the City budget.

(4) The Mayor shall provide direction for the City's economic development and other long-range plans.

(5) The Mayor shall analyze and interpret federal, state and county legislation to determine its impact on the City.

(6) The Mayor shall have such other duties and responsibilities as are prescribed in the Wisconsin Statutes and this Code of Ordinances.

(c) **Veto Power.** He shall have the veto power as to all acts of the Council except such as to which it is expressly or by necessary implications otherwise provided. All such acts shall be submitted to him by the City Clerk and shall be enforced upon his approval, evidenced by his signature, or upon his failing to approve and disapprove within five (5) days, which fact shall be certified thereon by the Clerk. If the Mayor disapproves, he shall file his objection with

the Clerk, who shall present it to the Council at its next meeting. A two-thirds (2/3) vote of all the members of the Council shall be necessary to make the act effective, notwithstanding the objection of the Mayor.

State Law Reference: Sec. 62.09(8), Wis. Stats.

SEC. 2-2-4 PRESIDENT OF THE COUNCIL

The Common Council at its first meeting subsequent to the regular election and qualification of new members shall, after organization, annually choose from its members a President who, in the absence of the Mayor, shall preside at meetings of the Council and, during the absence or inability of the Mayor, shall have the powers and duties of the Mayor, except that he shall not have power to approve an act of the Council which the Mayor has disapproved, by filing objections with the City Clerk. He shall, when so officiating, be styled "Acting Mayor." The President of the Council shall be elected for a one (1) year term of office. The Acting Mayor may, by announcement at the beginning of the meeting, vote in his capacity as a Council Member.

State Law Reference: Sec. 62.09(8)(e), Wis. Stats.

SEC. 2-2-5 STANDING COMMITTEES; ACTION ON COMMITTEE REPORTS.

(a) **Standing Committees.** At the organizational meeting of the Common Council in each year following the annual election, the Mayor may appoint Council Members to standing committees.

(b) **Committee Appointment.**

(1) The Chairman of the Board of Appeals shall be designated by the Mayor; the Chairman of all other standing committees shall be selected by their membership. Each member shall serve as appointed unless excused by a majority of the members of the Council. All Council Members shall serve on at least one (1) standing committee. The Mayor shall be an ex officio member of each standing committee.

(2) The Mayor may declare the entire Council a committee of the whole for informal discussion at any meeting or for any other purpose and shall ex officio be chairman of the same.

(3) The Mayor may, from time to time, appoint such special committee or committees as may deem advisable or as provided for by motion or resolution stating the number of members and object thereof to perform such duties as may be assigned to them.

(c) **Committee Reports.**

(1) All ordinances, resolutions, communications and other matters submitted to the Council may be read by title and author and referred to the appropriate committee by the Mayor without motion unless objected to by a Council member. The Clerk shall

read and record each such reference by title. Any Council Member may require the reading in full of any matter at any time it is before the Council.

(2) Each committee shall, at the next regular Council meeting, submit a report on all matters referred to it unless a longer time be granted by vote of the Council. Such report shall recommend a definite action on each item and shall be approved by a majority of the committee. Any committee may require any City officer or employee to confer with it and supply information in connection with any matter pending before it. Minority reports may be submitted.

(3) Resolutions, ordinances and committee recommendations will be placed on the agenda for Council action only if they are submitted to the City Clerk in written form a minimum of five (5) days prior to the meeting at which action is requested.

SEC. 2-2-6 GENERAL POWERS OF THE COMMON COUNCIL

(a) **General.** The Common Council shall be vested with all the powers of the City not specifically given some other officer. Except as otherwise provided by law, the Common Council shall have the management and control of the City property, finances, highways, streets, navigable waters and the public service, and shall have the power to act for the government and good order of the City, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

(b) **Acquisition and Disposal of Property**. The Common Council may acquire property, real or personal, within or without the City, for parks, libraries, historic places, recreation, beautification, streets, waterworks, sewage or waste disposal, harbors, improvement of watercourses, public grounds, vehicle parking areas and for any other public purpose; may acquire real property within or continuous to the City, by means other than condemnation, for industrial sites; may improve and beautify the same; may construct, own, lease and maintain buildings on such property for instruction, recreation, amusement and other public purposes; and may sell and convey such City-owned property, except dedicated, platted parks.

(c) **Acquisition of Easements and Property Rights.** Confirming all powers granted to the Common Council and in furtherance thereof, the Council is expressly authorized to acquire by gift, purchase or condemnation under Ch. 32, Wis. Stats., any and all property rights in lands or waters, including rights of access and use, negative or positive easements, restrictive covenants, covenants running with land, scenic easements and any rights for use of property of any nature whatsoever, however denominated, which may be lawfully acquired for the benefit of the public or for any public purpose, including the exercise of powers granted under Sections 61.35 and 62.23, Wis. Stats.; and may sell and convey such easements or property rights when no longer needed for public use or protection.

(d) **City Finances.** The Common Council may levy and provide for the collection of taxes and

special assessments; may refund any tax or special assessment paid, or any part thereof, when satisfied that the same was unjust or illegal; and generally may manage the City finances.

(e) **Construction of Powers.** Consistent with the purpose of giving to cities the largest measure of self-government in accordance with the spirit of the home rule amendment to the Constitution, the grants of power to the Common council in this Section and throughout this Code of Ordinances shall be liberally construed in favor of the rights, powers and privileges of cities to promote the general welfare, peace, good order and prosperity of the City and its inhabitants.

State Law Reference: Art. XI, Sec. 3, Wis. Const.; Sections 62.09(7) and 62.11, Wis. Stats.

SEC. 2-2-7 COOPERATION WITH OTHER MUNICIPALITIES

The Common Council, on behalf of the City, may join with other villages, towns, or cities or other governmental entities in a cooperative arrangement for executing any power or duty in order to attain greater economy or efficiency, including joint employment of appointive officers and employees and joint purchasing programs.

State Law Reference: Sec. 66.30, Wis. Stats.

SEC. 2-2-8 INTERNAL POWERS OF THE COUNCIL

The Common Council has the power to preserve order at its meetings, compel attendance of Council Members and punish nonattendance. The Common Council shall be judge of the election and qualification of its members.

State Law Reference: Sec. 62.11, Wis. Stats.

SEC. 2-2-9 SALARIES.

The Mayor and Council Members who make up the Common Council, whether operating under general or special law, may, by majority vote of all the members of the Common Council, determine that an annual salary or per diem compensation be paid the Mayor and Council Members.

State Law Reference: Sec. 62.09(6), Wis. Stats.

SEC. 2-2-10 MEETINGS OF THE COMMON COUNCIL

(a) **Annual Organization Meeting.** Following a regular City election, the Common Council shall meet on the third Tuesday of April for the purpose of organization. If the positions of Council Member are uncontested and incumbents are re-elected, the Council shall have the

option of combining the Organizational Meeting with the regularly scheduled meeting taking place on the second Monday of April. (Ord. 2005-05)

(b) **Regular Meetings.** Regular meetings of the Common Council shall be held on the second and last Mondays of each calendar month, at the hour of 7:00 p.m. Any regular meetings falling upon a legal holiday shall be held on the next following secular day, at the same hour and place, or as otherwise designated by majority vote of the Common Council, except May and December when only one Council meeting shall be held on the second Monday of the month. All meetings of the Council shall be held in the Cedarburg City Hall, including special and adjourned meetings, unless another location is designated. (Ord. 97-06)

State Law Reference: Sec. 62.11(2), Wis. Stats.

SEC. 2-2-11 SPECIAL MEETINGS.

Special meetings may be called by the Mayor upon written notice of the time and purpose thereof to each member of the Council delivered to him personally or left at his usual place of abode at least six (6) hours before the meeting. The City Clerk shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meetings. A special meeting may be held without such notice when all members of the Common Council are present in person, or consent in writing to the holding of such a meeting, provided the provisions of Wisconsin's Open Meeting Law are complied with. If written consent is obtained, it shall be filed with the City Clerk prior to the beginning of the meeting. Attendance by any Council member shall be deemed a waiver on his part of any defect of notice. Any special meeting attended by all Council Members shall be a regular meeting for the transaction of any business that may come before such meeting.

State Law Reference: Sec. 62.11(2), Wis. Stats.

SEC. 2-2-12 OPEN MEETINGS.

All meetings of the Common Council and other City governmental bodies, except legal closed sessions, shall be open to the public and in compliance with Wisconsin's Open Meeting Law. Public notice of every meeting of a City governmental body shall be given at least twenty-four (24) hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two (2) hours in advance of the meeting. Separate public notice shall be given for each meeting of a City governmental body at a time and date reasonably proximate to the time and date of the meeting.

State Law Reference: Sec. 62.11(3)(c) and Ch. 19, Subch. IV, Wis. Stats.

SEC. 2-2-13 QUORUM.

(a) Two-thirds (2/3) of the Council Members of the Common Council shall constitute a quorum, but a lesser number may adjourn if a majority is not present or compel the attendance of absent members. No action shall be taken unless a quorum is present. The Mayor shall not be counted in determining whether a quorum is present at a meeting but may cast his vote in the case of a tie. When the Mayor does vote in the case of a tie, his vote shall be counted in determining whether a sufficient number of the Council has voted favorably or unfavorably.

(b) The Council may, by a majority vote of those present, adjourn from time to time to a specific date and hour.

State Law Reference: Sec. 62.11(3)(b), Wis. Stats.

SEC. 2-2-14 PRESIDING OFFICERS

(a) **Presiding Officer.** The Mayor shall preside over all meetings of the Common Council. In the absence of the Mayor, the President of the Council shall preside and, during the absence or inability of the Mayor, shall have the powers and duties of the Mayor, except that he shall not have power to approve an act of the Council which the Mayor has disapproved by filing an objection with the Clerk. He shall, when so officiating, be styled "Acting Mayor." In the absence of both the Mayor and the President of the Council, the Clerk shall call the meeting to order and preside until the Council shall, by motion, select a president pro tem for that night. The "Acting Mayor" shall have voting rights as provided in Section 2-2-4.

(b) **Duties.** The presiding officer shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order, unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the presiding officer. An appeal shall be sustained by a majority vote of the members present excluding the Mayor. In the absence of the City Clerk, the presiding officer shall appoint a clerk pro tem.
State Law Reference: Sec. 62.09(8), Wis. Stats.

SEC. 2-2-15 ORDER OF BUSINESS.

(a) **Order of Business of Council.** The business of the Common Council shall be conducted in the following order:
   (1) Call to order by presiding officer.
   (2) Public hearings (if applicable).
   (3) Roll call. If a quorum is not present, the meeting shall thereupon adjourn, which may be to a specific date.
   (4) Approval of minutes of the preceding meeting, if correct, and rectifying mistakes, if any exist.
   (5) Reports of committees, boards and commissions.

(6) Unfinished business from previous meeting.
(7) New business, including the introduction of ordinances and resolutions.
(8) Passing on bills and claims, reports of City officers.
(9) Comments and suggestions by citizens present.
(10) Communications and miscellaneous business.

(b) **Order to be Followed; Citizen Comments.** No business shall be taken up out of order unless by unanimous consent of all Council Members and in the absence of any debate whatsoever. The Mayor or presiding officer may impose a time limit on the length of time citizens may address the Council.

(c) **Roll Call; Procedure When Quorum Lacking** As soon as the Council shall be called to order, the City Clerk shall proceed to call the names of the members, noting who are present and who are absent and record the same in the proceedings of the Council. If it shall appear that there is not a quorum present, the fact shall be entered on the journal and the Council shall adjourn.

SEC. 2-2-16 INTRODUCTION OF BUSINESS, RESOLUTIONS AND ORDINANCES; DISPOSITION OF COMMUNICATIONS.

(a) **Ordinances to be in Writing.** All ordinances submitted to the Council shall be in writing and shall begin with a brief statement of the subject matter and a title. Any written material introduced may be referred to the appropriate committee pursuant to Section 2-2-5. Any member of the Council may require the reading in full of any ordinance or resolution at any time it is before the Council.

(b) **Subject and Numbering of Ordinances.** Each ordinance shall be related to no more than one (1) subject. Amendment or repeal of ordinances shall only be accomplished if the amending or repealing ordinance contains the number and title of the ordinance to be amended or repealed, and title of amending and repealing ordinances shall reflect their purpose to amend or repeal.

(c) **Notice.**
(1) The Common Council may take action on an ordinance only if it appears on the written agenda for the meeting at which action is requested.
(2) Ordinances will be placed on the agenda for Council action only if they are submitted to the City Clerk in written form not later than noon on the Wednesday prior to the meeting at which action is requested.

(d) **Disposition of Petitions, Communication, Etc.** Every petition or other writing of any kind, addressed to the Council, the Clerk or other City officer for reference to the Common Council, shall be delivered by the Clerk or such other City officer to the Mayor or to the presiding officer of the Council as soon as convenient after receipt of same and, in any event, prior to or at the opening of the next meeting of the Council following receipt of same. Every such petition or other writing and every paper, communication or other proceeding which shall come before the Council for action may be referred by the Mayor or presiding officer,

unless objected to by a member of the Council.

SEC. 2-2-17 PUBLICATION AND EFFECT OF ORDINANCES.

(a) All general ordinances of the City and all regulations imposing any penalty shall be published in the official paper of the City once and shall be immediately recorded, with the affidavit of publication, by the City Clerk in a book kept for that purpose. A printed copy of such ordinance or regulation in any book, pamphlet or newspaper and published or purporting to be published therein by direction of the Common Council shall be prima facie proof of due passage, publication and recording thereof.

(b) All ordinances shall take effect and be in force from and after passage and publication, unless otherwise provided and published copies thereof shall have appended the date of first publication.

State Law Reference: Sec. 62.11(4), Wis. Stats.

SEC. 2-2-18 CONDUCT OF DELIBERATIONS.

Except as provided below, the Common Council shall, in all other respects, determine the rules of its procedure, which shall be governed by Robert's Rules of Order, which is hereby incorporated by reference, unless otherwise provided by ordinance or Statute, except when otherwise limited or modified by this Code of Ordinances:

(a) **Addressing Chair.** No Council Member or other City officer shall address the Council until he has been recognized by the presiding officer. He shall thereupon address himself to the presiding officer and confine his remarks to the question under discussion.

(b) **Recognition.** When two (2) or more members simultaneously seek recognition, the presiding officer shall name the member who is to speak first.

(c) **Addressing Council.** No person other than a member shall address the Council except under order of business, except that citizens may address the Council with the permission of the presiding officer as to matters which are being considered by the Council at the time.

(d) **Motions.** No motion shall be discussed or acted upon unless and until it has been seconded. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.

(e) **Mayor's Vote.** The Mayor shall not vote except in the case of a tie. When the Mayor does vote in case of a tie, his vote shall be counted in determining whether a sufficient number of the Council has voted favorably or unfavorably on any measure. A majority vote of all members of the Council in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval, unless a larger number is required by State Statute. Except as otherwise provided, a majority vote of those present shall prevail in other cases.

(f) **Action on Questions.** When a question is under discussion, no action shall be in order except:

(1) To adjourn.
(2) To lay on the table.
(3) The previous question.
(4) To postpone to a certain day.
(5) To refer to a committee.
(6) To amend.
(7) To postpone indefinitely.
These motions shall have precedence in the order listed.

(g) **Vote on Main Question.** Any member desirous of terminating the debate may move the previous question, in which event the Mayor shall announce the question as "Shall the main question now be put?" If a majority of the members present vote in the affirmative, the main question shall be taken without further debate, its effect being to put an end to all debate and bring the Council to a direct vote, first upon any pending amendments and then upon the main question.

(h) **Voting.** The "ayes" and "noes" may be requested by any member. On confirmation and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the City or any fund thereof, the vote shall be by "ayes" and "noes." Whenever a roll call is required by law or called for by a member, the Clerk shall call the roll in numerical order of the aldermanic districts, except that the Clerk shall rotate the numerical order so the member voting first shall be called last on the next succeeding vote

(i) **Nondebatable Motions.** A motion to adjourn shall always be in order. A motion to adjourn, lay on the table and a call for the previous question shall be decided without debate.

State Law Reference: Sec. 62.11, Wis. Stats.

SEC. 2-2-19 RECONSIDERATION OF QUESTIONS.

It shall be in order for any member, if in the majority, to move for the reconsideration of any vote in question at the same meeting or at the next succeeding regular adjourned meeting. A motion to reconsider being put and lost shall not be renewed.

SEC. 2-2-20 CALL FOR THE PREVIOUS QUESTION.

Any member desirous of terminating the debate may call the previous question when the question announced by the Mayor shall be "call the main question." If a majority of the members present vote in the affirmative, the main question shall be put to a vote without further debate, and its effect shall be to put an end to all debate and bring the Council to a direct vote, first upon the pending amendment and then upon the main question.

SEC. 2-2-21 AMENDMENT OF RULES.

The rules of this Chapter shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-thirds (2/3) of all the members of the Council.

SEC. 2-2-22 SUSPENSION OF RULES.

Any of the provisions of Sections 2-2-17 through 2-2-21, inclusive, of this Code may be suspended temporarily by a recorded vote of two-thirds (2/3) of the Council members present at any meeting.

CHAPTER 3

Municipal Officers and Employees

2-3-1 General Provisions
2-3-2 City Officers
2-3-3 City Administrator
2-3-4 City Clerk
2-3-5 City Comptroller/Treasurer
2-3-6 City Attorney
2-3-7 Chief of Police
2-3-8 Fire Chief
2-3-9 Assessor
2-3-10 Health Officer
2-3-11 Director of Engineering & Public Works
2-3-12 Weed Commissioner
2-3-13 Eligibility for Office
2-3-14 Custody of Official Property
2-3-15 Oath of Office; Bonds of Officers
2-3-16 Combination Appointive
2-3-17 Rule Making Authority

SEC. 2-3-1 GENERAL PROVISIONS.

(a) Officers shall have generally the powers and duties prescribed for like officers of towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law and, except as to the Mayor, shall perform such duties as shall be required of them by the Council. Officers whose powers and duties are not enumerated in Chapter 62 of the Wisconsin Statutes shall have such powers and duties as are prescribed by law for like officers or as are directed by the Council.

(b) All officers and departments may make the necessary rules for the conduct of their duties and incidental proceedings.

(c) The general laws for the punishment of bribery, misdemeanors and corruption in office shall apply to City officers.

(d) Whenever a City official in his official capacity is proceeded against or obliged to proceed before any Court, Board of Commission to defend or maintain his official position or because of some act arising out of the performance or nonperformance of his official duties, and he has prevailed in such proceedings, or the Council has ordered the proceedings discontinued, the Council may provide for payment to such official such sum as it sees fit to reimburse him for the expenses reasonably incurred for costs and attorney's fees.

State Law Reference: Sections 62.09(7) and 62.115, Wis. Stats.

SEC. 2-3-2 CITY OFFICERS.

(a) **Enumerated.** In addition to the Mayor and one (1) Council Member from each aldermanic district in the City, the officers of the City shall be the:
(1) City Administrator/Treasurer. (Charter Ord. 95-48; 97-25; 2004-31; 2007-07)
(2) City Clerk.
~~(3) City Comptroller/Treasurer.~~ (Charter Ord. 95-48; 97-25; 2004-31; 2007-07)
(4) City Attorney.
(5) City Assessor.
(6) Chief of Police.
(7) Director of Engineering and Public Works.
(8) Chief of Fire Department
(9) Weed Commissioner.
(10) Electrical Inspector.
(11) Plumbing Inspector.
(12) Building Inspector.
(13) Utilities Manager.
(14) Parks and Recreation Director. (Charter Ord. 97-25)
(15) City Forester.
(16) Members of Boards and Commissions.

(b) **Method of Selection; Duties.** The Mayor and Council Members shall be elected by the voters. All other officers, excepting those for which other special provision is made, shall be appointed by the Mayor, subject to confirmation by the Common Council. The specific position duties and responsibilities shall be contained in the pertinent position description.

(c) **Spring Primary.** Whenever three (3) or more candidates file nomination papers for an elective City office, a primary to nominate candidates for the office shall be held.

(d) Terms.
(1) Commencement. The regular term of office of the Mayor and Council Members shall commence on the 3rd Tuesday of April succeeding their election. The regular term of other officers shall commence on May 1 succeeding their election or appointment, except as otherwise specifically provided.
(2) Length. The regular term of all elective officers shall be two (2) years, except that the Mayor's term shall be three (3) years. The term of appointive officers shall be one (1) year, except as otherwise specifically provided.

(e) **Salaries.** The salary of officers shall be fixed by ordinance of the Common Council not later than the first meeting in February for the next term of each office.

(f) **Comptroller.** The Office of Comptroller is hereby recreated and the duties of Comptroller shall be performed by the City Treasurer. (Charter Ordinance. 95-48) (Charter Ord. 97-25) (Charter Ord. 2004-31)

SEC. 2-3-3 CITY ADMINISTRATOR. (Ord. 2004-24) (Charter Ord. 2007-07)

(a) **Office Created.** The position of City Administrator/Treasurer was established to provide the City of Cedarburg with a more efficient, economical, coordinated, responsible and responsive municipal government under a system of Mayor and Common Council.

(b) **Appointment, Removal.** The City Administrator/Treasurer shall be appointed by the Mayor, subject to confirmation by the Common Council.

(c) **Duties and Responsibilities.** The City Administrator/Treasurer must carry out his or her duties in accordance with policies established by the Common Council and under the supervision of the Mayor. To this end, the City Administrator/Treasurer shall have the following powers and duties:

(1) Carry out all actions and directives of the Common Council which require administrative implementation or where the Mayor and/or Common Council have so directed.

(2) Direct, coordinate and expedite the activities of all City departments, except where such authority is vested by Wisconsin Statute or Municipal Code in boards, commissions or City officers.

(3) Develop budgeting procedures, oversee preparation and administer the annual operating and capital budgets in accordance with such guidelines as may be provided by the Common Council and in coordination with all department heads, and the Mayor.

(4) Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget, let contracts necessary for operation or maintenance of City services for amounts up to and including Five Thousand Dollars ($5,000.00); receive bids or proposals for purchases or contracts in excess of Five Thousand Dollars ($5,000.00) for presentation to the Common Council for approval unless the taking of bids is waived by the Council.

(5) Report regularly to the Mayor and Common Council on the current financial condition and future needs of the City; research the availability of alternate sources of funding for local programs and advise the Council of methods of procuring such funds.

(6) Perform the duties of personnel director, participating with department heads in the employment, training and evaluation of all City personnel; recommend salary and wage rates for employees not covered by collective bargaining agreements; direct all labor negotiations for the City.

(7) Prepare analytical reports and recommendations for the Mayor, the Common Council and advisory boards and commissions on operational or policy matters before them and on any other actions necessary to improve the overall health, safety and welfare of the City of Cedarburg.

(8) Performing those duties of the Treasurer required by Sec. 62.09(9) of the Wisconsin Statutes and for performing the duties of Comptroller as set for in Sec. 62.09(10), Wis. Stats. the Administrator/Treasurer shall supervise the following duties:

a. Perform recordkeeping, billing, collections, banking, investments,

accounting and financial reporting of all City operations;

b. Develop and implement internal control and financial reporting procedures as necessary or as requested;
c. Collect all taxes for the City and other taxing bodies;
d. Invest idle funds for maximum interest earning;
e. Prepare monthly receipts and disbursements report;
f. Maintain payroll records and prepare payroll checks from approved employee time sheets;
g. Prepare check vouchers for payment of approved claims for signature of the Mayor and City Clerk;
h. Prepare financial and bank statements;
i. Issue purchase orders;
j. Maintain fiscal records for the City;

(d) **Bond.** The City Administrator/Treasurer shall execute to the City a surety company fidelity bond in the amount of Fifty Thousand Dollars ($50,000.00) for the Comptroller/Treasurer.

State Law Reference: Sec. 62.09(9); 62.09(10), Wis. Stats.

SEC. 2-3-4 CITY CLERK

(a) **Appointment.** The City Clerk shall be appointed by the Mayor upon recommendation of the City Administrator subject to confirmation by the Council.

(b) Duties. The City Clerk shall be responsible for performing those duties required by Sec. 62.09(11) of the Wisconsin Statutes and for the following additional duties:

(1) Perform all election duties as required by Wisconsin Statutes and keep and maintain all election records and all property used in conjunction with holding of elections;
(2) Publish all legal notices unless otherwise provided, file and preserve all contracts, bonds, oaths of office and other documents not required to be filed elsewhere;
(3) Issue all licenses required by ordinance or statute, except as otherwise provided;
(4) Prepare the tax roll and tax notices required by the State of Wisconsin;
(5) Attend meetings, take minutes and maintain files for the Common Council and such other official boards and commissions as may be directed;
(6) Maintain a file on all City records, ordinances, resolutions and vouchers;
(7) Type and distribute reports for the Council and for federal and state agencies;
(8) Audit and obtain approval on claims charged against the City;
(9) Assist the City Assessor in maintaining property assessment records;
(10) Administer oaths and affirmations;
(11) Issue licenses to various vendors in City;

(12) Perform other duties as may be required by the City Administrator.

(c) **Bond.** The City Clerk shall execute to the City a surety company fidelity bond in the amount of Fifty Thousand Dollars ($50,000.00) for the Clerk.

State Law Reference: Sec. 62.09(11), Wis. Stats.

~~SEC. 2-3-5 CITY COMPTROLLER/TREASURER~~ (Charter Ord. 95-48) (Charter Ord. 97-25) (Charter Ord. 2004-31) (Section 2-3-5 deleted per Charter Ord. 2007-07)

SEC. 2-3-6 CITY ATTORNEY.

(a) **Appointment.** The City Attorney shall be appointed by the Mayor upon recommendation of the City Administrator, subject to confirmation by the Council.

(b) **Duties.** The City Attorney shall have the following duties:

(1) The City Attorney shall conduct all of the law business in which the City is interested.

(2) He shall, when requested by City officers, give written legal opinions, which shall be filed with the Clerk.

(3) He shall draft ordinances, resolutions and other instruments as may be required by City officers.

(4) He shall examine the tax and assessment rolls and other tax proceedings and advise the proper City officers in regard thereto.

(5) He shall keep a docket of all actions in courts of record to which the City a party.

(6) The Council may employ and compensate special counsel to assist in or take charge of any matter in which the City is interested.

(7) The City Attorney shall perform such other duties as provided by State law and as designated by the Common Council and City Administrator.

(8) All papers prepared by the City Attorney, copies thereof, correspondence received by him, copies of letters and all papers and materials of every nature and description which come to him as City Attorney shall be the property of the City of Cedarburg and shall be turned over by the City Attorney to his successor in office.

(c) **Assistants.** The City Attorney may appoint one or more assistants, who shall have the power to perform the duties of the City Attorney, and for whose acts the City Attorney shall be responsible to the City. Such appointments shall be subject to the approval of the City Administrator. Any such assistant shall receive compensation from the City in accordance with the City's contract with the City Attorney. (Ord. 2014-07)

State Law Reference: Sec. 62.09(12), Wis. Stats.

SEC. 2-3-7 CHIEF OF POLICE.

(a) **Appointment.** The Chief of Police shall be appointed by the Police and Fire Commission

pursuant to State law.

(b) **General Duties.** The Chief of Police shall:

(1) Have command of the Police Department of the City under direction of the Mayor. He shall have general administration and control of the Department and shall be responsible for the Department's government, efficiency and good conduct. He shall perform all duties prescribed to him by of the State and the Ordinances of the City.

(2) Cause the public peace to be preserved and shall arrest with or without process and with reasonable diligence take before the proper court every person found in the City engaged in any disturbance of the peace or violating any law or regulation of the State or Ordinance of the City. The Chief shall cooperate with other law enforcement officers in the arrest or apprehension of persons charged with crime.

(3) Have technical independence in administering the activities of the Department and is responsible for internal policy and control. General administrative supervision and direction is received from the City Administrator and the Police and Fire Commission.

(4) Reside within the corporate limits of the City of Cedarburg within one (1) year of appointment to the position. (Ord. 99-05)

State Law Reference: Sec. 62.13, Wis. Stats.

SEC. 2-3-8 FIRE CHIEF.

(a) **Appointment.** The Fire Chief shall be appointed by the Police and Fire Commission pursuant to Sec. 62.13(3), Wis. Stats. The Police and Fire Commission shall take into consideration the recommendation of the members of the Fire Department when appointing a Fire Chief The Fire Chief may receive a salary to be determined by the Common Council. The subordinate officers and members of said Fire Department shall be volunteers and shall receive no compensation, although they shall be considered as public officers and employees for purposes of liability insurance coverage under Sec. 895.46, Wis. Stats.

(b) **Duties and Powers.** The Chief shall have general supervision of the Fire Department. He shall be present at fires and command all firefighting operations. He shall enforce or cause to be enforced all fire prevention ordinances, laws and regulations of the City and State. The Fire Chief may make such further rules, regulations and policies for the government of the Fire Department as he may deem necessary, provided such rules and regulations shall not be inconsistent with the laws of the State of Wisconsin.

(c) **Reports of Chief.** The Fire Chief shall report to the Common Council from time to time at his discretion or upon the request of said Common Council on matters concerning departmental matters and shall perform such other duties in conformance with his office as may, from time to time, be required of him by the Common Council.

(d) **Disciplinary Authority.** The Chief shall have the disciplinary power to suspend any officer or member for neglect or refusal to perform his departmental duty, subject to the right of

such suspended officer or member to public hearing thereon before the Board of Police and Fire Commissioners pursuant to law.

State Law Reference: Sec. 62.13, Wis. Stats.

SEC. 2-3-9 ASSESSOR

(a) The City of Cedarburg hereby elects not to be governed by those portions of Sec. 62.09(3)(b) of the Wisconsin Statutes relating to the method of selection of the City Assessor which are in conflict with this Section. The City Assessor shall be appointed by the Mayor upon recommendation of the City Administrator, subject to confirmation by the Council.

(b) The Assessor shall have those duties and responsibilities as provided by State law.

(c) Confidentiality of Assessment information. Whenever the assessor in the performance of the assessor's duties requests or obtains income and expense information pursuant to Wis. Stats. 70.47(7)(af) or any successor statute thereto, such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis except, however, the information may be revealed to and used by persons:

(1) in the discharging of duties imposed by law,

(2) in the discharge of duties imposed by office (including but not limited to use by the assessor in performance of official duties of the assessor's office and use by the Board of Review in performance of its official duties), or

(3) pursuant to a court order. Income and expense information provided to the assessor under Wis. Stats. 70.47(7)(af) unless a court determines it is inaccurate is in accordance with Wis. Stats. 70.47(7)(af) not subject to the right of inspection and copying under Wis. Stats. 19.35(1). (2000-02)

State Law Reference: Public Officials' oaths and bonds, Sec. 19.01, Wis. Stats.; corporation as assessor, Sec. 62.09(1)(c), Wis. Stats.; affidavit of assessor, Sec. 70.49, Wis. Stats.; assessor certification, Sec. 73.02, Wis. Stats.; assessors in cities, Sec. 70.05, Wis. Stats.; confidentiality, Sec. 70.47(7)(af), Wis. Stats.

SEC. 2-3-10 HEALTH OFFICER.

(a) **Selection.** The Common Council, upon recommendation of the City Administrator, shall appoint a Health Officer, subject to majority approval. Such Health Officer shall be a physician or, in lieu thereof, a person with training and experience in public health administration which shall meet training and experience requirements established by the State Department of Health and Social Services. If the Health Officer is not a physician, the Common Council shall arrange for and provide in addition such services of a physician as may be necessary on either a part-time or full-time basis and provide reasonable

compensation therefor.

(b) **Vacancy.** If a vacancy in the position of Health Officer occurs, the Common Council shall immediately fill the position.

(c) **Responsibilities.**

(1) The Health Officer shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases, to cause the removal of all objects detrimental to health and to enforce the health laws. All proposed rules and regulations shall be reported to the Common Council by the Health Officer, and if the Council approves the same by a vote of a majority of its members, they shall have the force and effect of ordinances, including penalty for violation.

(2) The Health Officer shall, from time to time, recommend to the Common Council such sanitary measures to be executed by the City as seem necessary and shall discharge such other duties as may be imposed upon by the Council by ordinance or resolution.

(3) An Assistant Health Officer(s) may be appointed pursuant to Sec. 141.02(4), Wis. Stats.

State Law Reference: Sec. 141.015 and Chapter 143, Wis. Stats.; Chapter HSS 139.05, Wis. Adm. Code.

SEC. 2-3-11 DIRECTOR OF ENGINEERING & PUBLIC WORKS.

(a) **Appointment.** The Director of Engineering & Public Works shall be appointed by the Mayor upon the recommendation of the City Administrator, subject to confirmation by the Common Council. He shall be a civil engineer. (Ord. 95-49)

(b) **Duties.**

(1) He shall perform all ordinary and necessary engineering work for the City such as establishing grades and lines for walks and streets, surveying work, establishing elevations for sewer and water mains, etc.

(2) He shall provide necessary technical and engineering support to the various, departments and divisions of the City.

(3) In the event, however, that the City undertakes extensive or specialized improvements requiring additional engineering work and superintendence, the City Administrator may employ an engineer on a per diem or contract basis to perform such work, subject to the approval of the Mayor and the Common Council.

(4) He shall perform such other duties of City Engineer as set forth in Sec. 62.14(7), Wis. Stats. (Ord. 95-49)

(5) He shall have general supervision of the Division of Public Works. (Ord. 95-49)

State Law Reference: Sec. 62.14(7), Wis. Stats.

SEC. 2-3-12 WEED COMMISSIONER.

The Weed Commissioner shall be appointed by the Mayor, upon the recommendation of the City Administrator, subject to Council confirmation. The term of office of the Weed Commissioner shall commence on the first day of May following his appointment. The Weed Commissioner shall take the official oath, which oath shall be filed in the Office of the Clerk, and shall hold office for one (1) year. The Weed Commissioner shall hold office pursuant to and fulfill the duties set out in State law.

State Law Reference: Section 66.0513, Wis. Stats.

SEC. 2-3-13 ELIGIBILITY FOR OFFICE.

(a) No person shall be elected by the people to a City office who is not, at the time of his election, a citizen of the United States and of this State and an elector of the City and, in case of a ward office, of the ward and actually residing therein.

(b) An appointee by the Mayor, requiring to be confirmed by the Council, who shall be rejected by the Council, shall be ineligible for appointment to the same office for one (1) year thereafter.

(c) No member of the Common Council shall, during the term for which he is elected, be eligible for any office or position which, during such term, has been created by, or the selection to which is vested in, the Council, provided that Council Members may represent the City on boards or commissions where no additional remuneration is paid, except as otherwise provided by the laws of the State of Wisconsin.
State Law Reference: Sec. 62.09(2), Wis. Stats.

SEC. 2-3-14 CUSTODY OF OFFICIAL PROPERTY.

City officers must observe the standards of care imposed by Sec. 19.21, Wis. Stats., with respect to the care and custody of official property.

State Law Reference: Sec. 19.21, Wis. Stats.

SEC. 2-3-15 OATH OF OFFICE; BONDS OF OFFICERS.

(a) **Oath.** Every person elected or appointed to any statutory office or the Police and Fire Commission shall take and file his official oath within ten (10) days after the notice of his election or appointment.

(b) **Bonds.** The Treasurer, Clerk and such other statutory officers as the laws of Wisconsin or the Common Council may direct shall execute and file an official bond in such form as the Council may determine. The Council may at any time require new or additional bonds of any officer. All official bonds must be approved by the Mayor and, when so approved, then be

filed within ten (10) days after the officer executing the same shall have been notified of his election or appointment. Official bonds shall be filed with the City Clerk and shall be recorded by him in a book kept by him for that purpose.

SEC. 2-3-16 COMBINATION OF APPOINTIVE OFFICES.

More than one (1) appointive office may be held by the same person when such offices, as so combined, are deemed compatible by the Mayor and Common Council. In the event of consolidation of statutory offices, a charter ordinance shall be required.

SEC. 2-3-17 RULE MAKING AUTHORITY.

(a) **Authorization for Department Heads.** Heads of departments of the City including, without limitation by enumeration, the City Administrator, the Chief of Police, Director of Engineering and Public Works, the Fire Chief, the City Clerk and City Treasurer may make rules, regulations or directives for the administration of their departments, but not for the conduct of the general public.

(b) **Approval of Rules**. Except where such authority is specifically vested with other officers, any proposed departmental rule, regulation or directive other than those proposed by the Police or Fire Department shall be referred to the City Administrator for review. Within fifteen (15) days of formal presentation to the City Administrator, the City Administrator shall either forward the proposed rule along with recommendations to the Mayor for review, or return the proposed rule to the department along with suggested revisions. Any rule, or any part thereof, returned by the City Administrator to the department head shall be deemed to be unacceptable and not in force.

(c) **Time of Taking Effect** All proposed rules, regulations or directives shall be effective thirty (30) calendar days after presentation to the City Administrator, unless returned by either the city Administrator or the Mayor, or the Common Council acts by resolution to nullify such rule. In emergency situations requiring immediate action, rules may become effective immediately; but all rules so enacted shall be reported to the City Administrator, the Council and the Mayor within twenty-four (24) hours, with the reasons for the necessity of immediate implementation. All emergency rules are temporary in nature and must be formally presented as required in Subsection (b) to become permanent rules.

CHAPTER 4

Boards, Commissions and Committees

2-4-1 Board of Review
2-4-2 Public Works and Sewerage Commission
2-4-3 Library Board
2-4-4 Board of Appeals
2-4-5 City Plan Commission
2-4-6 Parks, Recreation and Forestry Board (Ord. 2010-04)
2-4-7 ~~Design Review Board~~ (Board eliminated, Ord. 2012-07)
2-4-8 Light and Water Commission
2-4-9 Police and Fire Commission
2-4-10 Landmarks Commission
2-4-11 (Reserved for Future)
2-4-12 ~~Sewerage Commission~~ (Combined with Public Works, Ord. 2012-08)
2-4-13 Alternate Members of Boards, Committees and Commissions
2-4-14 Committee of the Whole
2-4-15 Personnel Committee
2-4-16 (Reserved for Future)
2-4-17 Community Pool Commission (Ord. 2010-03)
2-4-18 Economic Development Board (Ord. 2001-05)
2-4-19 Public Art Commission (Ord. 2014-25)
2-4-20 General Provisions Regarding Meetings and Public Notice

SEC. 2-4-1 BOARD OF REVIEW.

(a) **Composition**. The Board of Review shall consist of five (5) residents of the City. Such citizen members shall be annually appointed by the Mayor subject to confirmation by the Common Council for terms of five (5) years, one (1) member to be appointed annually. One alternate member of the Board of Review shall be appointed by the Mayor subject to the confirmation by the Common Council for a term of five (5) years. Alternate members shall act with full authority when a member of the Board of Review or other alternate member is absent or abstains from voting because of a conflict of interest. No member may also occupy any public office or be publicly employed. Members of the Board of Review shall not be compensated for their service but may be reimbursed for authorized expenses incurred in the performance of their duties. The City Clerk shall serve as secretary of the Board of Review. (Ord. 2000-02)

(b) **Certification.** One member of the Board of Review shall have completed Board of Review Training provided by the Department of Revenue. The City Clerk shall provide an affidavit to the Department of Revenue stating the training requirement has been fulfilled according to

Wis. Stats. 70.46(4) and 73.03(55). (Ord. 2000-02)

(c) **Duties.** The duties and functions of the Board of Review shall be as prescribed in Sections 70.46 and 70.47, Wis. Stats.

(d) **Board's Duty.** The Board shall carefully examine the assessment roll and correct all apparent errors in description or computation. It shall add all omitted property but shall not raise or lower the assessment of any property except after hearing, as provided by the Statutes.

State Law Reference: Sections 70.46; 70.47; and 73.03(55), Wis. Stats.

SEC. 2-4-2 PUBLIC WORKS AND SEWERAGE COMMISSION. (Ord. 93-09) (Ord. 99-22) (Ord. 2012-08) (Ord. 2012-13)

(a) **Composition.** The Public Works and Sewerage Commission shall consist of one (1) Council Member, the Mayor and seven (7) citizen members. The members of the Commission shall be appointed by the Mayor at the regular organizational meeting in April of each year subject to confirmation by the Common Council. (Ord. 99-22) (Ord. 2012-08) (Ord. 2012-13)

(b) **Terms.** The term of office of the Council Member shall be one (1) year. The term of each citizen member shall be two (2) years ending April 30. (Ord. 93-09)

(c) **Organization.** The Mayor shall serve as the chairperson of the Public Works and Sewerage Commission. The City Clerk or designee shall be the secretary of the Commission. (Ord. 99-22) (Ord. 2012-08)

(d) **Powers and Duties.** The members of the Public Works and Sewerage Commission shall:

1. Act in an advisory capacity to the Common Council regarding the operations of the Department of Public Works;
2. Qualify and have the duties and powers prescribed by the Wisconsin Statutes and the City's Code of Ordinances;
3. Oversee the planning and operations of the City cemeteries including the review and recommendation of an annual cemetery budget, management of the cemetery funds and the establishment of burial rates;
4. Oversee the stormwater management program of the City of Cedarburg including implementation of stormwater-related ordinances and plans;
5. Serve in an advisory capacity to the Common Council in all matters relating to the ongoing maintenance and use of the Joint Disposal Site. (Ord. 96-18) (Ord. 99-22)
6. The Public Works and Sewerage Commission shall, under the general control and supervision of the Common Council, supervise, manage, maintain, plan, regulate in accordance with the general policies of the City and recommend an annual budget and the establishment of rates for the operation of the City Sanitary Sewage System. No money shall be drawn from the Sewerage funds of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or special appropriation made by the Common Council. (Ord. 2012-08)

State Law Reference: Sec. 62.14, Wis. Stats.

SEC. 2-4-3 LIBRARY BOARD.

(a) **Library System**

(1) The City hereby creates and establishes a Library Board for the purpose of operating a public library at W63 N583 Hanover Avenue, Cedarburg, Wisconsin, or at such other location as is hereafter determined for the use by residents of the City and others.

(b) **Library Board; Compensation**

(1) The Library Board shall have all the powers provided in Sec. 43.58, Wis. Stats., and any other applicable Wisconsin Statute including, but not limited to, exclusive control of the expenditure of all moneys collected, donated or appropriated for the library fund relating to libraries.

(2) The Library Board shall consist of seven (7) members, all of whom shall be residents of the City of Cedarburg and shall be appointed by the Mayor of the City, subject to confirmation by the Common Council of the City.

(3) The seven (7) member Board shall be divided into three (3) classes. Initially, three (3) members shall serve for three (3) years, two (2) members shall serve for two (2) years and two (2) members shall serve for one (1) year, ending April 30. The Mayor shall appoint one (1) of the administrators of the Cedarburg Public Schools, or his designate, as one of the members of the Board, subject to confirmation by the Common Council of the City.

(4) Appointments to the Board shall be made as soon as practical after approval of this ordinance. The initial appointees shall all serve interim terms of office expiring April 30, 2010, at which time the three (3) year, two (2) year and one (1) year terms set forth above shall commence.

(5) Not more than one (1) member of the Common Council shall at any one time be a member of the Board.

(6) Vacancies on the Board shall be filled by appointment for any unexpired term by the Common Council in the same manner as original appointments are made.

(c) **Quorum**. A majority of the members of the Board shall constitute a quorum.

(d) **Organization**. As soon as practicable after the initial appointments are made, the members of the Board shall organize and elect a President, Vice President, Secretary and such other officers as they deem necessary. The President and Vice President shall be members of the Library Board, but other officers need not be members.

(e) **Compensation**. No compensation shall be paid to members of the Library Board for their services, but they may be reimbursed for actual and necessary expenses incurred if so authorized by the Board.

(f) **Employees.** The Board shall appoint a Library Director. The Library Director shall appoint

such other librarians, assistants and employees as it deems necessary by the Board and shall prescribe their duties and compensation. The Library Director and such other librarians, assistants and employees appointed by the Board shall be considered and treated as employees of the City for tax withholding purposes. Said employees shall also be entitled to such fringe benefits as are provided other full and permanent part-time employees of the City, including group life and health insurance and FICA and state pension fund contributions.

(g) **Budget.** The Library Director shall prepare and submit to the Library Board a draft budget. The Library Board shall submit to the Common Council a budget to cover the Board's income and expenses for the following calendar year. Such budget shall be in the form prescribed by Sec. 65.90, Wis. Stats., in respect to municipal budgets. No expenditures shall be made until the budget has been approved by the Common Council. No expenditure shall be made or contracted for by the Board or any employee thereof except as authorized by such budget.

(h) **Rules.** The Library Board may establish and make public rules and regulation governing the use of facilities operated by the Board pursuant to Sec. 43.52, Wis. Stats. The Board may, in its discretion, discontinue library privileges to any person who violates the rules and regulations adopted and published by the Board.

(i) **Legal Status of Board.** The Library Board created by this Section shall not be considered a separate legal entity for any purpose.

(j) **Finances**. In its exercise of the powers and duties set forth in Sec. 43.58, Wis. Stats., the Board shall designate the Treasurer of the City to pay all expenditures approved by the Board and to receive all Board receipts. Said Treasurer may commingle Board funds with other funds of the City but shall keep separate records of all Board receipts and expenditures. The City shall keep complete and accurate records of all receipts and expenditures of the Library Board.

SEC. 2-4-4 BOARD OF APPEALS.

(a) **Establishment**

(1) A Board of Appeals shall be appointed as specified in Sec. 62.23(7)(e) of the Wisconsin Statutes. The Board of Appeals shall consist of five (5) members, appointed by the Mayor, subject to confirmation by the Common Council. The members shall be removable by the Common Council for cause upon written charges and upon public hearing. The Mayor shall designate one of the members chairman. Terms shall be staggered three (3) year periods.

(2) Two (2) alternate members may be appointed by the Mayor for a term of three (3) years. Annually, the Mayor shall designate one (1) of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one (1) member of the Board so refuses or is absent. Terms for alternate members shall be as stated in this Section.

(3) The Secretary shall be the City Clerk. The Zoning Administrator, Fire Inspector and/or Building Inspector, as the case requires, shall attend all meetings for which the agenda includes matters within his/their jurisdiction for the purpose of providing technical assistance when requested by the Board.

(4) Official oaths shall be taken by all members in accordance with Sec. 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

(5) Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

(b) **Powers.** The Board of Appeals shall have the following powers in addition to those found elsewhere in this Code of Ordinances:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the City's zoning, building and fire codes.

(2) To authorize, upon appeal in specific cases, such variance from the terms of the City's zoning code regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning code shall be observed, public safety and welfare secured and substantial justice done; provided, however, that no such action shall have the effect of establishing in any district a use or uses not permitted in such district.

(3) To authorize, upon appeal in specific cases, variances from the terms of the City's building and fire code for remodeling and alterations of existing one (1) and two (2) family structures if the variance to a specific requirement of said code does not result in lowering the level of health, safety and welfare established or intended by the requirement.

(4) To authorize, upon appeal in specific cases, variances from the terms of the City's fire code if the variance to a specific requirement of said code does not result in lowering the level of health, safety and welfare established or intended by the requirement.

(5) To permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguards in harmony with the general purposes of the zoning code, for such purposes which are reasonably necessary for public convenience and welfare.

(6) The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination as in its opinion ought to be made regarding the premises. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass, or to effect any variation in the requirements of the City's zoning, building or fire codes. The grounds of every such determination shall be stated and recorded. No order of the Board of Appeals granting a variance shall be valid for a period longer than six (6) months from the date of such order unless a permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such.

(c) **Meetings and Rules**. All meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. All hearings conducted by the said Board shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record. The Board shall adopt its own rules of procedure not in conflict with this Section or with applicable Wisconsin Statutes.

(d) **Appropriations**. The Common Council shall appropriate funds to carry out the duties of the Board of Appeals and the Board shall have the authority to expend, under regular procedures, all sums appropriated to it for the purpose and activities authorized herein.

(e) **Assistance**. The Board may request assistance from other City officers, departments, commissions and boards.

(f) **Oaths.** The chairman may administer oaths and compel the attendance of witnesses.

State Law Reference: Sec. 62.23(7), Wis. Stats.

SEC. 2-4-5 CITY PLAN COMMISSION. (Ord. 2012-07)

(a) **Composition.** The Plan Commission shall consist of seven (7) voting members as follows: The Mayor, one (1) Council Member, and five (5) citizens. (Ord. 2012-07)

(b) **Appointment**.

(1) Election/Appointment of Council Members. At its annual meeting in April of each

year the Common Council shall, by a two-thirds (2/3) vote of its members, elect one (1) of its members as a member of the City Plan Commission for a period of one (1) year from and after the first day of May next ensuing.

(2) Appointment and Terms of Citizen Members. The five (5) citizen members shall be appointed by the Mayor and confirmed by the Common Council to hold office for a period ending respectively one (1), two (2) and three (3) years thereafter from the succeeding first of May. Annually during April, members shall be appointed for a term of three (3) years. (Ord. 2012-07)

(c) **Organization of Commission.** The Mayor shall serve as presiding officer. The Plan Commission shall organize by the election of a vice-chairman, secretary and such other officers as may in their judgment be necessary. The Plan Commission shall receive such compensation as determined by the Common Council.

(d) **Record**. The Plan Commission shall keep a written record of its proceedings to include all actions taken, a copy of which shall be filed with the City Clerk. Four (4) members shall constitute a quorum and all actions shall require the approval of a majority of the members present. (Ord. 2012-07 & Ord. 2012-16)

(e) **Duties**.

(1) The Master Plan. (see Sec. 13-1-240(b)(99)

a. The Plan Commission may make, adopt and, as necessary, amend, extend or add to the master plan, subject to Common Council confirmation, for the physical development of the City including areas outside of its boundaries which, in the Plan Commission's judgment, bear relation to the development of the City. The master plan, with the accompanying maps, plats and descriptive and explanatory matter, shall show the Commission's recommendations for such physical development, and may include, among other things without limitation because of enumeration, the general location, character and extent of streets, highways, freeways, street grades, roadways, walks, parking areas, public places and areas, parks, parkways, playgrounds, sites for public buildings and structures, and the general location and extent of sewers, water conduits and other public utilities whether privately or publicly owned, the acceptance, widening, narrowing, extension, relocation, removal, vacation, abandonment or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, routes or terminals, the general location, character and extent of community centers and neighborhood units, and a comprehensive zoning plan.

b. The Commission may adopt the master plan as a whole by a single resolution, or, as the work of making the whole master plan progresses, may from time to time by resolution adopt a part or parts thereof, any such part to correspond generally with one (1) or more of the functional subdivisions of the subject matter of the plan. The adoption of the plan or any part, amendment or addition, shall be by resolution carried by the affirmative votes of not less

than a majority of all the members of the Plan Commission, subject to confirmation by the Common Council. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Commission to form the whole or any part of the plan, and the action taken shall be recorded on the adopted plan or part thereof by the identifying signature of the secretary of the Commission, and a copy Of the plan or part thereof shall be certified to the Common Council. The purpose and effect of the adoption and certifying of the master plan or part thereof shall be solely to aid the Plan Commission and the Common Council in the performance of their duties.

(2) Mandatory Referrals to Commission. The Common Council or officer of the City having final authority thereon shall refer to the Plan Commission, for its consideration and report before final action is taken by the Council, public body or officer, the following matters: the location of any statue or other memorial; the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public ways, park, playground, airport, area for parking vehicles, or other memorial or public grounds; the location, extension, abandonment or authorization for any public utility whether publicly or privately owned; all plats of lands in the City or within the territory over which the City is given platting jurisdiction by Chapter 236, Wis. Stats.; the location, character and extent or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; and the amendment or repeal of any land use ordinance. Unless such report from the Commission is made within thirty (30) days, or such longer period as may be stipulated by the Common Council, the Council or other public body or officer may take final action without it.

(3) Miscellaneous Powers. The Commission may make reports and recommendations relating to the plan and development of the City to public officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens. It may recommend to the Common Council programs for public improvements. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys, and place and maintain necessary monuments and markers thereon. In general, the Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning in cooperation with the Common Council. The Plan Commission, Building Inspector or his authorized agent shall examine all applications for the erection of signs, recommend permits, denials or continued use of signs which conform with requirements of the Sign Code found in Title 15 of this Code of Ordinances, with the exception of signs in the Historic Preservation District, which are the responsibility of the Landmarks Commission. (Ord. 2012-07)

(f) **Vacancies.** Vacancies shall be filled by appointment for the remainder of the unexpired term in the same manner as appointment for the full term.

(g) **Compensation.** No compensation shall be paid for service on the Commission. Citizen members shall take the official oath as required by Sec. 19.01, Wis. Stats., said oath to be filed with the City Clerk.

NOTE: Pursuant to Sec. 66.01(2)(b), Wis. Stats., the Common Council of the City of Cedarburg, in adopting this Section, elects that Sec. 62.23(1)(a), Wis. Stats., shall not apply to the City of Cedarburg insofar as such statutory section designates the Director of Engineering & Public Works as a voting member of the City Plan Commission.

SEC. 2-4-6 PARKS, RECREATION AND FORESTRY BOARD. (Ord. 93-07) (Ord. 93-30) (Ord. 2010-03)

(a) **Membership.** The Parks, Recreation and Forestry Board shall consist of one (1) Council Member and six (6) citizens of the City of Cedarburg who shall be appointed by the Mayor, subject to confirmation by the Common Council. At least two members shall be senior adults. The Parks, Recreation and Forestry Board and the Community Pool Commission will have one (1) Council Member in Common.

(b) **Term.** The term of office of all citizen members shall be two (2) years with half of the citizen members' terms expiring each year. The term of each citizen member shall commence on May 1 in the year of appointment and end April 30 in the year of expiration.

(c) **Officers and Meetings.** The Parks, Recreation and Forestry Board shall elect one (1) member as Chairman who, by virtue of said office, shall also serve as a member of the City Plan Commission. The Board shall meet on such dates and such times as the Board may establish.

(d) **Powers and Duties.** The Parks, Recreation and Forestry Board shall act in an advisory capacity to the Common Council regarding the duties set forth below:

(1) Oversee the planning, development and maintenance of all public parks and open spaces, park buildings and facilities, playgrounds, ice rinks and other similar public property in the City of Cedarburg.

(2) Review and recommend budget proposals and monitor expenditures under adopted operating and capital improvement budgets.

(3) Adopt such policies and regulations as deemed advisable for the protection and enjoyment of public parks under its jurisdiction and, when appropriate, shall recommend enactment of such ordinances to the Common Council.

(4) Coordinate with the Public Works Commission, Plan Commission, Community Pool Commission and other advisory groups on all matters of mutual concern.

(5) Function as a Tree Board and develop and administer a comprehensive city tree management program with the aid of the City forester in accordance with Title 6, Chapter 4 of the Code of Ordinances of the City of Cedarburg and Policy PW-4, Street Tree Planting Policy.

(6) Unless otherwise provided, the Board shall perform all other duties as specified in Sec. 27.08(2) of the Wisconsin Statutes.

(7) Oversee the planning, scheduling, and staffing of youth, adult, and senior recreation programs as carried out by the Parks, Recreation and Forestry Director and Senior Center Director.

(8) Coordinate and enhance leisure activities offered to all groups.

(9) Adopt such policies, regulations, and user fees as necessary to govern the organization and conduct of leisure programs and activities and, when appropriate, shall recommend enactment of such ordinances to the Common Council.

State Law References: Sec. 27.08, 27.09, Wis. Stats.

~~SEC. 2-4-7 DESIGN REVIEW BOARD.~~ (Board eliminated Ord. 2012-07)

~~(a)~~ ~~**Composition.** The Mayor shall appoint, subject to Common Council confirmation, five (5) individuals who, by occupation, past experience or training, are deemed qualified to serve on the Design Review Board. At least four (4) of the members shall be residents of the City of Cedarburg. The fifth (5th) member may be either a City resident or business owner in the City of Cedarburg. Appointments shall be made for terms of two (2) years with the exception that the Council Member shall have a term of one (1) year. Up to two alternate members of the Design Review Board shall be appointed by the Mayor, subject to Common Council confirmation, for a period of two (2) years. Annually, the Mayor shall designate one (1) of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full authority, only when a member of the Board refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one (1) member of the Board so refuses or is absent. The Design Review Board shall examine all applications for the erection of signs, recommend permits, denials or continued use of signs which conform with requirements of the Sign Code found in Title 13 of this Code of Ordinances to the Building Inspector or his authorized agent. The Design Review Board shall meet not less than twice a month.~~
~~(Ord. 2006-29)~~

~~(b)~~ ~~**Officers.** The Design Review Board shall annually elect a chairman and a secretary.~~

SEC. 2-4-8 LIGHT AND WATER COMMISSION.

(a) **Composition.**

(1) The Light and Water Commission shall consist of seven (7) Commissioners whose duty it shall be to take entire charge and management of the City's electric light and water works system, and to supervise the operation thereof, subject to the general control and supervise of the Common Council.

(2) The Commissioners shall be nonpartisan and members shall be nominated by the Mayor and elected by the Common Council for a term beginning on October 1st

which shall be three (3) years, with one-third of the citizen members' terms expiring each year on September 30, and except that the term of any Council Member appointed to the Commission shall be one (1) year. In the case of a vacancy on the Commission, a replacement commissioner may be elected by the foregoing procedure to fill the vacancy for the remainder of the term. (Ord. 2001-06)

(3) The Mayor shall be an ex officio member of said Commission, but shall have no vote.

(b) **Internal Organization.**

(1) Officers. The members of the Light and Water Commission shall, in the month of October of each year, select from among its members a Chairman and secretary. The Chairman shall conduct the meetings of the Light and Water Commission and otherwise supervise such meetings. The secretary shall keep a record of the proceedings of the Commission and shall cause such record to be filed with the City Clerk

(2) Meetings. The Light and Water Commission shall hold regular monthly meetings and such special meetings as are called by the Chairman or by a majority of the members of the Commission as may be deemed necessary. Four (4) members of the Commission shall constitute a quorum for the action of business.

(c) **Duties and Powers.**

(1) Subject to the general control and supervision of the Common Council, the Light and Water Commission shall take charge and management of the water and electric utilities of the City of Cedarburg and shall supervise the operation of said utilities

(2) In addition to the power and authority herein specifically enumerated, said Commission shall have the authority prescribed by Sec. 66.068, Wis. Stats., excepting paragraph (4) thereof, and by all other provisions of the Wisconsin Statutes applicable thereto.

(3) The Commission shall make rules for their own proceedings and for the government of their department. It shall appoint a utility manager and shall engage necessary employees and fix their compensation.

(d) **Accounts.**

(1) Manner and Form. It shall be the duty of the Light and Water Commission to have books of account kept in the manner and form prescribed for utilities of its class by the Public Service Commission of the State of Wisconsin. Such books of accounts shall be open to the public.

(2) Receipts. The receipts of the public utilities shall be deposited in an official depository approved by the Commission. The cashier shall make and file his financial report of such utilities each month with the Commission.

(3) Transfer of Funds. No funds of said municipally owned utilities shall, in any case, be transferred to the City Treasury for use of the City, except in accordance with the provisions of Sec. 66.069(1)(c), Wis. Stats.

(4) Excess Funds. Any excess funds accumulated by said utility, unless deposited

pursuant to law, and all funds in the depreciation or retirement reserves may be invested only according to the provisions of Sections 66.069(1)(c) or 66.047, Wis. Stats.

(5) Expenditures. Expenditures of the municipally owned utilities shall be audited by the Commission and, if approved, be paid from the utility accounts upon warrants signed by the Commission Chairman, City Clerk and Secretary of the Commission.

SEC. 2-4-9 POLICE AND FIRE COMMISSION.

The Police and Fire Commission shall consist of either five (5) citizens appointed pursuant to Sec. 62.13(1), Wis. Stats., or four (4) citizens appointed pursuant to Sec. 62.13(1), Wis. Stats., and one (1) Council Member, whose appointment shall be made by the Mayor and confirmed by the Common Council and whose term of office shall run concurrently with his current term of office as a Council Member. Provisions of the following Subsections of Sec. 62.13, Wis. Stats., shall apply to the City of Cedarburg: (3) Chiefs; (4) Subordinates: Reemployment; (5) Disciplinary Actions Subordinates; (5)(m) Dismissals and Reemployment; (7) Compensation; (7)(m) Rest Day; (7)(n) Hours of Labor; (8) Fire Department; (9)(a) Fourth Class Cities; (10)(m) Rules Governing Leaving City; (11) Firemen, Rest Day.

SEC. 2-4-10 LANDMARKS COMMISSION. (Ord. 92-15) (Ord. 2012-11) (Ord. 2012-18)

(a) **Composition and Terms.** The Commission shall be composed of seven (7) members to be selected as follows: One (1) Council Member, and six (6) qualified persons, at least five (5) of whom shall be residents of the City of Cedarburg. The sixth (6th) member may be either a City resident or the owner of property located within the Washington Avenue Historic District. Said persons shall be competent and informed in the historical, architectural and cultural traditions of the community. They shall be appointed by the Mayor, subject to confirmation by the Common Council of the City of Cedarburg by majority vote. Members of the Commission shall be appointed for terms of three (3) years and may be reappointed for succeeding terms. A vacancy occurring in the membership for any cause shall be filled by a person appointed by the Mayor and confirmed by the Common Council for the unexpired term. The members of said Commission shall receive no compensation except for necessary expenses sustained in carrying out their duties, which expenses shall be paid by the City of Cedarburg as authorized by the Common Council.

(b) **Powers and Duties.**

(1) Designation. The Commission shall have the power to designate landmarks, landmark sites and historic districts within the City limits of Cedarburg.

(2) Other Duties. In addition to those duties already specified in this Section, the Commission shall:

a. Actively work for the passage of enabling legislation which would the

granting of full or partial tax exemptions to properties it has designated under the provisions of this Section.

b. Work closely with the State of Wisconsin liaison officer and the Governor's liaison committee for the National Register of Historic Places of the United States National Park Service in attempting to include such properties hereunder designated as landmarks or landmark sites on the Federal Register.

c. Work for the continuing education of the citizens of Cedarburg about the historic heritage of this City and the landmarks and landmark sites designated under the provisions of this Section.

d. Review and approve all applications for the erection of signs in the Historic Preservation Districts. (Ord. 2012-11)

SEC. 2-4-11 (Reserved for Future).

~~**SEC. 2-4-12 SEWERAGE COMMISSION.** (Ord. 93-10)~~ (Combined with Public Works, Ord. 2012-08)

~~(a) **Membership.** The Commission shall consist of one (1) Council Member and six (6) citizen members to be appointed by the Mayor at the regular organizational meeting in April of each year subject to confirmation by the Common Council.~~

~~(b) **Duties.** The Commission shall, under the general control and supervision of the Common Council, supervise, manage, maintain, plan, regulate in accordance with the general policies of the City and recommend an annual budget and the establishment of rates for the operation of the City Sanitary Sewage System. No money shall be drawn from the Sewerage funds of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or special appropriation made by the Common Council.~~

~~(c) **Term**. The term of office of the Council Member shall be one (1) year. The term of each citizen member shall be two (2) years ending on April 30th with half of the citizen members' terms expiring each year.~~

~~(d) **Requirements.**~~

~~(1) Sewerage Commission meetings are to be held on such dates and times as the Commission may establish.~~

~~(2) The Commission shall elect a chairperson and a secretary.~~

SEC. 2-4-13 ALTERNATE MEMBERS OF BOARDS, COMMITTEES, AND COMMISSIONS (Ord. 2012-12)

(a) The Mayor may appoint alternate member(s) to the following Boards, Committees, and Commissions otherwise not provided for, subject to confirmation by the Common Council:

(1) Public Works and Sewerage Commission

(2) Landmarks Commission

(3) Plan Commission
(4) Economic Development Board

(b) The alternate member(s) shall act with full authority when a regular member is absent or abstains from voting because of a conflict of interest.

(c) The term of each alternate shall be one year ending on April 30th.

SEC. 2-4-14 COMMITTEE OF THE WHOLE (Ord. 93-11)

(a) **Membership.** The Common Council shall constitute the Committee of the Whole. The Mayor shall serve as Chairman. The City Clerk shall serve as secretary to the Committee.

(b) **Duties.** The Committee of the Whole shall have the responsibility to review all financial and personnel matters pertaining to the operation of the City except in hearings where the Personnel Committee sits in a quasi-judicial role. The Common Council or City Administrator may refer any matter to the Committee of the Whole for deliberation and recommendation to the Common Council. The Committee of the Whole may also consider any matters referred by any members of the Common Council or commissions and boards. The Committee of the Whole shall have the power and authority to direct the City Administrator to conduct research, furnish facts, prepare reports and discharge business not requiring Common Council approval.

(c) **Term.** The term of office shall run concurrent with the Mayor's and each Council Member's elected term of office.

(d) **Subcommittees.** The Committee of the Whole shall be authorized to establish subcommittees to solicit community input and expertise on an ad hoc basis.

(e) **Meetings.** The Committee shall meet on such dates and at such times as the Common Council may establish.

SEC. 2-4-15 PERSONNEL COMMITTEE. (Ord. 90-26) (Ord. 93-08)

(a) **Membership.** The Personnel Committee shall consist of three (3) Council Members, one (1) of whom shall be the Council President, the other two Council Members to be appointed by the Mayor at the regular organizational meeting in April of each year subject to confirmation by the Common Council.

(b) **Duties**. The Committee shall have the responsibility to review and make decisions on employee grievances as per union contract and the Personnel Code provisions which may be referred to the Committee or which the Committee deems to be necessary or advisable.

(c) **Term**. The term of office shall be one (1) year.

(d) **Requirements.**
(1) The Personnel Committee shall meet at the call of its chairman.
(2) The Council President shall serve as Chairman and one (1) member shall be selected to serve as secretary.

SEC. 2-4-16 (RESERVED FOR FUTURE).

SEC. 2-4-17 COMMUNITY POOL COMMISSION. (Ord. 93-12) (Ord. 98-11) (Ord. 99-07)(Ord. 2010-03)

(a) **Membership.** The Community Pool Commission shall consist of one (1) Council Member, four (4) citizens of the City of Cedarburg and two (2) citizens of the Town of Cedarburg who shall be appointed by the Mayor, subject to confirmation by the Common Council. The appointment of Town of Cedarburg citizens shall be made by the Town Board. In addition, two (2) alternate members shall be appointed. A citizen of the City of Cedarburg shall be appointed by the Mayor, subject to the confirmation by the Common Council, and a citizen of the Town of Cedarburg may be appointed by the Town Board, or if deferred, by the Mayor. (Ord. 98-11)

(b) **Term**. The term of office of all citizen members shall be two (2) years with half of the citizen members' terms expiring each year. The alternate member appointed by the City will serve in the absence of a City member, and the alternate member appointed by the Town will serve in the absence of a Town member. If there is no alternate member present to fill the absence for the member representative of their community, a member from the other community shall serve. The term of each citizen member, including alternates, shall commence on May 1 in the year of appointment and end April 30 in the year of expiration. (Ord. 98-11)

(c) **Officers and Meeting.** The Community Pool Commission shall elect one (1) member as Chairman and one (1) member as Vice Chairman. The Commission shall meet on such dates and at such times as the Board may establish.

(d) **Powers and Duties.** The Community Pool Commission shall act in an advisory capacity to the Common Council regarding the below duties:

(1) Oversee the planning, scheduling, supervising and staffing of the Community Pool, as carried out by the Parks, Recreation & Forestry Director. (Ord. 97-03) (Ord. 99-07) (Ord. 2010-03)

(2) Coordinate and enhance Community Pool activities offered to all age groups.

(3) Adopt such policies, regulations and user fees as necessary to govern the organization and conduct of Community Pool programs and activities and, when appropriate, shall recommend enactment of such ordinances to the Common Council.

(4) Coordinate with the Parks, Recreation, and Forestry Board, the Public Works Commission and other advisory groups on all matters of mutual concern.

(e) The Commission shall make an annual report to the Common Council and Town Board and shall make such other reports as the Common Council or Town Board from time to time requires.

SEC. 2-4-18 ECONOMIC DEVELOPMENT BOARD. (Ord. 2001-05)

(a) **Purpose.** The Cedarburg Common Council has determined that planned economic development will enhance the City's tax base; moderate property taxes; provide a balanced economy; manage growth to assure compatibility among land uses; encourage retention and

expansion of existing businesses; maintain or enhance the community's visual aesthetics and quality of life; provide necessary jobs; and protect and preserve natural resources and the environment.

(b) **Membership.** The Economic Development Board shall consist of one (1) Council Member and no less than eight (8) other voting members (including the Chairman), not elected officials. The Chairman shall be appointed by the Mayor, subject to the confirmation of the Common Council. The Chairman shall also serve as a voting member of the Board. One aldermanic representative shall be appointed by the Mayor and serve as a voting member of the Board. Not more than two (2) of the voting members may be non-residents of the City and these non-residents must be affiliated with businesses located within the City. Such appointees shall be appointed by the Mayor, subject to the confirmation of the Common Council, and have recognized experience and qualifications in the field of business, development, finance, marketing or other field that will be an asset to the administration of the City's economic development program.

(c) **Terms.** The term of office of the Common Council Member shall be one (1) year. All other appointments to the Board shall be for terms of three (3) years, with the exception that of initial appointees, two shall serve for one (1) year, three shall serve to two (2) years, and three shall serve for three (3) years; providing thereafter for three-year staggered terms for all but the aldermanic representative. All terms will commence on May 1 and expire on April 30, except for the initial appointees for which the term will commence on March 12, 2001, with the first year term expiring April 30, 2002.

(d) **Meetings.** Upon appointment, the Board shall immediately assemble and meet pursuant to the direction of the Chairman. At its organizational meeting, it shall select a secretary who shall record acts of the Board and shall make such other organizational decisions, as it deems necessary or advisable to best carry out its duties. In addition, the meetings shall be noticed under the Wisconsin Open Meetings Law and tape-recorded in the same manner as other city meetings.

(e) **Duties.** The Economic Development Board shall stimulate and encourage economic development. The Board, serving in an advisory role to the Common Council, shall manage and administer the City's economic development program, recommend action on long- and short-range elements of the program, recommend an annual work program, and recommend an annual budget for its activities and program.

SEC. 2-4-19 PUBLIC ART COMMISSION (Ord. 2014-25) (Ord. 2015-12)

(a) **Public Art Commission**

(1) Membership. The Public Art Commission shall be appointed by the Mayor, confirmed by the Council, and shall consist of six (6) voting representatives from the arts and other community organizations, two (2) members at large, and one (1) Common Council Member. The Director of Parks, Recreation and Forestry and the Economic Development Coordinator will serve as non-voting members of the

Commission. The terms shall be two (2) years expiring on April 30th, except that, upon creation of the Commission, initially the term of three members shall expire after one (1) year to stagger the terms.

(2) Purpose. The Public Art Commission is responsible for promoting and maintaining art displays in public buildings and public spaces in the City of Cedarburg. The Commission shall:

- Facilitate public art in public buildings and public spaces;
- Inform residents of and visitors to the City of Cedarburg about public art;
- Advance the City of Cedarburg as an "arts destination" and engage public art as a major attraction for artists, cultural tourism, and economic development;
- Be responsible for approving the site and content of public art;
- Be responsible for developing a procedure for the selection of art and/or artists, which includes public input as well as appropriate staff review.

(3) Authority. This Commission shall serve as an advisory commission, and shall make recommendations to the Mayor and the Common Council. All art-related projects shall be approved by the appropriate boards, committees, and commission having oversight of the proposed project and final approval will be granted by the Common Council. The Common Council shall have the authority to direct the Parks, Recreation and Forestry Department to remove any public art at its discretion.

SEC. 2-4-20 GENERAL PROVISIONS REGARDING MEETINGS AND PUBLIC.

(a) **Regular Meetings; Public Notice.** Every Board, Committee and Commission created by or existing under the Ordinances of the City shall:

(1) Fix a date, time and place for its meetings if it meets on a regular basis;

(2) Notify in the official City newspaper in advance of each such regular of the date, time and place for its meetings and comply with the requirements of the Wisconsin Open Meeting Law.

(3) Post, at the front door of the City Hall, an agenda of the matters to be taken up at such meeting.

(b) **Special Meetings.** Nothing in Subsection (a) shall preclude the calling of a special meeting or with dispensing with the publication of notice or such posting of the agenda, for good cause, but such special meetings shall nonetheless comply in all respects with the provisions of Sections 19.81 to 19.89, Wis. Stats.

(c) **Minutes.** The secretary of each Board, Committee and Commission shall file a copy of the meeting minutes of such Board or Commission with the City Clerk.

(d) **Compensation to Members.** Members of boards and commissions shall not be compensated for their services but may be reimbursed for authorized expenses incurred on behalf of the City.

CHAPTER 5

Ethics Code

(Ord. 2004-08)

2-5-1 Declaration of Policy
2-5-2 Responsibility of Public Office
2-5-3 Dedicated Service
2-5-4 Fair and Equal Treatment
2-5-5 Conflict of Interest
2-5-6 Advisory Opinion
2-5-7 Jurisdiction and Application
2-5-8 Sanctions
2-5-9 Distribution of Ethics Code

SEC. 2-5-1 DECLARATION OF POLICY.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office is not to be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is established in this Chapter a code of ethics for all City of Cedarburg officials and employees whether elected or appointed, paid or unpaid, including members of Council as well as boards, committees and commissions of the City (City agencies). The purpose of this Ethics Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City of Cedarburg and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City.

SEC. 2-5-2 RESPONSIBILITY OF PUBLIC OFFICE.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and carry out impartially the laws of the nation, state and municipality, to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their prime concern.

SEC. 2-5-3 DEDICATED SERVICE.

(a) Officials and employees should adhere to the rules of work, professionalism and performance established as the standard for their positions by the appropriate authority.

(b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

SEC. 2-5-4 FAIR AND EQUAL TREATMENT.

(a) **Use of Public Property.** No official or employee shall request or permit the unauthorized use of City-owned vehicles, equipment, materials or property for personal convenience or profit.

(b) **Fundraising.** With the exception of fundraising for purposes of raising money for City departmental programming, equipment, or capital projects, which may occur subject to Council approval and all provisions of this Code and the State Statutes, the following shall be prohibited:

(1) No official or employee shall request or permit the use of city resources, city time or city equipment for the purpose of fundraising.

(2) No official or employee shall use his or her position, authority or influence, whether possessed or anticipated, to represent themselves as a city official or employee for private or public fundraising. (Ord. 2015-13)

(b) **Obligations to Citizens.** No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

SEC. 2-5-5 CONFLICT OF INTEREST.

(a) **Financial and Personal Interest Prohibited.** No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this Chapter or which would tend to impair independence of or action in the performance of official duties.

(b) **Definitions.**

(1) Financial Interest. Any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

(2) Personal Interest. Any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.

(3) Person. Any individual or legal entity.

(c) **Specific Conflicts Enumerated.**

(1) Incompatible Employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair

independence of judgment or action in the performance of official duties, unless otherwise permitted by law.

(2) Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City, nor shall such information be used to advance the financial or other private interests of the official or employee or others.

(3) Gifts and Favors.

a. No public official or employee may use his or her public office to "obtain financial gain" or "anything of value" for the private benefit of himself or herself, for his or her immediate family, or for an organization with which he or she is associated.

b. No person may directly or indirectly offer or give "anything of value" to a local public official or employee if it could reasonably be expected to affect that official's vote, official action or judgment, or if it could be construed as a reward for any official action or inaction on the part of the local public official or employee. No local public official or employee may accept "anything of value" tendered under such circumstances. "Anything of value" is defined as "money or property, favor, service, payment, advance, forbearance, loan or promise of future employment". Legal campaign contributions are exempt from the definitions. An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a City official or employee. This includes any discount on the price of admission, parking, or use of a box at a stadium that is tax exempt from general property taxes. Participation in celebrations, grand openings, open houses, informational meetings and similar events are excluded from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.

c. No local public official or employee may take any official action that affects a matter in which the public official or employee, a member of his or her immediate family, or an organization with which the official or employee is associated has a substantial financial interest.

d. No local public official or employee may use his or her office or position in any way that produces or assists in producing a substantial benefit, either directly or indirectly, for the official or employee, any members of his or her immediate family, or an organization with which the official or employee is associated.

(4) Representing Private Interests Before City Agencies or Courts. No officer or employee shall appear on behalf of any private person (other than him or herself, his

or her spouse or minor children) before any City agency. However, members of the Common Council may appear before City agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations.

(d) **Contracts with the City.** No City officer or employee who, in his capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion on his part shall enter into any contract with the City unless it is within the confines of Sec. 946.13

(e) **Disclosure of Interest in Legislation.**

(1) Any member of the Common Council who has a financial interest or personal interest in any proposed legislation before the Common Council shall disclose on the records of the Common Council or the Ethics Board created by this Chapter the nature and extent of such interest.

(2) Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the Common Council or who serves on a board or committee, shall disclose the nature and extent of such interest.

(3) If there is a conflict of interest for any official or employee, he or she must refrain from participating in any way including discussion, deliberations or action on the item.

SEC. 2-5-6 ADVISORY OPINION.

Any questions as to the interpretation of any provisions of this Code of Ethics Chapter shall be referred to the Personnel Committee serving as the Ethics Board or the City Attorney. The fact that a person seeks an advisory opinion and abides by the material facts as stated, is evidence of intent to comply with the Ethics Code.

SEC. 2-5-7 JURISDICTION AND APPLICATION.

(a) The Personnel Committee shall have administrative jurisdiction over this Code of Ethics Chapter and shall be deemed the Ethics Board pursuant to Section 19.59 (3)(d) Wis. Stats. for that purpose. An individual may request an advisory opinion on the propriety of any matter to which he or she is or may become a party. However, the Personnel Committee has complete discretion as to whether to issue such an opinion. All requests and advisory opinions to the Ethics Board must be in writing.

(b) The Personnel Committee may make recommendations with respect to amendments to this Code of Ethics Chapter.

(c) Upon the sworn complaint of any person alleging facts which, if true, would constitute improper conduct under the provisions of this Chapter, the Personnel Committee shall conduct an investigation of the facts of the complaint; if the investigation indicates there may be a reasonable basis for the complaint justifying further investigation, the Committee shall

conduct a public hearing in accordance with the common law requirements of due process, including notice, an opportunity to be heard, an opportunity to cross-examine witnesses and to present testimony and other evidence in support of the accused's position and an opportunity to be represented by counsel or other representatives at the expense of the accused. The Committee shall make written findings of fact and issue a written decision concerning the propriety of the conduct of the subject official or employee and shall refer the matter to the Common Council for final disposition.

(d) In the event a member of the Personnel Committee is allegedly involved in an Ethics Code violation, the Mayor, subject to the confirmation of the Common Council, shall appoint another Council Member to temporarily replace the member of the Committee who is under investigation.

SEC. 2-5-8 SANCTIONS.

A determination that an official's or employee's actions constitute improper conduct under the provisions of this Chapter may constitute a cause of suspension, removal from office or employment or other action permitted by law.

SEC. 2-5-9 DISTRIBUTION OF ETHICS CODE.

(a) The City Clerk shall cause a copy of this Code of Ethics to be distributed to every public official and employee of the City of Cedarburg within thirty (30) days after enactment of this Chapter. Each public official and employee elected, appointed or engaged thereafter shall be furnished a copy before entering upon his duties.

(b) Each public official, the Mayor, the Chairman of each Board, Commission or Committee and, through the City Administrator, the Head of each Department shall, between May 1 and May 31 each year, review the provisions of this Code with his fellow Council, Board, Commission, Committee members or subordinates as the case may be and certify to the City Clerk by June 15 that such annual review had been undertaken. A copy of this Ethics Code Chapter shall be continuously posted on each department bulletin board wherever situated.

CHAPTER 6

Personnel Code

The Personnel Code was repealed by Ordinance 2014-08 and replaced with the Personnel Manual as adopted by the Common Council on June 9, 2014.

CHAPTER 7

Municipal Court

SECTION 2-7-1 MUNICIPAL COURT. (Ord. 2002-35) (Ord. 2010-01) (Ord. 2013-31)

(a) **Municipal Court.** Pursuant to Chapter 755, Wis. Stat. and the Agreement for the Operation of the Municipal Court ("Agreement") the Mid-Moraine Municipal Court was created ("Municipal Court"). A copy of the Agreement is on file with the City Clerk. The City of Cedarburg joined the Municipal Court effective January 1, 2003.

(b) **Court Administrative Committee.**

1. Composition. Each of the participating municipalities shall designate one member and one alternate member to the Municipal Court Committee. The City Administrator shall be the representative on the Court Administrative Committee for the City of Cedarburg, with the City Clerk as the alternate member.

2. Powers and Duties. The Administrative Committee shall have general control over the operation of the court, except where specifically granted to the Judge or governing bodies by statute, in which case the Administrative Committee shall be a recommending agency. The Administrative Committee shall be responsible for initial selection of the Clerk of the Municipal Court, subject to appointment by the Judge, shall be responsible for the setting the salaries of the Judge, Clerk, and Deputy Clerk, and shall be responsible for preparing an annual budget for the operation of the court.

(c) **Municipal Court Judge.**

1. Qualifications. The Municipal Court shall be under the jurisdiction of and presided over by a Municipal Judge, who shall be an attorney licensed to practice law in Wisconsin, and who resides in any of the Member Municipalities as defined in the Agreement.

2. Election and Bond. The Municipal Judge shall be elected at large in the Spring Election for a term of four (4) years commencing on May 1 of the year of his or her election. The governing bodies of the Member Municipalities shall provide for a primary election in the event that more than two (2) candidates file nomination papers for the position of Municipal Judge. The Mid-Moraine Judge shall, after election, or appointment to fill a vacancy, take and file the official oath as prescribed in Sec. 757.02(1) Wis. Stats., and at the same time execute and file an official bond in the amount of $2,500. The Judge shall not act until the requirements of Sec. 757.03(2) have been complied with and the oath and bond have been filed as required by Sec. 19.01 Wis. Stats., and

3. Hours. The Municipal Court shall be open at such times as the Municipal Judge determines, subject to the Agreement.

4. Contempt. The Municipal Judge may impose forfeiture for contempt of court and jail sentence for nonpayment of the forfeiture and any applicable assessments, under Sec. 800.12(2), Wis. Stats.

5. Jurisdiction. The Municipal Court shall have jurisdiction over action in the municipalities that are parties to the Agreement. This section shall be construed to limit neither the jurisdiction of the Municipal Court nor the authority of the Municipal Court to impose penalties under the Wisconsin Statutes.

(d) **Service Fees.**

1. Service Fees. Pursuant to the provisions of Wis. Stats. §§814.70, 814.705 and 814.71, the City of Cedarburg Police Department shall charge a service fee of $35 when the City Police serve a warrant or commitment order upon a person. The person served with the warrant or commitment order shall be responsible for the payment of the warrant or commitment order service fee. The service fee may be collected as a court cost through the court.
2. Multiple Warrants. The City of Cedarburg Police Department shall charge a separate fee for each warrant or commitment order served on a person.
3. Disposition of Fees. Upon collection by the court, all warrant or commitment order service fees shall be forwarded by the court to the City of Cedarburg. (Ord. 2010-01)

(e) **Mid-Moraine Municipal Court Bond Schedule.** The following Mid-Moraine Municipal Court Bond Schedule is hereby adopted, effective January 1, 2014:

FINE	Crt Costs	State CC	PA (26%)	Drug Fee	Jail Asmnt	TOTAL
$ 5.00	$ 33.00	$ 5.00	$ 1.30	$ 13.00	$ 10.00	**$ 67.30**
$ 10.00	$ 33.00	$ 5.00	$ 2.60	$ 13.00	$ 10.00	**$ 73.60**
$ 15.00	$ 33.00	$ 5.00	$ 3.90	$ 13.00	$ 10.00	**$ 79.90**
$ 20.00	$ 33.00	$ 5.00	$ 5.20	$ 13.00	$ 10.00	**$ 86.20**
$ 25.00	$ 33.00	$ 5.00	$ 6.50	$ 13.00	$ 10.00	**$ 92.50**
$ 30.00	$ 33.00	$ 5.00	$ 7.80	$ 13.00	$ 10.00	**$ 98.80**
$ 35.00	$ 33.00	$ 5.00	$ 9.10	$ 13.00	$ 10.00	**$ 105.10**
$ 40.00	$ 33.00	$ 5.00	$ 10.40	$ 13.00	$ 10.00	**$ 111.40**
$ 45.00	$ 33.00	$ 5.00	$ 11.70	$ 13.00	$ 10.00	**$ 117.70**
$ 50.00	$ 33.00	$ 5.00	$ 13.00	$ 13.00	$ 10.00	**$ 124.00**
$ 55.00	$ 33.00	$ 5.00	$ 14.30	$ 13.00	$ 10.00	**$ 130.30**
$ 60.00	$ 33.00	$ 5.00	$ 15.60	$ 13.00	$ 10.00	**$ 136.60**
$ 65.00	$ 33.00	$ 5.00	$ 16.90	$ 13.00	$ 10.00	**$ 142.90**
$ 70.00	$ 33.00	$ 5.00	$ 18.20	$ 13.00	$ 10.00	**$ 149.20**
$ 75.00	$ 33.00	$ 5.00	$ 19.50	$ 13.00	$ 10.00	**$ 155.50**
$ 80.00	$ 33.00	$ 5.00	$ 20.80	$ 13.00	$ 10.00	**$ 161.80**
$ 85.00	$ 33.00	$ 5.00	$ 22.10	$ 13.00	$ 10.00	**$ 168.10**
$ 90.00	$ 33.00	$ 5.00	$ 23.40	$ 13.00	$ 10.00	**$ 174.40**
$ 95.00	$ 33.00	$ 5.00	$ 24.70	$ 13.00	$ 10.00	**$ 180.70**
$ 100.00	$ 33.00	$ 5.00	$ 26.00	$ 13.00	$ 10.00	**$ 187.00**
$ 105.00	$ 33.00	$ 5.00	$ 27.30	$ 13.00	$ 10.00	**$ 193.30**
$ 110.00	$ 33.00	$ 5.00	$ 28.60	$ 13.00	$ 10.00	**$ 199.60**
$ 115.00	$ 33.00	$ 5.00	$ 29.90	$ 13.00	$ 10.00	**$ 205.90**
$ 120.00	$ 33.00	$ 5.00	$ 31.20	$ 13.00	$ 10.00	**$ 212.20**
$ 125.00	$ 33.00	$ 5.00	$ 32.50	$ 13.00	$ 10.00	**$ 218.50**
$ 130.00	$ 33.00	$ 5.00	$ 33.80	$ 13.00	$ 10.00	**$ 224.80**
$ 135.00	$ 33.00	$ 5.00	$ 35.10	$ 13.00	$ 10.00	**$ 231.10**
$ 140.00	$ 33.00	$ 5.00	$ 36.40	$ 13.00	$ 10.00	**$ 237.40**
$ 145.00	$ 33.00	$ 5.00	$ 37.70	$ 13.00	$ 10.00	**$ 243.70**
$ 150.00	$ 33.00	$ 5.00	$ 39.00	$ 13.00	$ 10.00	**$ 250.00**
$ 155.00	$ 33.00	$ 5.00	$ 40.30	$ 13.00	$ 10.00	**$ 256.30**
$ 160.00	$ 33.00	$ 5.00	$ 41.60	$ 13.00	$ 10.00	**$ 262.60**
$ 165.00	$ 33.00	$ 5.00	$ 42.90	$ 13.00	$ 10.00	**$ 268.90**
$ 170.00	$ 33.00	$ 5.00	$ 44.20	$ 13.00	$ 10.00	**$ 275.20**
$ 175.00	$ 33.00	$ 5.00	$ 45.50	$ 13.00	$ 10.00	**$ 281.50**
$ 180.00	$ 33.00	$ 5.00	$ 46.80	$ 13.00	$ 10.00	**$ 287.80**
$ 185.00	$ 33.00	$ 5.00	$ 48.10	$ 13.00	$ 10.00	**$ 294.10**
$ 190.00	$ 33.00	$ 5.00	$ 49.40	$ 13.00	$ 10.00	**$ 300.40**
$ 195.00	$ 33.00	$ 5.00	$ 50.70	$ 13.00	$ 10.00	**$ 306.70**
$ 200.00	$ 33.00	$ 5.00	$ 52.00	$ 13.00	$ 10.00	**$ 313.00**

$	205.00	$	33.00	$	5.00	$	53.30	$	13.00	$	10.00	**$**	**319.30**
$	210.00	$	33.00	$	5.00	$	54.60	$	13.00	$	10.00	**$**	**325.60**
$	215.00	$	33.00	$	5.00	$	55.90	$	13.00	$	10.00	**$**	**331.90**
$	220.00	$	33.00	$	5.00	$	57.20	$	13.00	$	10.00	**$**	**338.20**
$	225.00	$	33.00	$	5.00	$	58.50	$	13.00	$	10.00	**$**	**344.50**
$	230.00	$	33.00	$	5.00	$	59.80	$	13.00	$	10.00	**$**	**350.80**
$	235.00	$	33.00	$	5.00	$	61.10	$	13.00	$	10.00	**$**	**357.10**
$	240.00	$	33.00	$	5.00	$	62.40	$	13.00	$	10.00	**$**	**363.40**
$	245.00	$	33.00	$	5.00	$	63.70	$	13.00	$	10.00	**$**	**369.70**
$	250.00	$	33.00	$	5.00	$	65.00	$	13.00	$	10.00	**$**	**376.00**
$	255.00	$	33.00	$	5.00	$	66.30	$	13.00	$	10.00	**$**	**382.30**
$	260.00	$	33.00	$	5.00	$	67.60	$	13.00	$	10.00	**$**	**388.60**
$	265.00	$	33.00	$	5.00	$	68.90	$	13.00	$	10.00	**$**	**394.90**
$	270.00	$	33.00	$	5.00	$	70.20	$	13.00	$	10.00	**$**	**401.20**
$	275.00	$	33.00	$	5.00	$	71.50	$	13.00	$	10.00	**$**	**407.50**
$	280.00	$	33.00	$	5.00	$	72.80	$	13.00	$	10.00	**$**	**413.80**
$	285.00	$	33.00	$	5.00	$	74.10	$	13.00	$	10.00	**$**	**420.10**
$	290.00	$	33.00	$	5.00	$	75.40	$	13.00	$	10.00	**$**	**426.40**
$	295.00	$	33.00	$	5.00	$	76.70	$	13.00	$	10.00	**$**	**432.70**
$	300.00	$	33.00	$	5.00	$	78.00	$	13.00	$	10.00	**$**	**439.00**
$	350.00	$	33.00	$	5.00	$	91.00	$	13.00	$	10.00	**$**	**502.00**
$	400.00	$	33.00	$	5.00	$	104.00	$	13.00	$	10.00	**$**	**565.00**
$	450.00	$	33.00	$	5.00	$	117.00	$	13.00	$	10.00	**$**	**628.00**
$	500.00	$	33.00	$	5.00	$	130.00	$	13.00	$	10.00	**$**	**691.00**
$	550.00	$	33.00	$	5.00	$	143.00	$	13.00	$	10.00	**$**	**754.00**
$	600.00	$	33.00	$	5.00	$	156.00	$	13.00	$	10.00	**$**	**817.00**
$	650.00	$	33.00	$	5.00	$	169.00	$	13.00	$	10.00	**$**	**880.00**
$	700.00	$	33.00	$	5.00	$	182.00	$	13.00	$	10.00	**$**	**943.00**
$	750.00	$	33.00	$	5.00	$	195.00	$	13.00	$	10.00	**$**	**1,006.00**
$	800.00	$	33.00	$	5.00	$	208.00	$	13.00	$	10.00	**$**	**1,069.00**
$	850.00	$	33.00	$	5.00	$	221.00	$	13.00	$	10.00	**$**	**1,132.00**
$	900.00	$	33.00	$	5.00	$	234.00	$	13.00	$	10.00	**$**	**1,195.00**
$	950.00	$	33.00	$	5.00	$	247.00	$	13.00	$	10.00	**$**	**1,258.00**
$	1,000.00	$	33.00	$	5.00	$	260.00	$	13.00	$	10.00	**$**	**1,321.00**
$	2,000.00	$	33.00	$	5.00	$	520.00	$	13.00	$	20.00	**$**	**2,591.00**
$	3,000.00	$	33.00	$	5.00	$	780.00	$	13.00	$	30.00	**$**	**3,861.00**
$	4,000.00	$	33.00	$	5.00	$	1,040.00	$	13.00	$	40.00	**$**	**5,131.00**
$	5,000.00	$	33.00	$	5.00	$	1,300.00	$	13.00	$	50.00	**$**	**6,401.00**

OWI Forfeitures						**Bond**		
Fine	**$ 150.00**	**$ 200.00**	**$ 225.00**	**$ 250.00**	**$ 275.00**	**$ 300.00**
Court Costs	$ 33.00	$ 33.00	$ 33.00	$ 33.00	$ 33.00	$ 33.00
CC State	$ 5.00	$ 5.00	$ 5.00	$ 5.00	$ 5.00	$ 5.00
Penalty Asmt	$ 39.00	$ 52.00	$ 58.50	$ 65.00	$ 71.50	$ 78.00
Drug Fee	$ 13.00	$ 13.00	$ 13.00	$ 13.00	$ 13.00	$ 13.00
Jail Assmnt	$ 10.00	$ 10.00	$ 10.00	$ 10.00	$ 10.00	$ 10.00
OWI Surchg	$ 435.00	$ 435.00	$ 435.00	$ 435.00	$ 435.00	$ 435.00
Total	**$ 685.00**	**$ 748.00**	**$ 779.50**	**$ 811.00**	**$ 842.50**	**$ 874.00**
IID (over .15)	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00
Total	**$ 735.00**	**$ 798.00**	**$ 829.50**	**$ 861.00**	**$ 892.50**	**$ 924.00**

(Ord. 2013-31)

State Law Reference: Section 755, Wis. Stats.

TITLE 3

Finance and Public Records

Chapter 1 Finance
Chapter 2 Special Assessments
Chapter 3 Public Records
Chapter 4 Disposal of Lost, Abandoned and Surplus Property
Chapter 5 Room Tax
Chapter 6 Impact Fees

CHAPTER 1

Finance

3-1-1 Preparation of Tax Roll and Receipts
3-1-2 Duplicate Treasurer's Bond Eliminated
3-1-3 City Budget
3-1-4 Changes in Budget
3-1-5 City Funds to be Spent in Accordance with Appropriation
3-1-6 Fiscal Year
3-1-7 Public Depositories
3-1-8 Financial Claims Against City
3-1-9 Temporary Investment of Funds Not Immediately Needed
3-1-10 Facsimile Signatures
3-1-11 Purchases by City Administrator
3-1-12 Receiving Money; Receipt for Same
3-1-13 Statement of Real Property Status
3-1-14 Accounts Receivable Billing Procedures
3-1-15 Payment of Taxes; Interest; Penalty
3-1-16 Public Work Without Bids
3-1-17 Reporting of Tax Exempt Property
3-1-18 Reporting Requirements for Tax Exempt Property

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

Pursuant to Sec. 70.65(2), Wis. Stats., the City Clerk shall, in computing the personal tax roll, insert only the aggregate amount of state, county, school and local taxes in the roll opposite the parcel or tract of land against which the tax is levied in a single column opposite the name of the person against whom the tax is levied. Tax statements shall contain such information as required by statutory full disclosure requirements.

State Law Reference: Sections 70.65 and 74.08, Wis. Stats.

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

(a) **Bond Eliminated.** The City of Cedarburg 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: Sec. 70.67, Wis. Stats.

SEC. 3-1-3 CITY BUDGET.

(a) **Departmental Estimates.** On or before September l5 of each year, each officer, department, board and committee shall file with the City Administrator 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 the 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 City Administrator shall consider such departmental estimates in consultation with the department head and shall then determine the total amount to be recommended in the budget for such department or activity.

(c) **Proposed Budget.** On or before November 1st, the City Administrator, shall prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including 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, with reasons for increase and decrease recommended as compared with appropriations for the current 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.

(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 during regular office hours.

(e) **Hearing.**

(1) The Common Council shall have at the time 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.

(2) A summary of such budget and notice of the time and place where such budget and detail is available for Public inspection and notice of the time and place for holding the public hearing thereof shall be published in a newspaper of general circulation in the City at least fifteen (15) days prior to the time of such public hearing.

(3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.

(4) A majority vote of the Common Council is required to adopt the proposed budget.

State Law Reference: Sec. 62.12, Wis. Stats.; 65.90 Municipal Budgets

SEC. 3-1-4 CHANGES IN BUDGET.

(a) 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 transfer shall be given by publication within ten (10) days thereafter in a newspaper in general circulation in the City.

(b) Before any transfer of funds are made from one account to another, the City Treasurer shall, in a separate memorandum, advise the Mayor and Common Council as to the remaining balances in the various funds should such transfer become effective.

(c) No appropriation transfer under this Section is required where, within a departmental or activity appropriation an intra-departmental budget account is exceeded, provided that under-expenditures occurred in other intradepartmental accounts.

SEC. 3-1-5 CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-4 of this Chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Common Council, to be paid out of the

income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SEC. 3-1-6 FISCAL YEAR

The calendar year shall be the fiscal year.

SEC. 3-1-7 PUBLIC DEPOSITORIES.

The Common Council shall designate the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Treasurer and bondsman shall not be liable for such losses as are defined by state law. The Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. Pursuant to state law, designated public depositories shall be required to pledge U.S. Treasury Notes equal in amount to any uninsured balance on the City's deposit.

State Law Reference: Chapter 34 and Sec. 62.12(7), Wis. Stats.

SEC. 3-1-8 FINANCIAL CLAIMS AGAINST CITY.

(a) In order to permit the Common Council to regulate expenditures in accordance with budget provisions and to assist in setting up proper budgets, any vendor, contractor, employee or official of the City shall present an invoice of charges for services performed, expenses incurred and materials sold within thirty (30) days after the same has been ordered or requested, provided if the nature of the services are such that the same cannot be performed within such thirty (30) days, a statement of the nature of the services required and an estimate of its costs shall be filed with the City Clerk within thirty (30) days after the same has been ordered or requested. Bills so presented may be passed through the regular procedure provided therefor, except as provided in Subsection (d) below.

(b) Any statement, bills or invoices not in compliance with Subsection (a) must be accompanied by detailed records substantiating the claim, and the same must be examined at a special meeting of the Finance Committee, which may request the presence of the claimant, demand further records, call witnesses or other procedures that it may deem necessary, or summarily disallow the claim, except for those instances which are provided for in Subsection (d), wherein the City Clerk may take such action and have such authority as is granted the Finance Committee in Subsection (d).

(c) Excepting the situation covered by Subsection (d), the City Clerk shall cause a statement of charges against each department prepared monthly and present such statement to the department head. Said department head shall immediately examine the same and shall, within ten (10) days, certify to the City Clerk that:

(1) The same is a proper charge against the department.
(2) The same is improper, giving the reason.
(3) The charge is assessable, giving the name of the person or persons and the amount to be assessed; whereupon the City Clerk shall cause statements to be issued in accordance with said certificate within ten (10) days.

(d) Payments may be made from the City treasury after the City Clerk audits and approves each claim as a proper charge against the treasury and endorses his approval on the claim after having determined that the following conditions have been complied with:
(1) That funds are available therefor pursuant to the budget approved by the Common Council; and
(2) That the item or service covered by such claim has been duly authorized by the proper official, department head or board or commission; and
(3) That the item or service has been actually supplied or rendered in conformity with such authorization; and
(4) That the claim is just and valid pursuant to law. The Clerk may require the submission of such proof and evidence to support the foregoing as in his discretion is deemed to be necessary; and
(5) The Clerk shall file monthly with the governing body a list of the claims approved, showing the date paid, the name of the claimant, the purpose and the amount; and
(6) The governing body shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Chapter 442 of the Wisconsin Statutes.

SEC. 3-1-9 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.

The City Treasurer may invest any City funds not immediately needed, pursuant to Sections 66.04(2) and 219.05, Wis. Stats.

State Law Reference: Sections 66.04(2) and 219.05, Wis. Stats.

SEC. 3-1-10 FACSIMILE SIGNATURES.

In lieu of the personal signatures of the City Clerk, City Treasurer and Mayor, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof. Any depository shall be fully warranted and protected in making payment on any check bearing such facsimile notwithstanding that the same may have been placed thereon without the authority of the designated persons.

SEC. 3-1-11 PURCHASES BY CITY ADMINISTRATOR.

(a) Subject to the limitations contained in Sec. 62.15, Wis. Stats., the City Administrator is authorized and empowered to make the following purchases on behalf of the City without the prior approval of the Common Council:
  (1) Office machines, maintenance equipment and services and other specifically budgeted items in a sum not to exceed the budgeted amount or Five Thousand Dollars ($5,000.00) each, whichever is lesser;
  (2) Gasoline, road gravel, street patching material, salt, office supplies and other recurring expenses needed in the usual and ordinary operation of the City government and its several departments in a sum not to exceed the budgeted amount for each such purchases;
  (3) Supplies and miscellaneous equipment in a sum not to exceed the budgeted amount.

(b) The City Administrator may delegate the authority to make individual purchases not exceeding Fifty Dollars ($50.00) to duly appointed department heads for operating supplies, provided that the purchase amount is within the department budget.

(c) Approval of the Common Council shall be required for the following purchases:
  (1) When the cost of an item exceeds Five Thousand Dollars ($5,000.00);
  (2) When the cost of an item exceeds the budgeted amount or will cause the Particular budget account to be overdrawn;
  (3) When equipment other than that which was budgeted for is required;
  (4) When a vendor has attempted to exert undue influence.

(d) All purchases made pursuant to this Section, excepting Subsection (b), shall be initiated by purchase order.

(e) Payment of invoices for purchases made pursuant to this Section shall be in accordance with Section 3-1-8.

SEC. 3-1-12 RECEIVING MONEY; RECEIPT FOR SAME.

(a) The City Treasurer or his deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Common Council.

(b) Upon the payment of any money (except for taxes as herein provided), the City Treasurer shall make out a receipt in duplicate for the money so received. The Treasurer shall charge the amount thereof to the Treasury and credit the proper account. The payment of the money to any receiving agent of the City or to the City or to the Treasurer shall be safeguarded in such manner as the Common Council shall direct.

State Law Reference: Sec. 66.113, Wis. Stats.

SEC. 3-1-13 STATEMENT OF REAL PROPERTY STATUS. (Ord. 91-23) (Ord. 98-39) (Ord. 2003-35) (Ord. 2008-18)

(a) The City Assessor is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water, electric and sewer bills, current water, electric and sewer bills, contemplated improvements, floodplain status, and similar information. Any such information sought shall be provided to the person it on said form. The City Assessor shall collect a fee of Thirty-five Dollars ($35.00). For RUSH letters (letters needed within 24 hours), a fee of Fifty-five Dollars ($55.00) shall be charged for furnishing such information on said forms.

(b) All requests for possible contemplated assessments must be submitted in writing and will be charged a fee of $20.00.

(c) If mailing is necessary, the requester shall provide the City Assessor with a self addressed stamped envelope or the appropriate amount of postage and a fee of fifty cents (50¢) for preparing the requested copies for mailing.

SEC. 3-1-14 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

Billings by the City of Cedarburg may be paid within thirty (30) days after billing without interest. Thereafter, interest shall be charged at the rate of one and half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) and said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

SEC. 3-1-15 PAYMENT OF TAXES; INTEREST; PENALTY.

(a) Overdue or delinquent real estate taxes, personal property taxes and special assessments are subject to an interest charge of one percent (1%) per month or fraction of a month.

(b) In addition to the interest charge, overdue or delinquent personal property taxes are subject to a penalty of one-half of one percent (0.5%) per month or fraction of a month. The penalty shall apply to any personal property taxes that are overdue or delinquent and shall be calculated from January of the year in which such taxes first become due.

(c) Immediately upon the sale or transfer of a business, the City Treasurer shall require advanced payment of all personal property taxes based on the previous year's mil rate multiplied by the premise's, property's or business's current year's evaluation.

(d) No license or permit or renewal of same shall be granted to an entity, business, person or persons who have unpaid municipal taxes, assessments, charges, fees or forfeitures.
Ord. 2006-17)

SEC. 3-1-16 PUBLIC WORK WITHOUT BIDS.

Pursuant to Sec. 62.15(1), Wis. Stats., the Common Council, by a vote of three-fourths (3/4) of all the members thereof, may determine that any class of public construction or any part thereof may be done directly by the City without submitting the same for bids.

State Law Reference: Sec. 62.15(1), Wis. Stats.

SEC. 3-1-17 REPORTING REQUIREMENTS FOR TAX EXEMPT PROPERTY HOLDERS (Ord. 91-39) (Ord. 92-01) (Ord. 93-33)

(a) By March 31 of each even numbered year, subject to Subsection (c) hereof, the owner of each parcel of property that is exempt under Wis. Stat. 70.11 (the "Exempt Property") shall file with the City Clerk a form containing the following information:
   (1) The name and address of the owner of the Exempt Property and, if applicable, the type of organization that owns the Exempt Property.
   (2) The legal description and parcel number of the Exempt Property as shown on the Assessment Roll.
   (3) The date of acquisition of the Exempt Property.
   (4) Description of any improvements on the Exempt Property.
   (5) A statement indicating whether or not any portion of the Exempt Property was leased to another person during the preceding two years. If the Exempt Property was leased, the statement shall identify the portion of the Exempt Property that was leased, identify the lessee and describe the ways in which the lease payments were used by the owner of the Exempt Property.
   (6) The owner's estimate of the fair market value of the Exempt Property on January 1 of the even numbered year.

(b) The information to be provided by the owner of the Exempt Property shall be reported to the City Clerk on a form to be provided to the owner by the City Clerk.

(c) In the event an owner owns more than one parcel of Exempt Property within the City, such owner shall only be required to file one report listing all parcels of Exempt Property, on a form to be provided to the owner by the City Clerk.

(d) The owner of Exempt Property shall submit, along with the completed information form, a fee of $25.00.

(e) Any owner of Exempt Property who fails to submit the required form with the required fee on or before March 31 of each even numbered year shall be assessed a forfeiture of Ten Dollars for each day after April 1 that the owner fails to file the required form and fee, but not more than $500.00.

(f) If the form required pursuant to Sub (b) and/or Sub (c) is not received by March 31 of the even numbered year, the City Clerk shall send the owner of the Exempt Property a notice, by

certified mail, stating that the Exempt Property for which the form is required will be appraised at the owner's expense if the completed form is not received by the City Clerk within thirty days after the notice is sent. If the completed form is not received by the City Clerk within thirty days after the notice is sent, the property shall be appraised either by the City Assessor or by a person hired by the City Assessor to conduct the appraisal.

(g) This section does not apply to property that is exempt under Wis. Stat. 70.11(1), (2), (13), (13m), (15), (15m), (21) or (30) or property that is exempt under Wis. Stat. 70.11(18) if a payment in lieu of taxes is made for that property. (Ord. 96-09)

SEC. 3-1-18 REPORT BY OWNERS OF CERTAIN TAX EXEMPT PROPERTY. (Ord. 92-02)

(a) By March 15 of each year, each person that owns property that is exempt from taxation under Wis. Stat. 70.11 and that was used in the most recently ended taxable year in a trade or business for which the owner of the property was subject to taxation under Sections 511 to 515 of the Internal Revenue Code, as defined in Wis. Stat. 71.22(4m) shall file with the City Clerk a statement containing the following information:

(1) The name, address and telephone number of the owner of the property.

(2) The name, address and telephone number of a person who can be contacted concerning the use of the property in a trade or business.

(3) A general description of the activities engaged in to conduct the trade or business.

(4) The location and a description of the property that is used in the trade or business, including, if applicable, the specific portion of a building that is used to conduct the trade or business.

(b) The information to be provided by the owner of the property shall be reported to the City Clerk on a form to be provided to the owner by the City Clerk, the format and distribution of which shall be governed by Wis. Stat. 70.09(3), as amended.

(c) If any statement required to be filed under this section is not received by the due date, the City Clerk shall send the owner of the property a notice, by certified mail, stating that the failure to file a statement is subject to the penalties under Subsection (d).

(d) A person who fails to file a statement within thirty days after the notification under Subsection (c) shall forfeit $10 for each succeeding day on which the statement is not received by the City Clerk, but not more than $500.

CHAPTER 2

Special Assessments

3-2-1 Common Council May Levy Special Assessments
3-2-2 Resolution and Report Required
3-2-3 Costs That May Be Paid By Special Assessment
3-2-4 Exemptions; Deductions
3-2-5 Notice of Proposed or Approved Project
3-2-6 Council Actions After Hearing
3-2-7 Combined Assessments
3-2-8 Council's Power to Amend, Cancel or Confirm Special Assessment
3-2-9 Where Cost of Improvement is Less Than Assessment
3-2-10 Appeals; Appealed Assessments Payable When Due
3-2-11 Special Assessment a Lien on Property
3-2-12 Special Charges Permissible
3-2-13 Miscellaneous Provisions
3-2-14 Assessments for Public Improvements

SEC 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS.

(a) The City of Cedarburg by resolution of its Common Council may levy and collect special assessments upon property in a limited and determinable area under its police powers for any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.

(b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom and, for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.

(c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefor. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.

State Law Reference: Sec. 66.62, Wis. Stats.

SEC. 3-2-2 RESOLUTION AND REPORT REQUIRED.

(a) Public improvements carried out pursuant to Sec. 66.60, Wis. Stats., and this Chapter shall be initiated by a preliminary resolution presented to the Council by the City Clerk, which resolution shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessments may be paid or that the number of installments will be determined at a hearing thereon, and direct the Director of Engineering and Public Works to make a report thereon. After adoption of such preliminary resolution, copies thereof shall be forwarded by the City Clerk to the Director of Engineering and Public Works and, when applicable, the Light and Water Utility Manager. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Engineering and Public Works. Upon receipt of copy of such preliminary resolution, the Director of Engineering and Public Works shall prepare a report thereon.

(b) The report required by Subsection (a) shall consist of:

(1) Preliminary or final plans and specifications.

(2) The provisions of Sec. 66.60 of the Wisconsin Statutes, as amended, shall apply to special assessments levied under this Chapter except that, when the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or the rendering of the service, the report required by Sec. 66.60(3) of the Wisconsin Statutes shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

(3) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.

(4) A copy of the report when completed shall be filed with the City Clerk for public inspection.

(c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.60(3), Wis. Stats., and Subsections (a) and (b) above still contain a statement of the final cost of the work service or improvement in lieu of an estimate of the cost.

SEC. 3-2-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the

interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

(a) If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and allocated in conformance with the City's special assessment policy.

(b) In the event of special assessments for the base cost of sanitary sewer, water main or storm sewer (hereinafter "municipal utilities") laid in one street abutting a corner lot, said lot shall be entitled to such deduction or exemption as the Common Council determines to be reasonable and just under the policies adopted by the Policy and Personnel Committee and the Common Council and under the circumstances of each case if such special assessments have been or are being levied for municipal utilities in another street abutting said lot. Under no circumstances shall a special assessment be levied upon a parcel of land if that land is not specially benefited by that municipal utility. The Common Council may allow a similar deduction or exemption from special assessments levied for any other public improvement.

(c) With respect to municipal utilities, the assessment for a corner lot shall be based upon the average front footage of the two (2) affected sides of the lot.

SEC. 3-2-5 NOTICE OF PROPOSED OR APPROVED PROJECT.

(a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3-2-5(b)(5) of this Chapter, the City Clerk shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.60(7), Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district, the place and time at which the report may be inspected and the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.

(b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part

of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment. In such cases, the procedure shall be the same as hereinbefore provided excepting for the noticing and holding of public hearing thereon.

SEC. 3-2-6 COUNCIL ACTIONS AFTER HEARING.

(a) After the hearing, the Common Council may:
  (1) Approve, disapprove, modify or re-refer the report to the Director of Engineering and Public Works or other designated City official with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
  (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.

(b) If an assessment is made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.

(c) (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
  (2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.

(d) The City Clerk shall publish the final resolution as required in Section 3-2-5 of this Chapter.

(e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Sec. 66.60(12), Wis. Stats., or any other applicable provision of law.

SEC. 3-2-7 COMBINED ASSESSMENTS.

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

SEC. 3-2-8 COUNCIL'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming be given by the City Clerk as provided in Section 3-2-6 of this Chapter.

SEC. 3-2-9 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.

If the cost of the work or improvement is less than the assessment levied, the Common Council without notice or hearing shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the City shall refund the property owner such overpayment.

SEC. 3-2-10 APPEALS; APPEALED ASSESSMENTS PAYABLE WHEN DUE.

(a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Sec. 66.60(12) of Wis. Stats., as amended, within forty (40) days of the date of the final determination of the Common Council.

(b) Pursuant to Sec. 66.60(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

SEC. 3-2-11 SPECIAL ASSESSMENT A LIEN ON PROPERTY.

Pursuant to Subsection (13) of Sec. 66.60, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.

(a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution shall set forth the property location, the current service rendered by the City and the special charge therefore or cost thereof. Such solution for special charges may include snow and ice removal, weed elimination, street sprinkling oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer and

water service and tree care or removal and removal of tree roots in sanitary and storm sewer laterals or building services. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, twenty (20) days' notice published in the official City newspaper, or by posting such notice in three (3) places in the City and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed. (Ord. 96-04)

(b) Special charges for current services shall not be payable by installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Sec. 66.60(16) of the Wisconsin Statutes, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Sec. 66.60(16) of the Wisconsin Statutes, as amended.

(c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: Sec. 66.60(16), Wis. Stats.

SEC. 3-2-13 MISCELLANEOUS PROVISIONS.

(a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.

(b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.

(c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property affected either before or after the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

SEC. 3-2-14 ASSESSMENTS FOR PUBLIC IMPROVEMENTS.

Assessments for public improvements shall be pursuant to the City of Cedarburg Special Assessments Policy, which is adopted by reference and incorporated herein, a copy of which is on file with the Director of Engineering and Public Works.

CHAPTER 3

Public Records

3-3-1 Definitions
3-3-2 Duty to Maintain Records
3-3-3 Legal Custodian(s)
3-3-4 Public Access to Records
3-3-5 Access Procedures
3-3-6 Limitations on Right to Access
3-3-7 Destruction of Records
3-3-8 Preservation Through Microfilm

SEC. 3-3-1 DEFINITIONS.

(a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.

(c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library. [Wis. Stat. 19.32(2)] (Ord. 94-32)

(d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.

(e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

SEC. 3-3-2 DUTY TO MAINTAIN RECORDS.

(a) Except as provided under Section 3-3-7, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

SEC. 3-3-3 LEGAL CUSTODIAN(S).

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk to act as the legal custodian.

(b) Unless provided in this Subsection and Subsection (c), the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

Authority	Designated Legal Custodian
City Assessor's Office	City Assessor
General City Records (including Council Records and financial records)	City Clerk
Fire Department	Fire Chief
Police Department	Chief of Police
City Attorney's Office	City Attorney
Public Works	Director of Engineering and Public Works

Police and Fire Commission	Chairman of the Police and Fire Commission
Building Inspections; Zoning	Building Inspector
Public Library	Library Director

(c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk.

State Law Reference: Wis. Stat. 19.33 (Ord. 94-32)

SEC. 3-3-4 PUBLIC ACCESS TO RECORDS.

(a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.

(b) Records will be available for inspection and copying during all regular office hours.

(c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.

(d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.

(e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(f) A requester shall be charged a fee for each page to defray the cost of copying records as follows:

(1) Each single-sided black and white page -- Twenty-five Cents (25¢). Each single-sided color copy page – Fifty Cents (50¢). (Ord. 2015-25)

(2) Copy of tax bill and each certification -- Fifty Cents (50¢).

(3) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(4) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts, CDs and audio- and videotapes, shall be charged.

(5) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(6) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars ($50.00), in which case the actual cost shall be determined by the legal

custodian and billed to the requester.

(7) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars ($5.00).

(8) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(9) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

(g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.

SEC. 3-3-5 ACCESS PROCEDURES.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written

statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

SEC. 3-3-6 LIMITATIONS ON RIGHT TO ACCESS.

(a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
  (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
  (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
  (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
  (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.

(b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
  (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
  (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
  (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
  (4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for

crime detection or prevention.

(5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.

(6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.

(7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.

(8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

SEC. 3-3-7 DESTRUCTION OF RECORDS. (Ord. 94-32)

(a) No requested records may be destroyed until after the request is granted or 60 days after the request is denied. If an action is commenced under Section 19.37 Wis. Stats., the request record may not be destroyed until after a court order is issued and all appeals have been completed. See 19.35(5), Wis. Stats.

(b) No record subject to pending litigation shall be destroyed until the litigation is resolved.

(c) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, but not less than creation plus seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:

(1) Bank statements, deposit books, slips and stubs.

(2) Bonds and coupons after maturity.

(3) Canceled checks, duplicates and check stubs.
(4) License and permit applications, stubs and duplicates.
(5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
(6) Receipt forms.
(7) Special assessment records.
(8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(d) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
(1) Contracts and papers relating thereto.
(2) Excavation permits.
(3) Inspection records.

(e) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than creation plus seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
(1) Contracts and papers relating thereto.
(2) Correspondence and communications.
(3) Financial reports other than annual financial reports.
(4) Justice dockets.
(5) Oaths of office.
(6) Reports of boards, commissions, committees and officials duplicated in the Common Council proceedings.
(7) Election notices and proofs of publication.
(8) Canceled voter registration cards.
(9) Official bonds.
(10) Police records other than investigative records.
(11) Resolutions and petitions, providing the text of the same appears in the official City minutes.

(f) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Sec. 7.23, Wis. Stats.

(g) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall

be given the State Historical Society prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.

(h) Any tape recordings of a governmental meeting of the City may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and published, if the purpose of the recording was to make minutes of the meeting.

(i) This ordinance and the retention periods of less than seven (7) years have been reviewed and approved by the Public Records and Forms Board.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

CHAPTER 4

Disposal of Lost, Abandoned and Surplus Property

3-4-1 Disposal of Surplus City Property
3-4-2 Lost and Abandoned Property

SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY. (Ord. No. 2007-03)

(a) **Definitions.**

(1) "Surplus City Property" is that property which is owned by the City of Cedarburg and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:

a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or

b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or

c. The item is no longer able to reliably or economically perform the work required of it.

(2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus City Property.**

(1) Whenever an item of City property is determined to be surplus City property on the basis that the City no longer performs the service for which the item was purchased, the disposal procedures of Subsection (c) shall be followed.

(2) The appropriate department head shall determine whether or not the item is surplus City property.

(c) **Disposition of Surplus City Property.**

(1) Whenever the Common Council determines that an item of property is surplus City property, it shall dispose of such property as it determines. The method of disposal chosen shall be one which is most appropriate, given: the condition, location and physical characteristics of the item(s); the amount of time, effort, administration and expense required for the method relative to the potential value received; and the public benefits and/or liabilities associated with the method.

(2) Whenever the fair market value of an item is less than Five Hundred Dollars ($500.00) and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the department head shall use one of the approved methods listed below to dispose of the property. Disposing of items or groups of items with an estimated value of $500 or more using methods other than those listed below shall require the approval of the Common Council.

a. An auction conducted by the City or other governmental agency
b. Internet-based auctions or selling tools
c. Sale to the general public via advertised, sealed bidding
d. Trade-in on new supplies or equipment
e. Transfer to another City department
f. Donation to approved non-profit organizations to be used for a public purpose.
g. Sale, trade, transfer or donation to an outside, publicly funded organization also to be used for a public purpose
h. Recycling and/or sale as scrap
i. Discarding as trash
j. Other methods which may be approved on a case-by-case basis by the Common Council

(3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited to the City. In the event no bids are received, the item shall be disposed of as directed by the Common Council. In the event of an Internet auction, a third party shall assist in the sale and shipment of the item(s) provided that a list shall be preserved of the articles sold, the price for each item sold and the name and address to whom the property is sold. Three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. In the case of Internet auction, the auction company shall pick up the property and relocate the property to their facility from which the property will be shipped upon sale. Cost of shipping shall be netted from auction proceeds. The City shall also endeavor to include a notice on its official City Website, although failure to do so shall not void any sale.

(4) No public auction or awarding of bids for surplus property shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time

and place for such auction or bid submission are first published.

(d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final or in the case of Internet auctions, by the auction company.

(e) **Authority to Dispose of Property.**

(1) Except for library materials used by the public library for lending purposes, only the Common Council may dispose of City property which is not surplus City property.

(2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

SEC. 3-4-2 LOST AND ABANDONED PROPERTY.

(a) **City Custody of Lost or Abandoned Property.**

(1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Chief of Police by citizens shall be disposed of according to this Section.

(2) Lost and abandoned property will be examined by the Chief of Police or his designee for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Chief of Police to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be taken into custody by the Chief of Police.

(3) No City employee shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.

(4) The Chief of Police shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners.

(5) No City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Chief of Police, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain with the City Clerk.

(b) **Disposal Procedures.**

(1) Classes of Property. All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the City shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.

a. Vehicles: Vehicles shall be disposed of as set forth in the applicable provisions of Title 10, Chapter 4, of this Code of Ordinances.

b. Intoxicating Liquor and Fermented Malt Beverages: Intoxicating liquor and fermented malt beverages shall be destroyed.

c. Firearms, Ammunition and Explosives: Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory, the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms bureau of the U.S. Department of Treasury. any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police and the Fire Chief, after consulting with the County Sheriff's Department, are hereby authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.

d. Other Property with a Fair Market Value of One Hundred Dollars ($100.00) or Less: An item of Property with a fair market value of One Hundred Dollars ($100.00) or less shall be destroyed or sold at public auction, Internet auction, or sealed bid. Perishable property which deteriorates to a fair market value of less than One Hundred Dollars ($100.00) shall be destroyed.

e. Other Property with a Fair Market Value of Over One Hundred Dollars ($100.00): An item of property with a fair market value of more than One Hundred Dollars ($100.00) shall be sold at public auction, Internet auction, or by sealed bid.

f. Illegal property: Property which cannot be legally possessed shall be destroyed

(2) Disposal by Auction, Internet Auction or Sealed Bid.

a. Whenever any property under this Section is sold by public auction or sale or by sealed bid, such auction or the awarding of bids shall be preceded by a Class 1 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official City newspaper three weeks in advance of sale. For property that is sold by Internet auction, three days' notice shall be given to the public in the official newspaper of the City that unclaimed items will be placed with an Internet auction site. It shall not be necessary to publish a list of the articles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. The City shall also endeavor to include a copy of the notice on its official City Website, although failure to do so shall not void any sale.

b. The property auctioned or sold by sealed bid shall be sold in "as-is" condition to the highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. In the case of public auction or sale, the department head

responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the City and the amount of the bid be forfeited to the City.

c. Any City official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by auction, Internet auction, or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.

(3) Lost Property. Property which is found by persons and delivered to the Chief of Police for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this Section until thirty (30) days after mailing to the person finding the property a notice that he may claim ownership of said property. The Chief of Police shall determine what Disposal of Lost, Abandoned and Surplus Property portion, if any, of the property or its value shall be given the finder. This provision shall not apply to any City employee finding property in the regular course of his employment.

(4) Payment to City Treasury. All sums received from the sale of property under this Section shall be paid to the City Treasury with proceeds going into the General Fund with the exception of motorized equipment, where proceeds will go back to that department to be used as a down payment on the replacement vehicle or equipment. If the vehicle or piece of equipment is not being replaced, the proceeds shall go into the General Fund.

State Law Reference: Sec. 66.0139 and Sec. 177.22, Wis. Stats.

CHAPTER 5

Room Tax
(Ord. 92-45) (Ord. 94-39)

3-5-1 Imposition of Room Tax
3-5-2 Collection of Tax
3-5-3 Liability for Unpaid Tax
3-5-4 Interest on Unpaid Taxes
3-5-5 Delinquent Tax Returns
3-5-6 Administration of Tax Collection
3-5-7 Penalty Assessment
3-5-8 Fraudulent Tax Returns
3-5-9 Records to be Maintained
3-5-10 Confidentiality of Records
3-5-11 Definitions
3-5-12 Penalty

SEC. 3-5-1 IMPOSITION OF ROOM TAX. (Ord. 94-39)

(a) Pursuant to Section 66.75, Wisconsin Statutes, a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of five percent (5%) of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by Section 77.52(2)(a)1, Wisconsin Statutes.

(b) **Registration Required.** Every person furnishing rooms or lodging under par. (a) above, shall register each business entity with the Treasurer. The registration shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers.

(c) **Issuance of Certificate of Registration.** After compliance with par. (b) above by the applicant, the Treasurer shall grant and issue to each applicant a separate certificate for each business entity within the City. Such certificate is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be available for inspection at the place for which issued.

SEC. 3-5-2 COLLECTION OF TAX. (Ord. 94-39)

The room tax imposed by Section 1 for each calendar quarter is due and payable and must be received in the office of the City Treasurer at the City Hall on or before the last business day of the month next succeeding the calendar quarter for which it is imposed. The business entity collecting

the tax shall be entitled to retain two percent of the amount collected as reimbursement for its costs and efforts in the collection of the tax and the report requirements of this chapter. The remainder shall be considered the "net" as used in the Chapter.

(a) **Quarterly Room Tax Returns.** A return shall be filed with the treasurer on or before the same date on which such tax is due and payable. Such return shall be on a form provided by the city and shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, illustrating and indicating thereon any exemption from an imposed room tax, billed to the State and/or its departments or agencies, the amount of taxes imposed for such period, and such other information as the treasurer deems necessary, provided it is directly related to the tax.

(b) **Annual Room Tax Return.** Every person required to file such quarterly returns shall also file an annual calendar year return on a form provided by the City which shall be due and filed as part of the quarterly return for the fourth quarter of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the treasurer requires, provided it is directly related to the tax. All annual returns shall be signed by the persons required to file a return, or his or her duly authorized agent. The Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

SEC. 3-5-3 LIABILITY FOR UNPAID TAX.

The room tax imposed hereunder shall be a continuing liability upon the business entity or person upon whom it is imposed until paid in full. Business successors shall be liable for any preceding calendar quarter for which a return has not been filed and payment not received.

SEC. 3-5-4 INTEREST ON UNPAID TAXES.

All unpaid taxes under this chapter shall bear interest at the rate of twelve percent per annum from the due date of the return until the first day of the month following the month in which the tax was paid.

SEC. 3-5-5 DELINQUENT TAX RETURNS.

Tax returns required hereunder and not timely filed shall be deemed delinquent and shall be subject to a ten-dollar ($10.00) late filing fee.

SEC. 3-5-6 ADMINISTRATION OF TAX COLLECTION. (Ord. 94-39)

(a) The City Treasurer shall be responsible for the administration and collection of the room tax. The treasurer may, by field audit, determine the tax required to be paid to the City or the

refund due to any person under this section. The determination shall be made upon the basis of the facts contained in the return being audited and upon any other information available to the treasurer. The treasurer is authorized to examine and inspect the books, records memoranda and property of any person which are directly related to the tax or which have a direct bearing upon the gross receipts upon which the tax due, including state sales tax records, is determined in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the treasurer from making a determination of tax at any time.

(b) Commencing on 1/1/95 and thereafter when forty (40) hotel/motel rooms are available for accommodations to the public in the City of Cedarburg, the net room tax collections shall be allocated as follows:

(1) The Cedarburg Chamber of Commerce shall be the organization appointed by the City of Cedarburg to be its commission on tourism promotion and development pursuant to Wis. Stats. 66.75.

(2) The Chamber of Commerce shall receive 95% of the net tax collected in quarterly payments as received by the City of Cedarburg. Five percent will be retained by the City of Cedarburg to cover the cost of administration.

(3) Of the 95% received, the Chamber of Commerce shall place 25% in a separate account to be expended for capital improvements at the Chamber of Commerce's discretion. The Chamber will keep the City advised and informed of the capital improvements they plan to implement with the room tax proceeds prior to implementation. Capital improvements shall be defined for the purpose of this article as improvements that enhance the appearance of the City of Cedarburg and promote tourism and development. Examples of such capital improvements are: signage, lighting, sidewalk improvements, banners, landscaping, etc.

(4) The Chamber of Commerce will submit an annual report on or before April 1 following December 31 of the previous year, for room tax monies received and disbursed in the previous year. Upon request of the Common Council, the Chamber of Commerce shall permit and allow inspection of its records pertaining to the use of room tax funds.

SEC. 3-5-7 PENALTY ASSESSMENT.

If any person fails to timely file a return, as required by this Chapter, the treasurer shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the treasurer's possession or may come into his or her possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate the treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent thereof. Such determination may be made for each quarterly period for which no return is filed. Such penalty shall be due upon written notice to the business entity or person owing the tax and shall not be in lieu of the tax due hereunder.

SEC. 3-5-8 FRAUDULENT TAX RETURNS.
If a person files false or fraudulent return with the intent in either case to defect or evade the tax imposed by this chapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

SEC. 3-5-9 RECORDS TO BE MAINTAINED.

Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such records, receipts, invoices and other pertinent papers for seven (7) years in such form so as to enable the treasurer to determine the tax due hereunder.

SEC. 3-5-10 CONFIDENTIALITY.

(a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Treasurer are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others:
   (1) The person who filed the return.
   (2) Such other public officials when deemed necessary and after notification of the licensee.

(b) No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section, the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any return, or permit, any return or copy thereof to be seen or examined by any person, except as provided herein.

SEC. 3-5-11 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meaning given herein:

(a) "Hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, summer camps, apartment hotels, resort lodges, campgrounds, cabins and any other building or group of buildings in which the accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitoriums, or nursing homes, roominghouses, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

(b) "Gross receipts" has the meaning as defined in Section 77.51(11)(a), (b) and (c), Wisconsin Statutes, insofar as applicable. Any federal and state tax exempt transactions shall not be

included in the definition of gross receipts.

(c) "Person" shall include corporations, partnerships or other business entities.

(d) "Transient" means any individual residing for a continuous period of less than one month in a motel, hotel, or other furnished accommodations available to the public.

SEC. 3-5-12 PENALTY.

Any violation of, or noncompliance with, any of the provisions of this Chapter for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than fifty ($50.00) dollars nor more than two hundred fifty dollars ($250.00), together with the costs of prosecution and in default of payment thereof to imprisonment in the county jail until such forfeiture has been paid but not to exceed fifteen days. Each day of violation or noncompliance shall constitute a separate offense."

CHAPTER 6
Impact Fees

3-6-1 Purpose
3-6-2 Definitions
3-6-3 Library Facility
3-6-4 Police Department Facility
3-6-5 Water Supply Facilities
3-6-6 Park Facilities
3-6-7 Wastewater Treatment Plan Reserve Capacity Impact
3-6-8 Fee Reduction
3-6-9 Administration and Review
3-6-10 Appeal

SECTION 3-6-1 PURPOSE. (Ord. 2012-03)

The purpose of this section is to promote the public health, safety and general welfare of the community and to facilitate the adequate provision for certain library, park, police and water facilities, the reserve capacity at the Wastewater Treatment Plant, and the biosolids facility by imposing impact fees upon developers to pay for the capital costs that are necessary to accommodate land development.

SECTION 3-6-2 DEFINITIONS.

(a) "Impact Fees" means cash contributions, contributions of land or interest in land or any other items of value that are imposed on a developer.
(b) "Developer" means a person who constructs or creates a land development.
(c) "Land Development" means the construction or modification of improvements to real property that creates additional residential dwelling units within the City or that results in non-residential uses that create a need for new, expanded or improved public facilities within the City.
(d) "City" means the City of Cedarburg, Wisconsin.
(e) "Capital Costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the City can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Capital Costs" does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities; or the costs of equipment to construct, expand or improve public facilities.

(f) "Public facilities" means all of the following:

1. Highways as defined in s. 340.01 (22), and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing, and distributing water, parks, playgrounds, and land for athletic fields, solid waste and recycling facilities, fire protection facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district.
2. Notwithstanding subd. 1., with regard to impact fees that were first imposed before June 14, 2006, "public facilities" includes other recreational facilities that were substantially completed by June 14, 2006. This subdivision does not apply on or after January 1, 2018.

(g) Residential Equivalent Connection (REC) means a unit of measure for water related impact fees equivalent to the average amount of water capacity needed to supply one single-family residential dwelling unit. For the purpose of the water supply impact fees established under this Ordinance, a REC shall be equal to 53,544 gallons annually.

SECTION 3-6-3 LIBRARY FACILITY (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26) (Ord 2015-27)

Any developer creating or constructing additional residential units within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the Library expansion needs of land development except as provided in subsection (8) below.

(a) The amount of the fee shall be $796.86 per single-family residential dwelling unit to be constructed or created by the proposed development.

(b) The amount of the fee shall be $529.27 per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.

(c) The fee shall be imposed as a condition of the issuance of the building permit.

(d) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the library facilities within the City.

(e) Such fees collected after December 10, 2008 shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

SECTION 3-6-4 POLICE DEPARTMENT FACILITY (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26) (Ord 2015-27)

Any developer creating or constructing additional residential dwelling units or any commercial, industrial or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the Police Department Facility expansion needs of land development except as provided in subsection (8) below.

(a) The amount of the fee shall be $911.60 per single-family residential dwelling unit, and $605.47 per multifamily residential dwelling unit and CBRF at $2.32 per $1,000 valuation for commercial, industrial or institutional development.
(b) The fee shall be imposed as a condition of issuance of the building permit.
(c) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the police facilities within the City.
(d) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

SEC 3-6-5 WATER SUPPLY FACILITIES (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26)(Ord. 2015-27)

Any developer creating or constructing additional residential dwelling units or commercial, industrial, or institutional land development within the City or any owner of property in the City that has a change in use that results in the use of additional water capacity shall pay a fee to the City to provide for the capital costs necessary to accommodate water supply expansion needs of land development except as provided in subsection (8) below.

(a) The water supply facilities impact fee shall be $1,791.91 per single-family residential dwelling unit and $1,343.94 per residential unit of a multi-family residential dwelling unit.
(b) For all residential users of the water system, the following table shall be used to determine the number of residential equivalent connections (REC) per dwelling unit or building.

Residential Users	**REC**
Single-family home	1.00
Multiple-family	0.75/unit

Standard Industrial Classification Code	**Description**	**Gallons per Employee Hour**
0742	Veterinary services for animal specialties	20.0
0752	Animal specialty services	16.0
0782	Lawn and garden services	10.0
1446	Industrial sand	5.0
1521	General contractors – Residential	2.3
1541	General contractors – Industrial buildings and warehouses	2.3

1611	General contractors-Public Works	2.3
1711	Plumbing, heating and air conditioning	2.3
1731	Electrical work	2.3
1761	Roofing and sheet metal work	2.3
1799	Special trade contractors (not elsewhere classified)	2.3
2013	Sausage and other prepared meats	110.0
2065	Candy and other confectionery products	50.0
2087	Flavoring extracts and syrups (not elsewhere classified)	75.0
2394	Canvas and related products	2.3
2431	Millwork	5.0
2434	Wood kitchen cabinets	5.0
2522	Metal office furniture	2.3
2721	Periodicals: Publishing and printing	10.0
2731	Books: Publishing and printing	10.0
2751	Commercial printing, letterpress and screen	10.0
2752	Commercial printing, lithographic	10.0
2789	Book binding and related work	10.0
2795	Lithographic plate making and related services	25.0
2819	Industrial inorganic chemicals (not elsewhere classified)	10.0
2834	Pharmaceutical preparation	10.0
2841	Soap and other detergents	15.0
2893	Manufacturing of printing ink	30.0
2899	Chemicals and chemical preparations (not elsewhere classified)	10.0
3079	Miscellaneous plastic products	85.0
3111	Leather tanning and finishing	345.0
3272	Concrete products, except block and brick	25.0
3442	Metal doors, sash, frames, molding and trim	2.3
3444	Sheet metal work	40.0
3451	Screw machine products	10.0
3462	Iron and steel forging	5.0
3469	Metal stampings (not elsewhere classified)	5.0
3471	Electroplating, plating, polishing, anodizing, etc.	50.0
3479	Coating, engraving and allied services (not elsewhere classified)	100.0
3495	Wire springs	2.3
3498	Fabricated pipe and fittings	2.3
3499	Fabricated metal products (not elsewhere classified)	25.0
3531	Construction machinery and equipment	5.0
3544	Spec. dies and tools, die sets, jigs and fixtures, molds	10.0
3562	Ball and roller bearings	5.0
3565	Industrial patterns	5.0
3569	General industrial machinery & equipment (not elsewhere classified)	4.0
3576	Scales and balances, except laboratory	2.3
3599	Machinery, except electrical (not elsewhere classified)	10.0
3613	Switchgear and switchboard apparatus	5.0
3632	Household refrigerators and home and farm freezers	2.3
3694	Electrical equipment for internal combustion engines	2.3
2714	Motor vehicle parts and accessories	75.0
3999	Manufacturing industries (not elsewhere classified)	2.3

4141	Local passenger transportation charter service	2.3
4151	School busses	2.3
4212	Local trucking without storage	10.0
4213	Trucking, except local	2.3
4225	General warehousing and storage	2.3
4311	U.S. Postal Service	2.3
4722	Travel agency	2.3
4811	Telephone communication	2.3
4832	Radio broadcasting	2.3
5042	Toys and hobby goods and supplies	2.3
5063	Electrical apparatus and equipment	2.3
5054	Electrical appliances	2.3
5072	Hardware – Wholesale distribution	2.3
5082	Construction and mining machinery and equipment	2.3
5084	Industrial machinery and equipment	2.3
5142	Frozen foods	10.0
5149	Wholesale groceries and related products (not elsewhere classified)	10.0
5199	Wholesale nondurable goods (not elsewhere classified)	10.0
5211	Lumber and other building materials	2.3
5231	Paint, glass, wallpaper	2.3
5251	Hardware – Retail sales	2.3
5261	Retail nurseries, lawn and garden supply stores	10.0
5271	Mobile home dealers	2.3
5311	Department stores	2.3
5331	Variety stores	2.3
5411	Grocery stores with meat and produce departments	16.0
5412	Grocery stores without meat and produce departments	6.0
5441	Candy, nut and confectionery stores	10.0
5462	Retail bakeries – Baking and selling	10.0
5499	Miscellaneous food stores	2.3
5511	Motor vehicle dealers	5.0
5531	Auto and home supply stores	2.3
5541	Gasoline service stations	15.0
5551	Boat dealers	5.0
5611	Clothing stores	2.3
5651	Shoe stores	2.3
5681	Furriers and fur shops	5.0
5711	Furniture, floor coverings, appliances	2.3
5812	Eating places (restaurants)	20.0
5813	Drinking places (taverns)	45.0
5912	Drugstores and proprietary stores	2.3
5921	Liquor stores	2.3
5931	Used merchandise stores	2.3
5941	Sporting goods stores and bicycle shops	2.3
5942-9	Miscellaneous stores	2.3
5992	Florists	10.0
5999	All other retail stores	2.3
6022-9	Banks	2.3

6122-63	Savings and loans	2.3
6311	Insurance companies	2.3
6411	Insurance agents	2.3
6512	Operators of nonresidential buildings	2.3
6515	Operators of residential mobile home sites	2.3
6531	Real estate agents and managers	2.3
6553	Cemetery sub-dividers and developers	2.3
6722	Management investment offices	2.3
7011	Hotels, motels, tourist courts	0.5 REC p/unit
7211	Power laundries, family and commercial	105.0
7212	Cleaning and laundry pickup stations	2.3
7215	Fac. Coin-op laundries and dry cleaning	910.0
7221	Photographic studios	2.3
7231	Beauty shops	16.0
7241	Barber shops	10.0
7261	Funeral service and crematories	15.0
7299	Miscellaneous services (not elsewhere classified)	2.3
7311	Advertising agencies, employment services	2.3
7332	Blueprinting and photocopying services	2.3
7351	Employment agencies	2.3
7391	Research and development laboratories	10.0
7395	Photofinishing labs	10.0
7512	Passenger car rental and leasing, w/o drivers	10.0
7531	Top and body repair shop	5.0
7534	Tire re-treading and repair shops	20.0
7538	General automotive repair shops	5.0
7542	Car washes	115.0
7622	Radio and television repair	2.3
7699	Repair shops and related services (not elsewhere classified)	20.0
7832	Motion picture theaters, not drive-ins	20.0
7911	Dance halls, studios and schools	20.0
7922	Theatrical producers	20.0
7933	Bowling alleys	50.0
7992	Public golf courses	45.0
7997	Membership sports and recreation clubs	75.0
7999	Roller rinks, gymnasiums, museums	20.0
8011	Offices of physicians	10.0
8021	Offices of dentists	10.0
8031	Offices of osteopaths	10.0
8041	Offices of chiropractors	10.0
8051	Skilled nursing care facilities	20.0
8091	Health and allied services (not elsewhere classified)	10.0
8111	Attorneys	2.3
8211	Elementary and secondary schools	20.0
8221	Colleges, universities and professional schools	25.0
8231	Libraries and information centers	20.0
8249	Vocational schools (not elsewhere classified)	20.0
8421	Arboreta, botanical and zoological gardens	45.0

8621	Professional membership organizations	2.3
8641	Civic, social and fraternal associations	15.0
8661	Religious organizations (hours occupied only)	20.0
8699	Membership organizations (not elsewhere classified)	2.3
38911	Engineering, architectural and surveying services	2.3
8931	Accountants	2.3
9199	General government (not elsewhere classified)	2.3
9221	Police protection	2.3
9224	Fire protection	2.3
9451	Administration of veteran's affairs	2.3
9999	All offices (not elsewhere classified)	2.3

SIC Code Source: Office of Management and Budget, Executive Office of the President

(d) The fee shall be imposed as a condition of the issuance of the building permit.
(e) Such fees collected by the Water Utility shall be placed in a special fund which shall be separate from the general fund of the Water Utility, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of water supply facilities.
(f) Such fees collected after March 13, 2013 shall be expended by the Water Utility for the aforesaid purpose within twenty (20) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee. Such fees collected before March 13, 2013 must be spent by March 13, 2016.

SECTION 3-6-6 PARK FACILITIES (Ord. 2012-28) (Ord. 2013-33)(Ord. 2014-26)(Ord. 2015-27)

Any developer creating or constructing additional residential units within the City shall pay a fee to the city to provide for the capital costs necessary to accommodate the Park facility expansion needs of land development except as provided in subsection (8) below.
(a) The amount of the fee shall be $1,088.26 per single-family residential dwelling unit to be constructed or created by the proposed development.
(b) The amount of the fee shall be $722.80 per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.
(c) The fee shall be imposed as a condition of the issuance of the building permit.
(d) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the park facilities within the City.
(e) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected

SEC. 3-6-7 WASTEWATER TREATMENT PLANT RESERVE CAPACITY IMPACT FEE
(Ord. 2012-28) (Ord. 2013-33)(2014-26)(Ord. 2015-27)

Any developer creating or constructing additional residential dwelling units, or any commercial, industrial or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the reserve capacity at the Wastewater Treatment Plant and for the capital costs necessary for expansion of the proposed biosolids management facility except as provided in subsection (8) below.

(a) The amount of the fee shall be $614.05 per single-family residential dwelling unit to be constructed or created by the proposed development.

(b) The amount of the fee shall be $407.86 per multi-family residential dwelling unit to be constructed or created by the proposed development.

(c) The amount of the fee shall be $614.05 per the number of residential equivalent flow of each industrial, commercial and institutional unit to be constructed or created by the proposed development.

(d) The fee shall be imposed as a condition of the issuance of the building permit.

(e) Such fees collected by the City shall be placed in a special fund which shall be separate from the general fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the reserve capacity and expansion of the Wastewater Treatment Plant.

(f) Such fees shall be expended by the City for the aforesaid purpose within ten (10) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

SEC. 3-6-8 FEE REDUCTION

Any impact fee imposed under this section shall be reduced to compensate for capital costs otherwise imposed by the City, upon the land development subject to this section, for the same public facilities for which an impact fee has been imposed under this section, including by way of special assessments, special charges, land dedications or fees in lieu of land dedications under Ch. 236, Wis. Stats. or any ordinance adopted thereunder or any other items of value. Impact fees imposed under this section shall also be reduced to compensate for monies received from the federal or state government, specifically to provide or pay for the public facilities for which the impact fees under this section are imposed.

SEC. 3-6-9 ADMINISTRATION AND REVIEW

All fees collected and special accounts maintained under this section, shall be subject to administration by the City Treasurer. Commencing with the calendar year subsequent to the effective date of this section, the City Treasurer shall report annually to the Common Council with information necessary to determine that all funds collected are spent within the time required, for the purpose intended, and that the amount of fees imposed continues to represent an equitable and reasonable apportionment of the costs of public improvements and requirements generated by land development. Upon such considerations and for such purposes, the Common Council may make

reasonable adjustments to the amount of such fees and determine whether there exists any reasonable need for refund of fees previously collected. The impact fees imposed for future construction under this section shall be adjusted annually each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment will be based on a Construction Cost Index published in the Engineering News Record (the "CCI"). Said percentage shall be calculated on the average of the CCI indices for the Cities of Chicago and Minneapolis.

SEC. 3-6-10 APPEAL

Any developer upon whom an impact fee is imposed under this section as a condition of the issuance of a building permit, shall have the right to contest the amount, collection or use of the impact fee to the Common Council, provided that the developer files a written notice of appeal in the City Clerk's office within 15 days of the developer's filing of an application for a building permit upon which the impact fee is imposed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the developer's name, address, telephone number, address of property being developed (if available), legal description of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. The City Clerk shall schedule the appeal for consideration by the Common Council at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the developer of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than at least three (3) days before the date of such meeting. Upon review of such appeal, the Common Council may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of all other provisions, sections or portion thereof of this ordinance, which shall remain in full force and effect.

TITLE 4

Administrative Determinations Review

Chapter 1 Review of Administrative Determinations

CHAPTER 1

Review of Administrative Determinations

4-1-1 Review of Administrative Determinations
4-1-2 Determinations Reviewable
4-1-3 Determinations Not Subject to Review
4-1-4 Municipal Authority Defined
4-1-5 Persons Aggrieved
4-1-6 Reducing Determination to Writing
4-1-7 Request for Review of Determination
4-1-8 Review of Determination
4-1-9 Administrative Appeal
4-1-10 Hearing on Administrative Appeal
4-1-11 Final Determination
4-1-12 Judicial Review
4-1-13 Legislative Review

SEC. 4-1-1 REVIEW OF ADMINISTRATIVE DETERMINATIONS.

Any person aggrieved by an administrative determination of the Common Council or a board, commission, committee, agency, officer or employee of the City or agent acting on its behalf may have such determination reviewed as provided in this Chapter. The remedies under this Chapter shall not be exclusive, but an election to proceed hereunder shall be an election of remedies.

State Law Reference: Section 68.01, Wis. Stats.

SEC. 4-1-2 DETERMINATIONS REVIEWABLE.

The following determinations are reviewable under this Chapter:

(a) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license.
(b) The suspension, revocation or nonrenewal of an existing permit, license right, privilege or

authority, except as provided in Section 4-1-3(d).

(c) The denial of a grant of money or other thing of value under a statute or ordinance prescribing conditions of eligibility for such grant.

(d) The imposition of a penalty or sanction upon any person except a municipal employee or officer, other than by a court.

(e) The suspension or removal of a City officer except as provided in Sections 4-13(b) and (g).

State Law Reference: Sec. 68.02, Wis. Stats.

SEC. 4-1-3 DETERMINATIONS NOT SUBJECT TO REVIEW.

The following determinations are not reviewable under this Chapter:

(a) A legislative enactment. A legislative enactment is an ordinance, resolution or adopted motion of the Common Council.

(b) Any action subject to administrative or judicial review procedures under state statute or other provisions of this Code.

(c) The denial of a tort or contract claim for money required to be filed with the City under Sec. 62.25, Wis. Stats.

(d) The grant, denial, suspension or revocation of a fermented malt beverage or intoxicating liquor license under Chapter 125, Wis. Stats.

(e) Judgments and orders of a court.

(f) Determinations made during municipal labor negotiations.

(g) Determinations subject to grievance, arbitration or other procedures provided in collective bargaining agreements or the City's personnel rules and regulations.

State Law Reference: Sec. 68.03, Wis. Stats.

SEC. 4-1-4 MUNICIPAL AUTHORITY DEFINED.

"Municipal authority" includes the Common Council, commission, committee, agency, office, employee, or agent of the City making a determination under Section 4-1-1 and every person, committee, or agency of the City to make an independent review under Section 4-1-8(b).

State Law Reference: Sec. 68.05, Wis. Stats.

SEC. 4-1-5 PERSONS AGGRIEVED.

A person aggrieved includes any individual, partnership, corporation, association, public or private organization; officer, department, board, commission or agency of the City whose rights, duties or privileges are adversely affected by a determination of a municipal authority. No department, board,

commission, agency, officer or employee of the City who is aggrieved may initiate review under this Chapter of a determination of any other department, board, commission, agency, officer or employee of the City but may respond or intervene in a review proceeding under this Chapter initiated by another.

State Law Reference: Sections 68.01 and 68.06, Wis. Stats.

SEC. 4-1-6 REDUCING DETERMINATION TO WRITING.

If a determination subject to this Chapter is made orally or, if in writing, does not state the reasons therefor, the municipal authority making such determination shall, upon written request of any person aggrieved by such determination made within ten (10) days of notice of such determination, reduce the determination and the reasons therefor to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated and shall advise such person of his right to have such determination reviewed, that such review may be obtained within thirty (30) days, and the office or person to whom a request for review shall be addressed.

State Law Reference: Sec. 68.07, Wis. Stats.

SEC. 4-1-7 REQUEST FOR REVIEW OF DETERMINATION.

Any person aggrieved may have a written or oral determination reviewed by written request mailed or delivered to the municipal authority which made such determination within thirty (30) days of notice to such person of such determination. The request for review shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. A request for review shall be made to the officer, employee, agent, agency, committee, board, commission or body who made the determination, but failure to make such request to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

State Law Reference: Sec. 68.08, Wis. Stats.

SEC. 4-1-8 REVIEW OF DETERMINATION.

(a) **Initial Determination.** If a request for review is made under Section 4-1-7, the determination to be reviewed shall be termed an initial determination.

(b) **Who Shall Make Review.** A review under this Section may be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination. However, an independent review of such determination by another person, committee or agency of the City, appointed by the Mayor without confirmation, shall be provided if practicable.

(c) **When to Make Review.** The municipal authority shall review the initial determination within fifteen (15) days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(d) **Right to Present Evidence and Argument.** The person aggrieved may file with his request for review, or within the time agreed with the municipal authority, written evidence and argument in support of his position with respect to the initial determination.

(e) **Decision on Review.** The municipal authority may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the municipal authority's decision on review which shall state the reasons for such decision. The decision shall advise the person aggrieved of his right to appeal the decision, that appeal may be taken within thirty (30) days, and the office or person with whom notice of appeal shall be filed. State Law Reference: Sec. 68.09, Wis. Stats.

SEC. 4-1-9 ADMINISTRATIVE APPEAL.

(a) **From Initial Determination or Decision on Review.**

(1) If the person aggrieved had a hearing substantially in compliance with Section 4-1-10 when the initial determination was made, he may elect to follow Sections 4-1-6 through 4-1-8, but is not entitled to a further hearing under Section 4-1-10 unless granted by the municipal authority. He may, however, seek judicial review under Section 4-1-12.

(2) If the person aggrieved did not have a hearing substantially in compliance with Section 4-1-10 when the initial determination was made, he shall follow Sections 4-1-6 through 4-1-8 and may appeal under this Section from the decision made under Section 4-1-8.

(b) **Time Within Which Appeal May be Taken Under This Section.** Appeal from a decision on review under Section 4-1-8 may be taken within thirty (30) days of notice of such decision.

(c) **How Appeal May Be Taken.** An appeal under this Section may be taken by filing with or mailing to the office or person designated in the municipal authority's decision on review written notice of appeal.

State Law Reference: Sec. 68.10, Wis. Stats.

SEC. 4-1-10 HEARING ON ADMINISTRATIVE APPEAL.

(a) **Time of Hearing.** The City shall provide the appellant a hearing on an appeal under Section 4-1-9 within fifteen (15) days of receipt of the notice of appeal and shall serve the appellant with notice of such hearing by mail or personal service at least ten (10) days before such hearing. The office or person with whom a notice of appeal is filed shall immediately notify the City Attorney and Clerk who shall forthwith advise the Mayor of such appeal.

(b) **Conduct of Hearing.** At the hearing the appellant and the municipal authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting the hearing. The Mayor shall appoint an impartial decision maker who may be an officer, committee, board or commission of the City or the Common Council who did not participate in making or reviewing the initial determination, who shall make the decision on administrative appeal. The decision maker may issue subpoenas. The hearing may, however, be conducted by an impartial person, committee, board or commission designated by the Mayor to conduct the hearing and report to the decision maker.

(c) **Record of Hearing.** The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the City.

(d) **Hearing on Initial Determination.** Where substantial existing rights are affected by an initial determination, the municipal authority making such determination shall, when practicable, give any person directly affected an opportunity to be heard in accordance with this Section before making such determination.

State Law Reference: Sec. 68.11, Wis. Stats.

SEC. 4-1-11 FINAL DETERMINATION.

(a) Within twenty (20) days of completion of the hearing conducted under Section 4-1-10 and the filing of briefs, if any, the decision maker shall mail or deliver to the appellant its written determination stating the reasons therefor. Such shall be a final determination.

(b) A determination following a hearing substantially meeting the requirements of Section 4-1-10 or a decision on review under Section 4-1-8 following such hearing shall be a final determination, judicial review of which may be obtained under Section 4-1-12.

State Law Reference: Sec. 68.12, Wis. Stats.

SEC. 4-1-12 JUDICIAL REVIEW.

(a) Any party to a proceeding resulting in a final determination may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final.

(b) The record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at his expense. If the person seeking review established impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at the expense of the City and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may

order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

State Law Reference: Sec. 68.13, Wis. Stats.

SEC. 4-1-13 LEGISLATIVE REVIEW.

(a) Seeking review pursuant to this Chapter does not preclude a person aggrieved from seeking relief from the Common Council or any of its boards, commissions, committees or agencies which may have jurisdiction.

(b) If in the course of legislative review under this Section a determination is modified, such modification and any evidence adduced before the Common Council, board, commission, committee or agency shall be made part of the record on review under Section 4-1-12.

(c) The Common Council, board, commission, committee or agency conducting a legislative review under this Section need not conduct the type of hearing required under Section 4-1-10.

State Law Reference: Sec. 68.14, Wis. Stats.

TITLE 5

Public Safety

Chapter 1 Law Enforcement
Chapter 2 Fire Prevention and Protection Code
Chapter 3 Hazardous Materials
Chapter 4 Regulation of Private Alarm Systems
Chapter 5 Emergency Management
Chapter 6 Sex Offender Residency Restrictions and Child Safety Zones
Chapter 7 Public Safety Fees for Services
Chapter 8 Establishment of Fire Department of the City of Cedarburg

CHAPTER 1

Law Enforcement

5-1-1 Organization of Police Department
5-1-2 Records and Reports
5-1-3 General Powers of Police Officers
5-1-4 Responsibilities of Chief of Police
5-1-5 Rules and Policies for the Police Department
5-1-6 Maintenance of Personnel Records and Performance Evaluations
5-1-7 Police Chief's Responsibility for Training
5-1-8 Civilians to Assist
5-1-9 Auxiliary Police

SEC. 5-1-1 ORGANIZATION OF POLICE DEPARTMENT.

(a) **Organization.** The Police Department shall consist of a Chief of Police and such other officers, assistants, and patrolmen as from time to time may be appointed, pursuant to the provisions of the Wisconsin Statutes, the ordinances, and resolutions of the Common Council, and the rules and regulations of the Board of Police and Fire Commissioners.

(b) **Special Officers.** The Chief of Police subject to Council approval, may appoint from time to time such clerical or technical employees as may be necessary, such employees to serve either with or without compensation, as the Common Council shall direct.

SEC. 5-1-2 RECORDS AND REPORTS.

(a) **Monthly Reports.** The Chief of Police shall submit a written monthly general report to the Common Council of all activities of the Department during the month.

(b) **Police Records.** There shall be kept by the Department a suitable record in which shall be entered the name of every person arrested in the City, the name of the person making the arrest, the date and cause of the arrest, the Court from which the warrant was issued, the disposition made of the case, the amount of fine and costs paid and to whom paid, bond posted, and all complaints in full.

(c) **Disposition of Obsolete Police Department Records.** City officers are empowered to destroy the following police department or municipal court records as provided below:
Police Dispatch Tapes. All police dispatch audio tapes shall be kept from creation plus one hundred twenty (120) days except those tapes that cover significant incidents. Tapes covering significant incidents will be retained for seven (7) years after the incident has been closed. (Ord. 92-44) (Ord. 94-31)

SEC. 5-1-3 GENERAL POWERS OF POLICE OFFICERS.

Every member of the Police Department shall:

(a) Familiarize himself with the ordinances of the City and the Statutes and attend to the enforcement of such ordinances by all lawful means.

(b) Help prevent crimes, misdemeanors and violations of City ordinances and protect the health, safety, public peace and order of the City and its inhabitants.

(c) Report all street and sidewalk obstructions, unlighted street lamps, unlawful street signs or signals, and defective or dangerous streets and sidewalks to the appropriate person or organization responsible for their repair or service.

(d) Maintain order at the scene of a fire or any other fire response within the City.

(e) See that the necessary permits and licenses issued by the State or City are in the possession of or properly displayed by any person engaged in an activity or business within the City for which such permit or license is required and that the terms of such permits or licenses are complied with.

(f) Perform such other lawful duties as ordered by the Chief of Police or his authorized representative.

SEC. 5-1-4 RESPONSIBILITIES OF CHIEF OF POLICE.

(a) **Duties.** In addition to the duties imposed upon him elsewhere in this Code of Ordinances, the Chief of Police shall:

(1) Have command of the Police Department on administrative matters, subject to the direction of the Mayor and the City Administrator, to the extent that the Council may delegate such authority or direction to him.

(2) Cause to be maintained accurate records of complaints, crimes, traffic accidents, ordinance violations, arrests, summons, incidents, and calls for police service and shall provide a system of periodic summary and analysis to ensure the most efficient and effective deployment and use of the Department's resources. He shall submit or

cause to be submitted to the various agencies such reports and summaries as are required by State Statutes or ordinances and shall participate in voluntary programs designed to improve law enforcement and public safety.

(3) Submit such reports and comply with such administrative procedures as may be prescribed by the Common Council or City Administrator relative to fiscal and administrative matters.

(4) Submit such reports and/or information and comply with such policies as may be prescribed by Common Council.

(5) Have exclusive control of the assignment, hours of duty, and transfer of all members of the Department.

(6) Plan, organize, staff, direct, and control all of the human and material resources of the Department for the most effective and efficient discharge of its duty to protect persons and property, preserve the peace, protect the rights of citizens and enforce the Wisconsin Statutes and the ordinances of the City as are within its jurisdiction. He shall supervise the preparation and presentation of annual reports and budgets for the Police Department. He shall be required to certify to the correctness of all bills incurred by the Department.

(7) Strive to maintain suitable, productive relationships with other City departments and with other governmental agencies and private organizations concerned with law enforcement, crime prevention, administration of justice and public safety. He shall cooperate and exchange information with other City departments in matters relating to their various functions.

(8) Plan and execute programs designed to prevent and repress crime, apprehend and prosecute offenders, recover property, and regulate non-criminal conduct, giving highest priority in the allocation of resources to crime and other offenses most hazardous to life and property.

(b) **Custody of Department Equipment.** The Chief of Police shall be the custodian of all City property, equipment and supplies under the control of, or used by, the Police Department and shall be responsible for the care, maintenance, safeguarding and accurate records of such property, equipment, and supplies.

(c) **Custody of Department Property.** The Chief of Police shall be the custodian of all property and shall be responsible for the safekeeping, lawful disposition and accurate record of the same. He shall see that all property is returned to its lawful owner or otherwise disposed of according to the applicable statutes.

SEC. 5-1-5 RULES AND POLICIES FOR THE POLICE DEPARTMENT.

The Chief of Police shall establish and promulgate Rules of Conduct, Directives and Policies and Procedures and prescribe such duties for individual members as he may deem necessary for the effective and efficient command and operation of the Department; provided no such Rules of Conduct, Directive or Policy Procedure duties or assignment shall be in conflict with the statutes,

ordinances and approved City personnel rules and regulations.

SEC. 5-1-6 MAINTENANCE OF PERSONNEL RECORDS AND PERFORMANCE EVALUATIONS.

The Chief of Police shall cause to be maintained adequate personnel records of employment, assignment, promotions, attendance, performance and training for all members of the Department. He shall also comply with all provisions of the Law Enforcement Standards Board in regard to background investigations. He shall keep himself adequately informed of the activities of the Department and be assured that the duties of his subordinates are properly discharged. He shall formulate procedures for recognizing outstanding performance by Department members for investigating complaints of misconduct by any Department member and for taking appropriate disciplinary action subject to the provisions of the applicable statutes and Rules of the Department.

SEC. 5-1-7 POLICE CHIEF'S RESPONSIBILITY FOR TRAINING.

The Chief of Police is responsible for the training of all members of the Department. He shall cause adequate and progressive programs of training to be organized and conducted to prepare Department members in the knowledge, procedures, and techniques of their duties and responsibilities. He will insure that, within budgetary limitations, members of the Department attend training courses, seminars, and conferences necessary to maintain and improve their job skills and professional knowledge. He shall encourage Department members to further their education in Law Enforcement through study, special courses, college attendance, extension programs, and independent readings.

SEC. 5-1-8 CIVILIANS TO ASSIST.

All persons in the City, when called upon by any police officer or peace officer, shall promptly aid and assist him in the execution of his duties and whoever shall neglect or refuse to give such aid or assistance shall be subject to the general penalty as provided in Title 1 of this Code of Ordinances.

SEC. 5-1-9 AUXILIARY POLICE

The Chief of Police may appoint from time to time non-sworn auxiliary police. Auxiliary police officers shall not be commissioned as law enforcement officers and shall be assigned primarily to law enforcement-related community service functions where the likelihood of making arrests is minimal, or will occur in conjunction with, and under the authority of, a law enforcement officer. Auxiliary police may also be used as a resource in emergencies and large-scale special events. They shall not be subject to the training and standards applicable to sworn law enforcement officers but shall receive and be provided a level of training as reasonably necessary to fulfill their assigned duties and directives. Auxiliary police shall serve under the authority and direction of and subject to the rules and requirements of the Chief of Police or his designate commanding officers.
(Ord. 2013-04)

CHAPTER 2
CITY OF CEDARBURG
FIRE PREVENTION CODE (Ord. 91-02)

INDEX

ARTICLE A
General Provisions; Adoption of Codes

5-2-1 Fire Prevention Code; General Requirements
5-2-2 Scope
5-2-3 Enforcement Officials
5-2-4 Inspections
5-2-5 Plan Reviews and Approvals
5-2-6 Investigation of Fire Incidents
5-2-7 Additional Codes Adopted
5-2-8 Permits Not Required
5-2-9 Enforcement and Penalties
5-2-10 Appeals

ARTICLE B
Automatic Fire Sprinkler Systems

5-2-11 Scope
5-2-12 General Requirements
5-2-13 Installation Requirements for Automatic Sprinkler Systems
5-2-14 Fire Department Access
5-2-15 Occupancy Permit

ARTICLE C
Standpipe and Hose Systems

5-2-30 Scope
5-2-31 General Requirements

ARTICLE D
Smoke and Heat Detection Systems

5-2-40 Scope
5-2-41 Residential Occupancies

5-2-42 General Requirements for All Other Occupancies
5-2-43 Where Fire Alarm Systems Are Required
5-2-44 Installation Requirements
5-2-45 Maintenance and Testing
5-2-46 False Alarms

ARTICLE E
Required Access for Fire Apparatus

5-2-50 Scope
5-2-51 Access for Fire Apparatus
5-2-52 Designated Fire Lanes
5-2-53 Unapproved Fire Lanes
5-2-54 Fire Lane Parking Regulated

ARTICLE F
Fire Hydrants Required

5-2-60 Scope
5-2-61 Fire Hydrants
5-2-62 Blocking of Fire Hydrants Prohibited

ARTICLE G
Hazards to Life and Property

5-2-70 Scope
5-2-71 Storage of Junk, etc. Prohibited
5-2-72 Regulation of Fireworks
5-2-73 Christmas Trees; Public Displays
5-2-74 Open Flame
5-2-75 Emergency Lighting Required
5-2-76 Buildings Damaged by Fire
5-2-77 Key Vault Required
5-2-78 Open Burning
5-2-79 Combustible Materials
5-2-80 Tents
5-1-81 Smoking Prohibited Conditions

ARTICLE H
Definitions

ARTICLE A

General Provisions; Adoption of Codes

SEC. 5-2-1 FIRE PREVENTION CODE: GENERAL REQUIREMENTS.

Title. This Chapter shall be known as the City of Cedarburg Fire Prevention Code. This Code adopts NFPA 1 - Fire Prevention Code of the National Fire Protection Association, as the same may from time to time be amended, and its incorporated standards and codes as published in the National Fire Codes of the National Fire Protection Association, the State of Wisconsin Department of Industry, Labor and Human Relations and listed in Appendix A of the NFPA Fire Prevention Code, except those portions which are amended by Section 5-2-8 of this Chapter. At least one (1) current copy of NFPA 1 - Fire Prevention Code. of the National Fire Protection Association, and the provisions of the National Fire Codes shall be filed in the Office of the Fire Prevention Bureau.

SEC. 5-2-2 SCOPE.

The provisions of this Fire Prevention Code shall apply equally to both public and private property and shall apply to all locations, except as otherwise specified. This Chapter shall be deemed an exercise of the police powers of the City for the preservation and protection of public health, peace, safety and welfare and all provisions of this Fire Prevention Code shall be liberally construed for that purpose.

SEC. 5-2-3 ENFORCEMENT OFFICIALS.

(a) The Fire Chief shall be responsible for the enforcement of the Fire Prevention Code. The Fire Chief may appoint inspectors or delegate authority to other Department members from time to time as necessary.

(b) It shall be the duty of the Fire Chief or his designee to enforce all laws and ordinances of the Fire Code for the City of Cedarburg to include the following:
(1) The prevention of fires;

(2) The storage, sale and use of combustible, flammable or explosive materials;

(3) The installation and maintenance of automatic suppression, fire alarm and other fire extinguishing equipment;

(4) The means and adequacy of exits in case of fire from factories, schools, hotels, lodging houses, multiple-family dwellings, hospital, churches, halls, theaters, amphitheaters and all other places in which persons work, live, or congregate, from time to time, for any purpose;

(5) The investigation of the origin, cause and circumstances of fires;

(6) The maintenance of fire cause and loss records.

SEC. 5-2-4 INSPECTIONS. (Ord. 2003-28)

(a) The Fire Chief or his designee shall have authority to inspect all premises on a periodic basis pursuant to Sec. 101.14, Wis. Stats. and shall enforce the applicable laws and ordinances.

(b) The Chief of the Fire Department shall be responsible for having all public buildings and places of employment inspected for the purposes of ascertaining any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or the prevention of fires. The Fire Chief or designee may enter any building or premises within the jurisdiction for the purpose of making any inspection, or investigation which, under the provisions of this code, he or they may deem necessary to be made. Private dwellings shall not be entered without the consent or permission of an adult occupant.

(c) Whenever any inspector finds any condition as described above, the inspector shall order the remedy of any of these conditions. Any such condition shall be considered a public nuisance and the owner or occupant shall be subject to the terms, penalty and abatement provisions of the City's nuisance ordinance (Chapter 11).

(d) Before permits may be issued under this Chapter, the Fire Chief or his designee shall inspect and approve all locations, equipment and fixtures for such uses.

(e) The Fire Chief or his designee shall keep a record of all inspections with all facts concerning the same.

(f) Fire Inspection Fees.

(1) An annual Fire Prevention Inspection Fee shall be charged to the property owner for the required inspection of each building, structure and premises in the city. The fee for the required semi-annual fire inspection shall be as follows:

	Building Type	Fee per year
(a)	Residential, Multi-Family, Motel, Hotel:	
	4 or more units	$5.00 per unit
(b)	Commercial & Institutional:	
	Under 1,000 square feet	$ 10 per year
	1,001 – 5,000 sq. ft.	$ 25/yr.
	5,001 – 25,000 sq. ft.	$ 45/yr.
	25,001 – 100,000 sq. ft.	$ 90/yr.
	100,001 – 250,000 sq. ft.	$175/yr.
	250,001 – 500,000 sq. ft.	$265/yr.
	500,001 – 1,000,000 sq. ft.	$440/yr.
	Over 1,000,000 sq. ft.	$670/yr.
(c)	Industrial:	
	Under 5,000 square feet	$ 45 per year
	5,001 – 25,000 sq. ft.	$ 80/yr.
	25,001 – 100,000 sq. ft.	$ 125/yr.

100,001 – 175,000 sq. ft.	$ 210/yr.
175,001 – 350,000 sq. ft.	$ 400/yr.
350,001 – 1,000,000 sq. ft.	$ 600/yr.
Over 1,000,000 sq. ft.	$1,000/yr.

(d) Hospitals, schools, churches, nursing homes, community-based residential facilities, assisted living and day care facilities shall be assessed per Section (b) Commercial & Institutional

(e) All municipal buildings shall be exempt from this fire prevention inspection fee.

(2) Fire prevention inspection fees shall constitute a special charge against the property under §66.60(16), Wis. Stats., and shall be invoiced to property owners in July of each year. Any fees remaining unpaid as of November 1 of each year shall be placed on the annual tax roll for collection as a special charge together with an administrative charge of $15 per parcel. All proceedings related to the collection of real estate taxes shall apply.

SEC. 5-2-5 PLAN REVIEWS AND APPROVALS.

(a) **Plan Review Requirements.** For any building construction or alterations, three (3) copies of complete plans and specifications, including site plans, shall be submitted to the Cedarburg Fire Department for review and approval. Plans will be conditionally approved and stamped, indicating the person reviewing the plans with the approval date. One copy shall be returned to the owner or contractor, one copy to the Building Inspection Office, and one to be retained by the Cedarburg Fire Department.

(b) No automatic sprinkler, smoke/heat detection, alarm system or other fire equipment required by this Chapter or other provisions of applicable local or State codes shall be installed, altered, or relocated until plans have been reviewed and approved by the Cedarburg Fire Department.

(1) Plans. Plans shall contain all required equipment locations, floor plan, key vault location, sprinkler riser diagram, and complete electric schematic.

(2) Calculations. Calculations for all required equipment and sprinkler piping is needed. Also required is the method of calculation for flows, pipe sizing, area of coverage, equipment capabilities, and placement. These calculations shall be signed and sealed by the engineer, designer, or plumber responsible for the plans and calculations.

(3) The Fire Chief may require further information or calculations as necessary for approval.

SEC. 5-2-6 INVESTIGATION OF FIRE INCIDENTS.

(a) The Fire Chief or his designee shall immediately investigate, or cause to be investigated, the origin, cause and circumstances of every fire incident occurring in the City of Cedarburg.

In this Section, "fire incident" is defined as any occurrence of destruction or uncontrolled burning, including an explosion of combustible solids, liquids or gases, which results in visible or measurable damage. Fire incidents do not include the following except where they cause a fire incident or occur as a consequence of a fire incident:

(1) Lightning
(2) Explosion of steam boilers, hot water tanks or other pressure vessels due to internal pressure and not internal combustion
(3) Accidents involving aircrafts, motor vehicles or other vehicles

(b) When the Fire Department has not responded or been summoned to a fire incident, the fire incident shall be reported by the property owner in writing to the Fire Chief or his designee within twenty-four (24) hours of its occurrence. Such written report shall be submitted as prescribed by the Fire Chief or his designee and shall contain a statement of all facts relating to the origin, cause and circumstances of such fire incident, the extent of damage and such other information as may be required by the Fire Chief or his designee.

(c) The Fire Chief or his designee shall keep a record of all fires with all facts concerning the same.

SEC. 5-2-7 CODES ADOPTED.

(a) National Codes Adopted. The appendices of the NFPA 1 - Fire Prevention Code of National Fire Protection Association, as the same may be from time to time amended, are hereby included as a part of the City of Cedarburg Fire Prevention Code except those portions which are deleted, modified or amended by this Chapter. The same are hereby adopted and incorporated as fully as if set out in length. Each of the following codes and standards published by the National Fire Protection Association are adopted in their entirety as a supplement and addition to the text of this Fire Prevention Code:

STANDARD	GENERAL SUBJECT	LATEST NFPA
NFPA 1	Fire Prevention Code	1987
NFPA 10	Portable Fire Extinguishers	1988
NFPA 13	Installation of Sprinkler Systems	1989
NFPA 13A	Inspection, Testing, and Maintenance of Sprinkler Systems	1987
NFPA 13D	Installation of Sprinkler Systems in One- and Two- Family Dwellings and Mobile Homes	1989

NFPA 13R	Installation of Sprinkler Systems in Residential Occupancies up to Four Stories in Height	1989
NFPA 14	Standpipes and Hose Systems	1990
NFPA 20	Installation of Centrifugal Fire Pumps	1990
NFPA 22	Water Tanks for Private Fire Protection	1990
NFPA 24	Installation of Private Fire Service Mains	1987
NFPA 31	Installation of Oil Burning Equipment	1987
NFPA 54	National Fuel Gas Code	1988
NFPA 71	Installation, Maintenance, and Use of Signaling Systems for Central Station Service	1989
NFPA 72	Installation, Maintenance and Use of Local Protective Signaling Systems	1990
NFPA 72E	Automatic Fire Detectors	1987
NFPA 72G	Installation, Maintenance, and Use of Notification Appliances for Protective Signaling Systems	1989
NFPA 72H	Testing Procedures for Local, Auxiliary, Remote Station, and Proprietary Protective Signaling Systems	1988
NFPA 74	Household Fire Warning Equipment	1989
NFPA 90A	Installation of Air Conditioning and Ventilating Systems	1989
NFPA 211	Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances	1988
NFPA 231	General Storage	1990
NFPA 231C	Rack Storage of Materials	1986

(b) **State Codes Adopted.**

(1) The current issues of the following orders and codes of the Wisconsin Administrative Code, Rules of the Department of Industry, Labor and Human Relations, are hereby adopted by reference and made a part of the City of Cedarburg Fire Prevention Code:

a. Chapter ILHR 1 -- Safety (Wis.)
b. Chapter ILHR 5 -- Explosives and Blasting Agents (Wis.)
c. Chapter ILHR 7 -- Cleaning and Dyeing (Wis.)
d. Chapter ILHR 8 -- Flammable and Combustible Liquids (Wis.)
e. Chapter ILHR 9 -- Liquefied Petroleum Gases (Wis.)
f. Chapter ILHR 14 -- Fire Prevention Code (Wis.)
g. Chapter ILHR 16 -- Wisconsin State Electrical Code, Volumes 1 and 2.
h. Chapter ILHR 21 -- Spray Coating (Wis.)
i. Chapter ILHR 50-64 -- Building Code (including Heating Ventilating and

Air Conditioning (Wis.)

j. Chapter ILHR 70 -- Wisconsin Historic Building Code.

(2) Whenever the provisions of the aforementioned codes conflict, the stricter interpretation shall apply.

(3) Copies of each of said codes shall be maintained on file in the office of the Fire Prevention Bureau of the Fire Department of the City of Cedarburg and shall remain so filed and be, at all reasonable times, open to inspection by any interested person.

SEC. 5-2-8 NOT REQUIRED.

The following permits required under NFPA 1 - Fire Prevention Code, shall be deleted from this Code:

Combustible Dust - Producing Operations
Compressed and Liquefied Gases
Flammable and Combustible Liquids
Flammable Finishing
Pyroxylin Plastics
Welding Cutting and Other Hot Work

SEC. 5-2-9 ENFORCEMENT AND PENALTIES.

It shall be unlawful for any person to violate the requirements set forth in this Chapter. Any person in violation of this Chapter are subject to the penalties as outlined in Section 1-1-7 and Section 1-2-1 of the Municipal Code.

SEC. 5-2-10 APPEALS.

(a) The Board of Appeals of the City of Cedarburg is authorized to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination concerning the Fire Prevention Code and its enforcement as set forth in subsection (c).

(b) Alleged violations of and issues pertaining to the State Building and Fire Prevention Code ILHR 50 - 64 shall be appealed to the State of Wisconsin Building and Safety Division.

(c) The following decisions of the Fire Chief, his designee or the Fire Prevention Bureau may be appealed to the Board of Appeals:

(1) The rejection of an application for any required permit, certificate or approval.

(2) The revocation of any permit or certificate previously issued.

(3) Conditions for the approval of plans for construction or for the issuance of an occupancy permit.

(4) Any lawful order from the Fire Inspector.

(d) The Board of Appeals may determine issues as to whether this Code has been correctly interpreted and applied. In those appeals in which the Board determines that this Code has

not been correctly interpreted and applied, the matter shall be remanded to the Fire Prevention Bureau for reconsideration.

ARTICLE B

Automatic Fire Sprinkler Systems

SEC. 5-2-11 SCOPE.

The provisions set forth in this Article shall apply to all sprinkler systems, new and existing, within the City of Cedarburg. These requirements are in addition to the State and NFPA standards. The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protective equipment constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

SEC. 5-2-12 GENERAL REQUIREMENTS.

Automatic sprinkler systems shall be installed and maintained in operable condition set forth in this Article. The State Building Code ILHR 50 - 64 shall apply to all new buildings and existing buildings within the City of Cedarburg as it pertains to automatic fire sprinkler systems.

(a) **Installation.** The installation of any automatic fire sprinkler systems shall be completed in accordance with NFPA 13 - Installation of Sprinkler Systems, as the same may be amended from time to time, and ILHR 51.23.

(b) **Maintenance and Testing.** All sprinkler systems shall be maintained and tested in accordance with NFPA 13A and 13 Standard for the Care and Maintenance of Sprinkler Systems.

(1) Annual Test Requirements/Inspection. A licensed sprinkler technician shall test and inspect the automatic sprinkler system at least annually. A copy of the inspection report shall be forwarded to the office of the Fire Prevention Bureau to be kept on file. The provisions of NFPA 13A, Chapters 1-7, shall be used as the inspection criteria.

When existing sprinkler systems are to be tested or are temporarily taken out of service for repairs, the contractor or owner shall notify the Fire Department Dispatch Office and the Central Dispatch Monitoring Service prior to the sprinkler being taken out of service.

(2) New Test Requirements. All new sprinkler systems shall be tested and inspected prior to the building being occupied. Testing and inspection shall conform to the requirements below:

a. The sprinkler system shall have a hydrostatic test performed in the presence of a Fire Department inspector.

b. The sprinkler system shall be tested by flows of the main drain and inspector's test valve. The acceptance test shall be conducted by the installer

in the presence of a Fire Department inspector.

c. The installer shall provide 48 hours advanced notice to the Fire Department prior to any test being conducted. Work shall not be covered or concealed prior to the required inspection.

d. A final inspection by the Fire Department shall be conducted prior to placing the system in service.

(3) Inspections. The Fire Department shall be given 48 hours notice for all sprinkler system installation inspections.

SEC. 5-2-13 INSTALLATION REQUIREMENTS FOR AUTOMATIC SPRINKLER SYSTEMS.

Requirements. Automatic sprinkler systems shall meet all the requirements of ILHR 51.23 and in addition:

(a) System drain: The automatic sprinkler system shall have a drain piped to the outside of the building or to a drain suitable to handle the required flows.

(b) Inspector's test valve: The system shall have an inspector's test valve piped so as to discharge to the outside of the building.

(c) Alarm bells or horns: Alarm bells or horns shall be installed on all systems. One (1) bell or horn shall be installed on the inside of the building and a second bell or horn installed on the outside of the building. The sprinkler alarm shall be connected to the building alarm system.

SEC. 5-2-14 FIRE DEPARTMENT ACCESS.

Buildings equipped with an automatic sprinkler system shall be provided with a standard key vault of a type approved by the Fire Department as further outlined in Section 5-2-77 of this Ordinance. Building owners shall provide keys for the key vault for all areas of the building, with the exception of security vaults.

SEC. 5-2-15 OCCUPANCY PERMIT.

A final inspection will be made by the Fire Prevention Bureau Inspector after notification by the Building Inspector. Any Occupancy Permit required under the Municipal Code of the City of Cedarburg must be approved by the Fire Prevention Bureau before issuance.

SEC. 5-2-16 THROUGH SEC. 5-2-29 RESERVED FOR FUTURE USE.

ARTICLE C

Standpipe and Hose Systems

SEC. 5-2-30 SCOPE.

Standpipe and hose systems shall be installed and maintained in operable condition in all occupancies and locations set forth in this Chapter.

SEC. 5-2-31 GENERAL REQUIREMENTS.

(a) Standpipe and hose systems shall be installed in accordance with Wisconsin Administrative Code ILHR 51.21 and NFPA 14 - Standards for Installation of Standpipe and Hose Systems.

(b) **Maintenance and Testing.** All standpipe and hose systems shall be maintained in accordance with NFPA 14 - Standards for Installation of Standpipe and Hose Systems.

(1) Annual Test Requirements/Inspections. A licensed sprinkler technician shall test and inspect the standpipe and hose system at least annually. A copy of the inspection report shall be forwarded to the Office of the Fire Prevention Bureau to be kept on file. Existing standpipe and hose systems that are under test or are taken out of service for repairs shall have the sprinkler tester/ installer notify the Fire Department prior to the standpipe or hose system being temporarily taken out of service.

(2) New Standpipe and Hose System Test Requirements. All new standpipe and hose systems shall be tested and inspected prior to the building being occupied. Testing and inspection shall conform to the requirements below:

a. The standpipe and hose system shall have a hydrostatic test performed in the presence of a Fire Department inspector.

b. The standpipe and hose system shall be tested in accordance with NFPA 14. The acceptance test shall be conducted by the installer in the presence of a Fire Department inspector.

c. The installer shall provide 48 hours advanced notice to the Fire Department prior to any test being conducted. Work shall not be covered or concealed prior to the required inspection.

d. A final inspection by the Fire Department shall be conducted prior to placing the system in service.

SEC. 5-2-32 THROUGH SEC. 5-2-39 RESERVED FOR FUTURE USE.

ARTICLE D

Automatic Fire Detection and Alarm Systems

SEC. 5-2-40 SCOPE.

To provide early warning in the event of fire, automatic fire detection systems shall be installed and maintained in operable condition in all occupancies and locations within the City of Cedarburg as set forth in this Article. These requirements are in addition to the minimum standards of the adopted Wisconsin State Building Codes and NFPA standards for their proper installation and use.

SEC. 5-2-41 RESIDENTIAL OCCUPANCIES.

Smoke detectors shall be UL listed for residential applications and be installed in accordance with NFPA 74, Standard for the Installation, Maintenance, and Use of Household Fire Warning Equipment, most current edition. Installation practices shall conform to all local and State of Wisconsin codes and to the National Electrical Code.

(a) All new and existing one and two family dwelling units shall have smoke detectors installed per ILHR 21.09 or ILHR 28 and in accordance with the manufacturer's recommendations and specifications.

(b) In new multi-family residential construction, smoke detectors shall be AC powered from a non-switched circuit, or from a battery operated source continuously charged from an unswitched AC circuit. A non-switched circuit is one which has no intervening switches between the circuit breaker panel or fuse box and the smoke detector.

(c) Prior to a certificate of compliance being issued by the office of the Building Inspector, an inspection must be completed of the installation of a smoke detector in accordance with this Section. The Building Inspector or his designee shall assist the Fire Prevention Bureau in obtaining compliance in all one and two family dwellings.

(d) For all existing dwelling units, the provisions of this Article shall be retroactive.

SEC. 5-2-42 GENERAL REQUIREMENTS FOR ALL OTHER OCCUPANCIES.

(a) **NFPA Standards Compliance.** For all occupancies other than residential dwelling units, the term "Fire Alarm System" shall mean a Protective Signaling System installed in accordance with NFPA 72, Standard for the Installation, Maintenance, and Use of Protective Signaling Systems. The Fire Alarm System shall include Automatic Fire Detectors (smoke and heat detectors) installed in accordance with NFPA 72E, Standard on Automatic Fire Detectors. These detectors shall protect either selected areas or be installed throughout the building as specified in this Code.

(b) **Requirements for Annunciator Panels.** In all new and existing buildings over 10,000 square fee or having more than one story, the fire alarm system shall be separated into zones with a minimum of one zone for each floor, the attic, the basement and a separate zone for all

pullstations. Exemptions would be multi-family residential, Section 5-2-43(3)(a).

(c) **Central Station Monitoring Service Compliance.** A central monitoring service shall comply with NFPA 71, Standard for Installation, Maintenance, and Use of Signaling Systems for Central Station Service. The central monitoring service is subject to prior approval by the Fire Prevention Bureau.

(d) **Agency Listings.** All equipment shall bear the UL marking or other recognized listing and testing agency and shall be clearly marked on the equipment. All detectors shall be listed for commercial applications.

(e) **Exception for Buildings with Sprinklers.** Any building in this classification (except hotels, motels, and bed and breakfast inns) which have a sprinkler system installed throughout in accordance with NFPA 13 shall be exempt from the requirements for a Fire Alarm System, unless required by State of Wisconsin Commercial Building Code ILHR 50 - 64.

In partially sprinklered buildings, any area not sprinklered in accordance with NFPA 13 shall have a Fire Alarm System installed in accordance with this Article.

SEC. 5-2-43 WHERE FIRE ALARM SYSTEMS ARE REQUIRED.

The requirements for this Section shall be retroactive for all buildings **(except** hotels, motels, bed and breakfast inns, child day care facilities, schools and residential units of three (3) or more which shall follow the requirements of the Wisconsin Commercial Building Code 50-64) with an effective date for compliance of June 1, 1993.

(a) **Multi-Family Buildings of Three or More Dwellings.** This includes row houses, hotels, motels, bed and breakfast inns and any other places of residence with three or more units.

(1) Three to Four Units per Building. All new and existing buildings shall have a Fire Alarm System installed in all common areas on all floor levels including the basement. Heat detectors are required throughout the attic.

(2) Building of Five to Seven Units per Building, Including all Hotels and Motels.

a. All new and existing buildings shall have the same requirements as set forth in Section 5-2-43(a)(1).

b. In addition, for all new construction, heat detectors conforming to NFPA 72E shall be installed within the individual units and connected to the Fire Alarm System. Heat detectors are required in the following locations within each unit:

1. At least one heat detector protecting each major room. Closets, hallways, bathrooms, storage areas and stairways do not require heat detectors unless required by subparagraph 5-2-43(a)(2)b immediately below.

2. One heat detector protecting the area in which every furnace, boiler, gas-fired hot water heater, clothes dryer, and cooking range are located within the unit.

(3) Buildings of Eight Units or More, Including all Hotels and Motels.

a. All new and existing buildings shall have the same requirements as set forth in Section 5-2-43(a)(2).

b. The Fire Alarm System shall be separated into zones and each zone identified in the alarm panel. Separate zones are required for smoke detectors on each floor level, attic, basement and all pull stations. The minimum number of zones shall be reviewed and approved by the Fire Prevention Bureau.

c. Pull Stations shall be required in accordance with IlHR 57.16 and ILHR 51.24.

d. The Fire Alarm System shall be monitored twenty-four hours a day by a central monitoring service.

(b) **Office, Factory, and Mercantile Buildings.**

(1) New Construction.

a. All new buildings over 2,500 square feet shall have a Fire Alarm System with smoke or heat detectors in hallways, stairways, exit paths, and in all hazardous locations as defined by ILHR 54.14 of the State Building Code.

b. All new buildings over 5,000 square feet shall have a Fire Alarm System installed throughout.

(2) Existing Buildings.

a. Existing buildings over 5,000 square feet total area shall have a Fire Alarm System with smoke and heat detectors in hallways, stairwells, exit paths, and hazardous locations as defined by Wisconsin Statute ILHR 54.14.

b. If there are 20 or more persons regularly occupying or working above or below the exit floor, the building shall have a Fire Alarm System installed throughout.

c. Existing buildings 10,000 square feet or more area shall have a Fire Alarm System installed throughout.

d. For existing buildings, the effective date for compliance shall be June 1, 1993.

(c) **Schools.**

(1) New construction. All new schools regardless of size shall have a Fire Alarm System installed throughout.

(2) Existing construction. The requirements for existing construction shall follow ILHR 56 or its amendments as they apply to schools and places of instruction.

(d) **Theaters and Assembly Halls, including Churches.**

(1) New construction. All buildings, regardless of size, hall have a Fire Alarm Systems installed throughout.

(2) Existing construction. All buildings, regardless of size, shall have a Fire Alarm System installed throughout.

(3) Exemptions. Sanctuary and nave area of church buildings and similar places of worship shall be exempt.

(4) The effective date for existing buildings to be brought into compliance with this Section shall be June 1, 1993.

(e) **Health Care Facilities.** Health Care facilities shall conform to the requirements of the Commercial Building Code, ILHR 58. In addition, smoke detectors shall be located in all sleeping rooms and corridors.

(f) **Child Day Care Facilities.** Child Day Care facilities shall conform to the requirements of the Commercial Building Code, ILHR 60, and more specifically, a smoke detection system shall be installed.

(g) **Hazard occupancy.** Any new high hazard occupancy determined to be a severe life or property hazard by the Fire Prevention Bureau shall have a Fire Alarm System installed with detectors located as specified by the Fire Prevention Bureau. Connection to a central monitoring service may also be required.

SEC. 5-2-44 INSTALLATION REQUIREMENTS.

(a) **General Installation Requirements.** The entire alarm system installation shall conform to the applicable National Fire Protection Association (NFPA) Standards 71, 72, 72E, 72G, and 74, and to State of Wisconsin ILHR 57.16, 57.165, or 21.09 or ILHR 28. Electrical installations shall conform to all local and State of Wisconsin codes, ILHR 16 and to the National Electrical Code.

(b) **Smoke and Heat Detector Locations.**

(1) Smoke and heat detectors shall be chosen and located in accordance with NFPA 72E, either throughout the building or in specific areas of the building as specified in this Code.

(2) For hazardous locations, the term "smoke and heat detectors" shall include flame detectors. Flame or heat detectors may be required at hazardous locations both inside and outside the building, including loading docks and other hazardous areas.

SEC. 5-2-45 MAINTENANCE AND TESTING.

(a) **Installation Inspection.** An Acceptance Test conforming to NFPA 72 and 72H shall be performed before acceptance of the Fire Alarm System by the Fire Prevention Bureau. Arrangements shall be made with the Fire Prevention Bureau with at least 48 hours notice given.

(b) **Periodic Testing.** Periodic testing of the Fire Alarm System and detectors is required with the frequency, procedures, and test methods specified in NFPA 72H, Guide for Testing Procedures for Local, Auxiliary, Remote Station, and Proprietary Protective Signaling Systems. Monthly tests are required for the Fire Alarm Control Panel.

(c) **On-site Record of Testing.** The owner of each building which requires a fire alarm system shall post a record of periodic testing showing the date and person performing the test. This record shall be located at the fire alarm panel or other location approved by the Fire

Prevention Bureau.

(d) **Corrective Maintenance Requirements.** No Fire Alarm System may be allowed to remain in a non-functioning condition. Nonfunctioning panels, circuits, devices, or trouble conditions indicated by the supervisory monitoring function of the fire alarm control panel shall be corrected immediately.

(e) All existing and new one and two family dwellings shall have smoke detectors installed and inspected as further outlined under 5-2-41(c).

SEC. 5-2-46 FALSE ALARMS

Further regulation on private alarm systems in addition to this Chapter is detailed in Title 5, Chapter 4 of the City of Cedarburg Code of Ordinances.

SEC. 5-2-47 THROUGH SEC. 5-2-49 RESERVED FOR FUTURE USE.

ARTICLE E

Required Access for Fire Apparatus

SEC. 5-2-50 SCOPE.

This article shall apply to all access or fire lanes on public or private property within the City of Cedarburg. Additional requirements may be further outlined in the City of Cedarburg Zoning Ordinance, Subdivision Ordinance, or the State Building Code. When required by the Fire Prevention Bureau, hardsurfaced driving lanes shall be provided around facilities which, by their size, location, design or contents warrant access which exceeds that normally provided by the proximity of city streets.

SEC. 5-2-51 ACCESS FOR FIRE APPARATUS.

(a) **Suitable Access.** All premises, public or private, which the Fire Department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads and fire lanes so that all buildings on the premises are accessible to fire apparatus. The Fire Prevention Bureau may require that areas specified for use as driveways or private thoroughfares shall not be used for parking. These areas, when specified, shall be marked or identified by one of the two means detailed in 52-72(a).

(b) **Fire Lanes.** Fire lanes shall be provided on public or private property devoted to public use and for all buildings used for human habitation or occupancy. Fire lanes may also be designated on those private roadways where it is found by the Fire Prevention Bureau that such access is necessary for fire apparatus.

(c) **Surface.** Fire lanes shall be either asphalt or reinforced concrete, 4 inches thick, minimum, or when specifically authorized by the Fire Prevention Bureau, compacted crushed rock may be used. Where fire lanes connect to city streets or parking lots, adequate clearances and turning radii shall be provided.

(d) **Width.** Lanes shall provide a minimum, unobstructed continuous width and height of 12 feet.

(e) **Dead-end Road.** Any dead-end road more than three hundred (300) feet long shall be provided a turn-around at the closed end of the roadway. Turn-arounds can be T-type or hammerhead, cul-de-sac or curved driveway.

(f) **Turning Radius**. Curves and turn-arounds shall be designated for a minimum of a forty (40) foot turning radius.

SEC. 5-2-52 DESIGNATED FIRE LANES.

(a) Lanes shall be identified by a 4-inch-wide line and block letters 2 feet high, painted in the lane, at 50-foot intervals stating "FIRE LANE - NO PARKING". Signs shall be posted on or immediately next to the curb line, or on the building. Signs shall be a minimum of 12" by 18"

and shall have letters and background of contrasting colors, readily readable from at least a 50-foot distance. Signs shall be spaced not further than 50 feet apart. Signs shall be mounted a minimum of 4 feet and a maximum of 6-1/2 feet from the pavement to the bottom edge of the sign.

(b) Proposed fire lane designations intended to satisfy the requirements of this Article must be approved by the Fire Department and the Plan Commission.

(c) It shall be unlawful for any person(s) or firm(s) to post a fire lane sign without the approval of the Fire Department or the Plan Commission.

SEC. 5-2-53 UNAPPROVED FIRE LANES.

Fire lane signs posted without the approval of the Fire Department shall be removed or the fire lane shall be formally established and posted as required by this Chapter.

SEC. 5-2-54 FIRE LANE PARKING REGULATED.

(a) **Fire Lane Parking.** Any vehicle that is parked within a fire lane designated and marked in accordance with Section 5-2-62 may be removed at the vehicle owner's expense. Vehicles will be towed away under the following circumstances:

(1) When a vehicle repeatedly violates the fire lane regulations by habitually parking in a fire lane.

(2) When a vehicle blocks the ingress/egress of a business, theater, night club, apartment complex, gymnasium or a place of public assembly.

(3) When a vehicle's presence threatens the safety of the public by impeding the ability of fire apparatus and/or emergency medical equipment to respond to an emergency.

(4) Removal of a vehicle under such circumstances may be authorized by the person in lawful possession of the property or by the Fire Chief or their representative. The Police Department may order the towing of a vehicle at any time that the above circumstances exist.

(b) **Stopping in Lane.** Vehicles will be permitted to stop in a fire lane for a reasonable period of time as determined by the Fire or Police officials while actively loading or unloading provided the driver is present.

(c) **Obstructions Other Than Vehicles.** An inspection report with warning notice shall be issued to the property owner, occupant or responsible party requiring that if an obstruction in a fire lane is not removed within a specified time period, the Department may cause the removal of the obstruction with the cost of removal billed to the person(s) responsible for the obstruction.

(d) **When It Becomes Necessary to Obstruct a Fire Lane, i.e. Construction Remodeling or Repair.** Written approval shall be required and permission obtained from the Fire Department in any circumstance in which is it necessary to temporarily obstruct a fire lane. A copy of the authorization shall be posted at the site.

(e) **Enforcement.** Vehicles parked in fire lanes shall be cited with a notice of violation on a standard Wisconsin Citation or Cedarburg Parking Citation enforceable under 10-1-61 of the Cedarburg Code of Ordinances.

SEC. 5-2-55 THROUGH SEC. 5-2-59 RESERVED FOR FUTURE USE.

ARTICLE F

Fire Hydrants Required

SEC. 5-2-60 SCOPE.

The requirements of this article shall apply to all required fire hydrants installed on private property. These requirements apply to all buildings constructed or altered after the effective date of this revision of the Cedarburg Fire Prevention Code.

SEC. 5-2-61 FIRE HYDRANTS.

(a) Where the municipal water system is available, any portion of a commercial, residential, or industrial building more than three hundred (300) feet from the municipal fire hydrants, the owner shall install at his expense approved hydrants. The setback distance shall be determined by measuring the travel distance from a municipal hydrant, along the centerline of a municipal street, private road or parking area suitable for travel by fire apparatus.

(b) Hydrants determined to be necessary in accordance with Subsection (a) shall be freestanding and shall be installed not more than fifty (50) feet or less than twenty-five (25) feet from the building. One (1) hydrant shall be located at the main entryway to such building or complex. Additional hydrants shall be provided around the perimeter of the building or complex so no hydrant is more than four hundred (400) feet from any other approved hydrant as described in Subsection (a).

(c) For new construction, hydrants required by this Chapter shall be installed and made operable prior to permitting construction to progress beyond the footing and foundation stages.

(d) All private water lines between the municipal water main and approved hydrants shall be no less than six (6) inches inside diameter.

(e) All water mains, hydrants and their location shall be approved by the Fire Department and Cedarburg Light and Water Commission. The hydrants shall be installed in such a manner and location so as to be accessible at all times to the Fire Department.

(f) All water mains and hydrants shall be installed, inspected and tested in compliance with the standards of the City of Cedarburg and Cedarburg Light and Water Commission.

SEC. 5-2-62 BLOCKING OF FIRE HYDRANTS PROHIBITED.

(a) No person shall park any motor vehicle within ten (10) feet of any fire hydrant or otherwise interfere with the accessibility of any fire hydrant by piling, dumping or placing any other obstructive material or object with ten (10) feet of a fire hydrant without first obtaining written permission from the Fire Department. Every day during which such interference continues shall constitute a separate offense.

(b) Any vehicle that is blocking a fire hydrant in accordance with Section 5-2-61 may be removed at the vehicle owner's expense. Vehicles will be towed away under the following circumstances:

(1) When a vehicle repeatedly violates the fire hydrant regulations by habitually blocking a fire hydrant.

(2) When a vehicle blocks the ingress/egress of a business, theater, night club, apartment complex, gymnasium or a place of public assembly.

(3) When a vehicle's presence threatens the safety of the public by impeding the ability of fire apparatus and/or emergency medical equipment to respond to an emergency.

(c) Removal of a vehicle under such circumstances may be authorized by the person in lawful possession of the property or by the Fire Chief or their representative. The Police Department may order the towing of a vehicle at any time that the above circumstances exist.

SEC. 5-2-63 THROUGH SEC. 5-2-69 RESERVED FOR FUTURE USE.

ARTICLE G

Hazards to Life and Property

SEC. 5-2-70 SCOPE.

It is the intent of this Article to prescribe regulations consistent with recognized standard practice for the safe-guarding to a responsible degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises.

SEC. 5-2-71 STORAGE OF JUNK, ETC. PROHIBITED.

The storage of junk shall be regulated per Sec. 11-3-5 of the Cedarburg Code of Ordinances.

SEC. 5-2-72 REGULATION OF FIREWORKS.

The sale, use, storage and discharge of fireworks shall be regulated through the licensing provisions of Title 7, Chapter 8, of this Code of Ordinances. See Sec. 7-8-1 for further regulations.

SEC. 5-2-73 CHRISTMAS TREES; PUBLIC DISPLAYS.

The following are the minimum requirements for the public display of live or cut natural Christmas trees. These requirements are applicable to all places of assembly, institutions, public lobbies, malls and other occupancies where the public is admitted or invited:

(a) **General.**
- (1) Trees are to be located clear of exits or aisles and in an area separated from ordinary combustibles by a distance at least equal to the tree height.
- (2) The base of all natural-cut trees shall be installed and maintained in a receptacle containing water or wet sand.
- (3) All decorations used on the tree must be noncombustible or fire retardant.
- (4) No candles or open flame devices shall be attached to or placed near the tree.
- (5) Only approved lights or wiring, bearing the appropriate Underwriter's Laboratories (UL) or other approved testing label may be used.
- (6) Fire extinguishers shall be readily available.

(b) **Flameproofing.** Cut natural trees shall be properly flameproofed and tagged according to the following:
- (1) Only approved flameproofing materials shall be used.
- (2) The application method and the amount of flameproofing material used shall be in accordance with the instructions of the manufacturer.
- (3) Flocking materials shall not be applied until the tree has been properly flameproofed.
- (4) All cut natural trees required to be flameproofed must have attached thereto, near the

base, a tag containing the following information:

a. Date of application.
b. The amount and type of material used.
c. The business name, address and phone number of the applicator.
d. The signature of the applicator.

(c) **Testing.**

(1) The Fire Department may, at any time, field fire test any cut natural or live Christmas tree to determine if it is properly flameproofed or hazardous. Whenever trees are found to be hazardous or in unapproved locations, they shall be ordered to be removed immediately.

(2) The field fire test consists of taking one (1) or more six (6) inch to eight (8) inch branches off the tree, removing any flocking and attempting to ignite the branch with a match. The branch must self-extinguish when the flame is removed.

(d) **Artificial Trees.**

(1) Manufactured trees which are constructed of metallic, noncombustible or fire-resistive materials may be used. Artificial Christmas trees are subject to field fire test procedures to determine fire resistance.

(2) Lighting of the metallic or otherwise electrically conductive trees shall be from a remote area. All lighting used for illumination of trees shall be UL or FM listed.

SEC. 5-2-74 OPEN FLAME.

(a) **Lights and Devices.** No person shall take an open flame or light into any building, barn, vessel, boat or any other place where highly flammable, combustible or explosive material is kept, unless such light or flame shall be well secured in a glass globe, wire mesh cage or similar approved device.

(b) **Places of Assembly.** No open flame, candles or other open flame fixture, whether equipped with a guard or not, shall be used in any place of assembly, except within duly constituted places of worship or fraternal buildings. Such open flame candles or other flame fixtures, whether equipped with a guard or not, shall not be used in auditoriums of places of worship or fraternal buildings, except when such candles or fixtures are actually held by persons seated, standing or in procession in such auditorium. Such candles or fixtures need not be held by persons in the auditorium if they are securely supported on noncombustible bases, the flame is at least seven (7) feet above the floor, are so located as to avoid danger of ignition of combustible material, are under constant observation and supervision by a responsible person designated for each aisle, are kept lighted only when necessary during the ceremony or ritual, and are extinguished before the occupants leave the auditorium.

(c) **Stages.** Open flame devices may be used on stages or church alters where a necessary part of the theatrical or religious performance requires, provided adequate precautions, satisfactory to the Chief of the Fire Department or his designee, are taken to prevent ignition of any combustible materials.

(d) **Restaurants.** Open flame devices used for the warming of food may be used in restaurants and dining areas, provided such devices and their location are approved by the Chief of the Fire Department or his designee.

(e) **Exceptions**. The use of other open flame light and devices not herein regulated may be permitted by the Chief of the Fire Department or his designee under such restrictions as, in his judgment, are necessary to avoid danger of ignition of combustible material or injury to persons.

SEC. 5-2-75 EMERGENCY LIGHTING REQUIRED.

(a) **Emergency Lighting in Public Areas.** Emergency lights shall be installed in the following occupancies:

(1) Factories -- Within any factory over two (2) interior stories or ten thousand (10,000) square feet in gross internal area.

(2) Offices -- Within any office over two (2) interior stories or ten thousand (10,000) square feet in gross interior area.

(3) Mercantile Building -- Within any mercantile building over two (2) interior stories or seven thousand (7,000) square feet in gross interior area.

(4) Places of Public Assembly -- Within any place of public assembly (buildings with an occupancy load of one hundred (100) people or more) regardless of size.

(5) Residential Occupancies -- Residential buildings with common areas and containing ten (10) or more bedrooms (efficiency units shall be considered as bedrooms).

(6) Taverns -- Within any tavern regardless of size.

(7) Schools and Places of Instruction (Including Day Care Centers) -- Within any school or place of instruction housing more than twenty (20) students.

(8) Health Care Facility -- Within any health care facility regardless of size.

(9) Place of Detention -- Within any place of detention regardless of size.

(b) **Emergency Lighting Locations.** Emergency lighting shall be located in hallways, stairwells, open meeting areas and basements.

SEC. 5-2-76 BUILDINGS DAMAGED BY FIRE.

(a) If the Fire Chief finds any building and its contents are damaged by fire to a point in which the structure and contents present a health or life safety hazard to the public, orders shall be issued to the owner to abate such hazard through repair or removal of the building and/or its contents. Such orders shall include a time period to complete abatement of such hazard to extend no more than sixty (60) days.

(b) After sixty (60) days, the Fire Chief can order the building and contents removed to an appropriate landfill site. The owner of the property will be held responsible for any expenses incurred.

(c) Written request for extension of the time permitted to complete ordered repairs or removal

shall be submitted to the Fire Chief within forty-five (45) days after the fire. The written request must contain the following information:

(1) The reason compliance cannot be completed within the sixty (60) day limit.

(2) The projected date the repairs are to start, type of repairs to be conducted and projected date repairs are to be completed.

SEC. 5-2-77 KEY VAULT REQUIRED.

(a) When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the Fire Chief may require that a key vault is installed in an accessible location. The key vault shall be a type approved by the Fire Department and shall contain those keys found to be necessary to provide emergency access.

(b) Properly identified and up-to-date keys to gain access to the building and the building automatic sprinkler or alarm system shall be maintained in the key vault. When a change of locks within the building is necessary, the Fire Department shall be notified and new keys placed in the key vault.

(c) Buildings equipped with an alarm system shall be provided with a standard key vault of a type approved by the Fire Department.

(d) The key vault shall be located in a place approved by the Fire Department.

(e) Removal of any key by other than Fire Department personnel shall be in violation of this Section.

SEC. 5-2-78 OPEN BURNING.

(a) **All Trash Burning Prohibited.** No person shall kindle or cause to be kindled any trash fire in or upon any street, alley, public way, park or any public or private ground within the City of Cedarburg.

(b) **Trash Defined.** Trash is defined as rubbish, grass, leaves, branches, plastic, construction waste, paper products, industrial waste or any other type of debris.

(c) **Open Burning is prohibited.** Outdoor fires within the corporate limits of the City of Cedarburg are prohibited except as set forth in below.

(1) No grills or devices used for outdoor fires for cooking are authorized to be used above the first story of any building on a balcony, raised porch or platform, etc., except for properly maintained liquid petroleum or liquid natural gas outdoor cooking appliances that have tanks no greater than 2.7 lb. water capacity or 1.02 lb. LP gas capacity.

(2) Recreational Fires.

(a) No recreational fires may be started or allowed to continue burning unless such recreational fire is fully contained within an approved fire pit or outdoor appliance.

(1) An approved fire pit is any below ground dug pit not greater than 36 inches inside diameter (inside edge of the pit to inside edge); lined with non-combustible material, soil, metal or stone; a minimum of 6 inches deep; and ringed on the outer diameter with stone, brick or concrete.

(2) An outdoor appliance is any commercially available appliance designed to contain a wood fire when operated according to manufacturer's instructions with all lids, screens and spark arresting devices in place; or permanent structure built entirely of non-combustible materials designed with spark arrestors and screens to contain a wood fire.

(b) No fire pit shall be closer than 25 feet from any dwelling, building structure, shed or garage or closer than 10 feet from any wooden fence, deck or combustible material. Commercially available outdoor appliances shall not be within 10 feet of any structure or combustibles; all recreational fires are to be set back a minimum of 6 feet from adjoining property lines.

(c) No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause embers or other burning material to be carried onto any building or combustible material; nor any time that wind direction will carry smoke into the open windows of any building. Smoke from any recreational fire shall not create a nuisance for neighboring properties and fires shall be completely extinguished when police or fire department investigation determines a nuisance is present.

(d) Fuel for outdoor recreational fires shall consist of natural wood or manufactured fire log material only and may not include leaves, rubbish, garbage, trash, construction materials, any materials made of or coated with rubber or plastic, leather or petroleum based materials. Flammable or combustible liquids may not be used to aid in starting any outdoor fire. Flammable or common/standard dry kindling materials may be used to aid in starting any outdoor fire.

(e) Recreational fires shall be constantly attended and supervised by a competent person at least 18 years of age until the fire has been completely extinguished. The means for extinguishing any fire (as deemed necessary by the Fire Chief) must be kept immediately available at all times when a recreational fire is burning. Proper fire extinguishing equipment includes: a garden hose, shovels, water buckets or an ABC rated Fire Extinguisher at least 10 lbs. capacity.

(f) Any party who starts or maintains a recreational fire that is allowed to burn out-of-control shall be held responsible for paying any costs associated with fire control efforts to extinguish the fire.

(g) Recreational fires shall be permitted only from 11 a.m. to 11 p.m. (Ord. 2011-06)

SEC. 5-2-79 COMBUSTIBLE MATERIALS.

(a) **Hot Ashes and Other Dangerous Materials.** No person shall deposit hot ashes or cinders, or smoldering coals, or greasy or oil substances liable to spontaneous ignition, into any wooden receptacle or place the same within ten (10) feet of any combustible materials, except in metal or other noncombustible receptacles. Such receptacles, unless resting on a noncombustible floor or on the ground outside the building, shall be placed on noncombustible stands, and in every case must be kept at least two (2) feet away from any combustible wall or partition.

(b) **Accumulations of Waste Materials.** Accumulations of wastepaper, hay, grass, straw, weeds, litter or combustible or flammable waste or rubbish of any kinds shall not be permitted to remain upon any roof or in any court, yard, vacant lot or open space. All weeds, grass, vines or other growth, when the same endangers property or is liable to be fired, shall be cut down and removed by the owner or occupancy of the property it is on.

(c) **Readily Combustible Materials.** No person making, using, storing or having in charge or under his control any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw or combustible waste materials shall fail or neglect at the close of each day to cause all such materials which are not compactly based on and stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal or metal lined, covered, receptacles or bins.

(d) **Storage of Readily Combustible Materials.** Storage in buildings shall be orderly, shall not be within two (2) feet of the ceiling and not so located as to endanger exit from the building. Storage in the open shall not be more than twenty (20) feet in height, shall be so located, with respect to adjacent buildings, as not to constitute a hazard and shall be compact and orderly.

(e) **Flammable Decorative Materials in Stores.** Cotton batting, straw, dry vines, leaves, trees or other highly flammable materials shall not be used for decorative purposes in show windows or other parts of commercial or public buildings unless flameproofed, provided, however, that nothing in this Section shall be held to prohibit the display of saleable goods permitted and offered for sale. Electric light bulbs shall not be decorated with paper or other combustible materials unless such materials shall first have been rendered flameproofed.

SEC. 5-2-80 TENTS.

(a) **Tent Permit Required.** No tent exceeding one thousand five hundred (1,500) square feet in area shall be erected, maintained, operated or used without a permit.

(b) **Fire Watchers to be Employed.** One (1) or more qualified persons to service as fire watchers shall be employed by all circuses, carnivals or other exhibitions where large crowds assemble. They shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits and shall patrol the entire tent area during the time of occupancy. They shall see that aisles and exitways are kept open and that "No

Smoking" rules are enforced.

(c) **Tents for Assembly to Conform to Recognized Safe Practices.** The design, construction, flameproofing, location, maintenance and use of tents for assembly shall be in accordance with recognized safe practices. Compliance with the American Standard of Outdoor Assembly, Grandstands and Tents, as adopted by the National Fire Protection Association, shall be considered as prima facie evidence of compliance with such recognized safe practices.

SEC. 5-2-81 SMOKING PROHIBITED CONDITIONS.

The Fire Prevention Bureau may designate no smoking areas as further outlined in Sec. 8-1-8 of the City of Cedarburg Code of Ordinances.

ARTICLE H

Definitions

(a) Unless otherwise expressly stated, the following terms shall, for the purpose of this Code, have the meanings indicated in this Chapter. The definitions listed below are in addition to the definitions of ILHR 51.01 of the Commercial Building Code, ILHR 20.7 of the UDC One (1) and Two (2) Family Uniform Dwelling Code and the definitions of the NFPA Standards.

(1) Altered. For "altered", see definition of "remodeling" in the State Commercial Building Code ILHR 51.01.

(2) Approved. "Approved" means listed or approved by Underwriters Laboratories Inc., Factory Mutual Research Corp., the National Bureau of Standards, The American Gas Association Laboratories, or other nationally recognized testing authorities, and accepted by the Chief of the Fire Prevention Bureau as a result of his investigation and experience.

(3) Area. "Area" means the maximum horizontal projected area on a floor including all floors of building or structures using the exterior walls or between approved fire walls including fire walls. This excludes attics and basements.

(4) Automatic Fire Alarm System. "Automatic fire alarm system" means a supervised system which automatically detects a fire condition, actuates a fire alarm signal device and indicates the location from which the signal originates.

(5) Automatic Sprinkler Equipment. A system of water supply pipes and orifice to apply water to a fire when activated by an automatic, manual or remote control device.

(6) Dwelling. "Dwelling" means any building or portion thereof designed or used exclusively as the living and/or sleeping place of one or more persons, and including:

a. Single Family Dwelling: A detached building designed for only one family and containing only one dwelling unit.

b. Two Family Dwelling: A detached building containing not more than two individual dwelling units which are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or common basement.

c. Multi-Family Dwelling: An apartment house or a building designed for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units. Includes row houses, garden or elevator apartments, rooming houses.

(7) Dwelling Structures. "Dwelling structures" means any structure containing one or more rooms providing sleeping and sanitary facilities, but not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house.

(8) Dwelling Unit. "Dwelling units" means one or more rooms which may include a kitchen or kitchenette, sleeping areas, dining areas, and sanitary facilities, designated

as a unit for occupancy by not more than one family.

(9) Fire Resistive. "Fire resistive" means that type construction in which the structural members including walls, partitions, columns, floor and roof constructions are of noncombustible materials with fire resistant ratings not less than those specified in ILHR 51.03 (1) and (2), and Table ILHR 51.03A of the Wisconsin Administrative Code.

(10) Person. "Person" means any individual, partnership, corporation (including a government corporation), trust, association, firm, joint stock company, organization, commission, the City or Federal government or other entity.

(11) Remodeling. Refer to Wisconsin Commercial Building Code ILHR 50.

(12) UL Listing. This shall refer to Underwriters Laboratories as a recognized listing and testing agency.

CHAPTER 3

Hazardous Materials

5-3-1 Disclosure of Hazardous Materials and Infectious Agents; Reimbursement for Clean-up of Spills
5-3-2 Recovery of Costs of Extinguishing and Cleaning Up Fires Involving Hazardous Materials

SEC. 5-3-1 DISCLOSURE OF HAZARDOUS MATERIALS AND INFECTIOUS AGENTS; REIMBURSEMENT FOR CLEAN UP-OF SPILLS

(a) **Application**

(1) All persons, firms or organizations using, researching or producing hazardous materials and/or infectious agents shall notify the Fire Department as prescribed by this Section.

(2) The provisions of this Section shall apply to all persons, firms or organizations using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of this Section.

(b) **Definitions.**

(1) "Infectious agent" is a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

(2) "Hazardous materials" are those materials that can cause death or disabling injury from brief exposure; those materials that could cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of hazardous materials shall include radioactive materials.

(c) **Information Required.**

(1) Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the Fire Department the following information:

a. Address, location of where hazardous materials are used, researched, stored or produced;

b. The trade name of the hazardous material;

c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;

d. The exact locations on the premises where materials are used, researched,

stored and/or produced;

e. Amounts of hazardous materials on premises per exact location;

f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;

g. The flashpoint and flammable limits of the hazardous substance;

h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;

i. The stability of the hazardous substance;

j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;

k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;

1. Any condition or material which is incompatible with the hazardous material and must be avoided.

m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials;

n. Procedures for handling or coming into contact with the hazardous materials.

(2) Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the Fire Department the following:

a. The name and any commonly used synonym of the infectious agent;

b. Address/location where infectious agents are used, researched, stored and/or produced;

c. The exact locations where infectious agents are used, researched, stored and/or produced;

d. Amount of infectious agent on premises per exact locations;

e. Any methods of route of transmission of the infectious agents;

f. Any symptoms of effect of infection, emergency and first aid procedure and a telephone number to be called in an emergency;

g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent;

h. Procedure for handling, clean-up and disposal of infectious agents leaked or spilled.

(d) **Reimbursement for Cleanup of Spills.** Any person who possesses or controls a hazardous material or infectious agent which was discharged or caused the discharge of a hazardous material or infectious agent shall reimburse the City for actual and necessary expenses incurred by the City or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the

circumstance.

SEC. 5-3-2 RECOVERY OF COSTS.

(a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Chapter ILHR 8, Wis. Adm. Code, as the same is now in force and may hereafter from time to time be amended.

(b) Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

CHAPTER 4

Regulation of Private Alarm Systems

5-4-1 Title
5-4-2 Declaration of Purpose
5-4-3 Definitions
5-4-4 Administrative Rules
5-4-5 Permits for Private Alarm Systems
5-4-6 Automatic Dialing Devices
5-4-7 Testing
5-4-8 Notification
5-4-9 Fee for Answering Alarms
5-4-10 City Liability
5-4-11 Revocation of Permits

SEC. 5-4-1 TITLE.

This Chapter shall be known as the City of Cedarburg Alarm Systems Ordinance.

SEC. 5-4-2 DECLARATION OF PURPOSE.

The purpose of this Chapter is to provide minimum standards and regulations applicable to burglar, fire and holdup alarm systems, alarm business and alarm users. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security which properly balances quick response by law enforcement with minimization of law enforcement time spent on alarms which are false or otherwise not the intended function of private security systems. The intent of this Chapter is to prevent carelessness, improper maintenance or any other cause which results in false police and/or fire alarms from privately owned alarm systems. Such false alarms require police and/or fire apparatus response which thereby creates unnecessary expenses to the City, increased risk of damage to property or injury to persons and dilutes police and fire protection to other parts of the City.

SEC 5-4-3 DEFINITIONS.

Within this Chapter, the following terms, phrases and words and their derivations have the means given herein.

(a) The term "alarm business" means any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining, repairing, replacing, selling, or servicing alarm systems.

(b) The term "alarm system" means an assembly of equipment and devices or single device such

as a solid state unit which plugs directly into 110-volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard urgent attention and to which the Police or Fire Department is expected to respond. In this Chapter, the term "alarm system" shall include the terms "automatic holdup alarm systems," "burglar alarm systems," "holdup alarm systems" and "manual holdup alarm systems" as those terms are hereinafter defined, and fire alarm systems which monitor temperature, humidity or any other condition directly related to the detection of fire. Excluded from this definition and from the coverage of this Chapter are alarm systems used to alert or signal persons within the premises in which the alarm system is located of an attempted, unauthorized intrusion or holdup attempt or fire.

(c) The term "annunciator" means the instrumentation of an alarm console at the receiving terminal of a signal line through which both visual and audible signals show when an alarm device at a particular location has been activated or which, in the event of malfunction, may also indicate line trouble.

(d) The term "answering service" refers to a telephone answering service providing among its services the service of receiving on a continuous basis through trained employees' emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the dispatch center of the Police or Fire Department.

(e) The term "automatic dialing device" refers to an alarm system which automatically sends over regular telephone lines by direct connection or otherwise a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(f) The term "automatic holdup alarm system" means an alarm system in which the signal transmission is initiated by the action of the robber.

(g) The term "manual holdup alarm system" refers to an alarm system in which the signal transmission is initiated by the direct action of the person attached or by an observer thereof.

(h) The term "burglar alarm system" refers to an alarm system which signals an entry or attempted entry into the area protected by the system.

(i) The term "direct connect" means an alarm system which has the capability of system signals to the Police or Fire Department.

(j) The term "false alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined cause. False alarm does not include alarms caused by tornadoes, other violent climatic conditions, power outages and water pressure drops which activate alarms.

(k) The term "interconnect" means to connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(l) The term "central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits.

(m) The term "primary trunk line" means a telephone line leading directly into the dispatch center

of the Police or Fire Department that is for the purpose of handling emergency calls on a person-to-person basis and which is identified as such by a specific number included among the emergency numbers listed in the telephone directory or numbers in sequence therewith.

(n) The term "subscriber" means a person who buys or leases or otherwise obtains an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm system.

SEC. 5-4-4 ADMINISTRATIVE RULES.

The Chief of Police shall promulgate such rules as may be necessary for the implementation of this Chapter. Such rules shall require the approval of the Common Council and shall be open to inspection by the public.

SEC. 5-4-5 PERMITS FOR PRIVATE ALARM SYSTEMS.

(a) **Permit Required.** A permit shall be required for each alarm system [as defined in Section 5-4-3(b) above] now installed on any premises within the City of Cedarburg. Permits shall be required prior to the installation of any new private alarm system. A floor plan showing the location(s) of each alarm(s) in businesses and residential dwellings shall accompany the application. (Ord. 99-21) (Ord. 2005-40)

(b) **General Permit Fee.** A twenty-five dollars ($25.00) permit fee shall be paid to the City of Cedarburg at the time of filing said application for all business and residential alarm permits where NO direct connection to the Police Department is requested. (Ord. 99-24)

(c) **Direct Police Connection Permit Fee.** A Two-Hundred and Forty ($240.00) permit fee shall be paid to the Chief of Police at the time of filing said application for all business and residential alarm permits who want direct connection to the Police Department. The permit fee shall be based on a calendar year and pro-rated on a monthly basis. Said fee shall be billed annually by the City Treasurer's Office by January 30 of each year. Failure to make payment of the permit fee by March 1 of each year will result in the discontinuance of the alarm system permit. (Ord. 99-21) (Ord. 99-24) (Ord. 2003-10) (Ord. 2013-07)

(c) **Permit Application.** Applications for all permits required under this Chapter shall be filed with the Chief of Police. The Chief of Police shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. Permits shall not be transferable.

(d) **Indemnification and Hold Harmless.** All applicants for an alarm system's permit shall enter into an agreement with the City of Cedarburg wherein they shall indemnify and hold the City harmless from any and all claims, suits, actions, and expenses, including attorney fees, arising either in law or in equity out of or by virtue of the enactment of this Chapter. The subject agreement shall include, but not be limited to, a release of the City of Cedarburg for any loss of any nature whatsoever sustained by the applicant by virtue of the City supplying the facilities contemplated under this Chapter.

SEC. 5-4-6 AUTOMATIC DIALING DEVICES; AUDIBLE ALARMS.

(a) No person, firm or corporation shall use or cause to be used any telephone or device or attachment that automatically selects the public telephone trunk line of the Police Department, Fire Department, or any other department, bureau, office, officer or employee of the City of Cedarburg, and then reproduces a prerecorded message to report a burglary, fire or other emergency. Any system in operation which is in violation of this Section shall be modified so that it is no longer in violation of this Section or shall be disconnected.

(b) Audible alarm systems shall have an automatic shut-off feature after the alarm has sounded for three (3) minutes.

SEC. 5-4-7 TESTING.

(a) No alarm business or alarm system designed to transmit emergency messages to the Police or Fire Department shall be tested or demonstrated without prior notification and approval of the Police or Fire Department dispatcher. Alarm businesses or alarm system owners or lessors will be advised on proper test procedure.

(b) No alarm system relayed through intermediate services to the Police or Fire Department will be tested to determine the Police or Fire Department's response without first notifying the appropriate authority. However, the Police or Fire Department may inspect or test on-site alarm systems authorized under this Chapter.

(c) Alarm systems shall be in compliance with all pertinent response policies of the Police or Fire Department.

SEC. 5-4-8 NOTIFICATION.

When the service provided by an alarm business to its subscribers is disrupted for any reason by the alarm business or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm business may comply with such instructions.

SEC. 5-4-9 FEE FOR ANSWERING ALARMS.

(a) **Generally.** Each false alarm requires response of public safety personnel, involves unnecessary expense to the City, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City. Such false alarms constitute a public nuisance and must be abated.

(b) **Intentional.** No person shall intentionally cause the activation of a burglar/fire alarm device knowing that no criminal activity, fire or other emergency exists.

(c) **False Alarms; Administrative Charges.** Any person, business, corporation or other entity having an alarm system with alarm device(s) at one or more locations in accordance with this Chapter shall pay to the City a charge for false alarms responded to by the Police or Fire Department. Charges are to be assessed according to the following schedule for each calendar year for each location connected. Separate charges will be assessed for false alarms as to criminal activity and false alarms for fire or other emergencies:

(1) Responded to by Police Department:

a.	First three (3) false alarms for a location	No Charge
b.	Fourth (4th) false alarm per location	$40.00
c.	Fifth (5th) false alarm per location	$50.00
d.	Sixth (6th) and subsequent false alarm per location	$65.00

(Ord. 92-54) (Ord. 96-42)

(2) All false alarms responded to by Fire Department firefighting personnel and apparatus, in addition to a police response:

a.	First three (3) false alarms for a location	No Charge
b.	Fourth (4th) and subsequent false alarm per location.	$110.00

(Ord. 92-54)

Failure to pay such administrative charge(s) in and of itself shall constitute a violation of this Section, and such charge(s) shall be collectible as a forfeiture upon prosecution and conviction thereof. Additional forfeiture(s), together with cost of prosecution, may also be imposed under Subsection (d) hereof for violations of this Section for allowing or maintaining condition(s) or act(s) that violate the intent of this Section to eliminate and minimize the occurrence of false alarms.

(d) **Other Violations.** Any person, corporation or other entity violating this Chapter in any manner, other than for collection of unpaid administrative charges treated in the preceding Subsection (a) of this Section, shall be subject to forfeiture as provided in Section 1-1-7 of this Code. When any premises located in the City is owned, leased or occupied by two (2) or more persons as joint tenants, tenants in common, joint lessees, or in any other manner, each person shall see that the provisions of this Chapter are complied with, and each person may be subjected to a penalty on violation of this Section.

(e) **Default of Payment for Forfeiture and/or Costs.** On default of payment of forfeiture and/or costs under the immediately preceding Subsections (c) and/or (d), or the fee may be placed on the tax roll against the property as a special charge pursuant to Sec. 66.60(16), Wis. Stats.

SEC 5-4-10 CITY LIABILITY.

The City of Cedarburg shall be under no duty or obligation to a subscriber or to any other person concerning any provision of this Chapter, including, but not limited to, any defects in an alarm system or any delays in transmission or response to any alarm; however, this in no way shall be construed that it is not the proper function of law enforcement to respond to alarms.

SEC. 5-4-11 REVOCATION OF PERMITS.

(a) **Hearing.** Before a permit issued pursuant to this Chapter may be revoked, a hearing shall be held before the Chief of Police. Notice setting forth the time, place and nature of the hearing shall be sent by mail or delivered to the permittee at the address shown on the permit application not less than seven (7) days prior to the hearing.

(b) **Grounds for Revocation.** The Chief of Police may revoke a permit on the following grounds:

(1) The application for a permit contains a false statement of a material fact.

(2) A licensee has repeatedly failed to comply with the provisions of this Chapter.

(3) An alarm system repeatedly actuates false alarms.

(4) Failure of a permit holder to pay within sixty (60) days an assessed charge or forfeiture.

(c) **Appeals.** Any permittee may appeal the decision of the Chief of Police by filing a written notice of appeal with the City Clerk within ten (10) days after the decision. Such appeal shall be heard by the Common Council within thirty (30) days after filing the appeal. The Common Council may affirm, amend or reverse the decision or take other action deemed appropriate. An appeal timely taken suspends the revocation until the Council gives its decision. The City Clerk shall give written notice of the time and place of the hearing to the appellant by certified mail or personal delivery not less than seven (7) days before the hearing. In conducting the hearing, the Common Council shall not be limited by the Wisconsin Rules of Evidence.

CHAPTER 5

Emergency Management
(Ord. 2013-04)

5-5-1 Emergency Management

SEC. 5-5-1 EMERGENCY MANAGEMENT

The City of Cedarburg recognizes and incorporates the duties in state law regarding Emergency Management, W.S.A. § 323. 01 et. seq.

The Emergency Management Director shall be appointed by the Common Council and shall perform the required duties under W.S.A. § 323.15, to include the development of an Emergency Management Plan according to W.S.A. § 323.14(1)(b) and 323.13(1)(b). (Ord. 2013-04)

CHAPTER 6

Sex Offender Residency Restrictions
and Child Safety Zone
(Ord. 2010-02)

5-6-1 Purpose and Intent
5-6-2 Definitions
5-6-3 Residency Restrictions
5-6-4 Loitering
5-6-5 Penalties

SEC. 5-6-1 PURPOSE AND INTENT.

The city finds and declares that sex offenders are a serious threat to public safety. Given the high rate of recidivism for sex offenders, the city believes that in addition to the protections afforded by state law near schools, day care centers and other places children frequent, reducing opportunity and temptation is appropriate to minimizing the risk of re-offence to better protect the children in these public places. This chapter is a regulatory measure aimed at protecting the health and safety of children in the City of Cedarburg from the risk that convicted sex offenders may re-offend in locations close to their residences where children tend to congregate or be regularly present. It is the intent of this chapter not to impose a criminal penalty but rather to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the city by creating safety zones around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence and wherein access by certain sexual offenders and sexual predators shall be restricted and excluded.

SEC. 5-6-2 DEFINITIONS.

As used in this chapter and unless the context otherwise requires:

A *sexual violent offense* shall have the meaning as set forth in Wis. Stats. 980.01(6) as amended from time to time.

A *crime against children* shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

Wis. Stats. 940.225(1) First Degree Sexual Assault;
Wis. Stats. 940.225(2) Second Degree Sexual Assault;
Wis. Stats. 940.225(3) Third Degree Sexual Assault;
Wis. Stats. 940.22(2) Sexual Exploitation by Therapist;

Wis. Stats. 940.30 False Imprisonment-Victim was a minor and not the offender's child;
Wis. Stats. 940.31 Kidnapping-Victim was a minor and not the offender's child;
Wis. Stats. 944.01 Rape (prior statute);
Wis. Stats. 944.06 Incest;
Wis. Stats. 944.10 Sexual Intercourse with a Child (prior statute);
Wis. Stats. 944.11 Indecent Behavior with a Child (prior statute);
Wis. Stats. 944.12 Enticing Child for Immoral Purposes (prior statute);
Wis. Stats. 948.02(1) First Degree Sexual Assault of a Child;
Wis. Stats. 948.02(2) Second Degree Sexual Assault of a Child;
Wis. Stats. 948.025 Engaging in repeated Acts of Sexual Assault of the Same Child;
Wis. Stats. 948.05 Sexual Exploitation of a Child;
Wis. Stats. 948.055 Causing a Child to View or Listen to Sexual Activity;
Wis. Stats. 948.06 Incest with a Child;
Wis. Stats. 048.07 Child Enticement;
Wis. Stats. 948.075 Use of a Computer to Facilitate a Child Sex Crime;
Wis. Stats. 948.08 Soliciting a Child for Prostitution;
Wis. Stats. 948.095 Sexual Assault of a Student by Instructional Staff;
Wis. Stats. 948.11(2)(a) or (am) Exposing Child To Harmful Material-felony sections;
Wis. Stats. 948.12 Possession of Child Pornography;
Wis. Stats. 948.13 Convicted Child Sex Offender Working with Children;
Wis. Stats. 948.30 Abduction of Another's Child;
Wis. Stats. 971.17 Not Guilty by Reason of Mental Disease-of an included offense; and
Wis. Stats. 975.06 Sex Crimes Law Commitment.

"Facility for children" means a public or private school, a group home, as defined in Section 48.02(7), Wisconsin Statutes, a residential care center for children and youth, as defined in Section 48.02(15d), Wisconsin Statutes, a shelter care facility, as defined in Section 48.02(17), Wisconsin Statutes, a daycare center licensed under Section 48.65, Wisconsin Statutes, a daycare provider certified under Section 48.651, Wisconsin Statutes, or a youth center, as defined in section 961.01(22), Wisconsin Statutes.

"Offender" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.

"Permanent residence" means the place where a person sleeps, abides, lodges or resides for fourteen (14) or more consecutive days or which qualifies as a residence under the holdings of the Wisconsin Supreme Court and which may include more than on location, and may be mobile or transitory.

"Recreational trail" means all parts and segments of the Ozaukee Interurban Trail.

"Sexually violent offense" shall have the meaning as set forth in Section 980.01(06), Wisconsin Statutes, as amended from time to time.

"Temporary residence" means residence or premises meeting any of the following criteria:

1. A place where the person sleeps, abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not that person's permanent residence as defined in this section;
2. A place where the person routinely sleeps, abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not that person's permanent residence as defined in this section; or
3. A place where a person sleeps, or which qualifies as a temporary residence under the holdings of the Wisconsin Supreme Court, and which may include more than on location, and may be mobile or transitory.

SEC. 5-6-3 RESIDENCY RESTRICTIONS.

(a) No offender shall reside within five hundred (500) feet of real property that supports or upon which there exists any of the following uses:
   (1) Public parks, parkways, parkland, park facilities;
   (2) Public swimming pools;
   (3) Public libraries;
   (4) Recreational trails;
   (5) Public playgrounds;
   (6) Schools for children;
   (7) Athletic fields used by children;
   (8) Daycare facilities;
   (9) Specialized schools for children, including, but not limited to a gymnastics academy, dance academy or music school;
   (10) Aquatic facilities open to the public.
   (11) Facilities for children's clubs, e.g. Boy Scout and Girl Scout Houses.

(b) Measurement of Distance. The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest boundary line of the real property that supports or upon which there exists any of the uses enumerated in subsection A of this section.

(c) Residency Restriction Exceptions. An offender residing within five hundred (500) feet of real property that supports or upon which there exists any of the uses enumerated in subsection A of this section does not commit a violation of this chapter if any of the following apply:
   (1) The offender is required to serve a sentence or is otherwise involuntarily required to reside in a jail, prison, juvenile facility, or other correctional institution or

mental facility.

(2) The offender has established a residence prior to the effective date of the ordinance codified in this chapter.

(3) The use enumerated in subsection A of this section began after the offender established a residence.

(4) The offender is a minor or ward under guardianship.

(d) In addition to and notwithstanding the forgoing, but subject to subsection C of this section, no person, who has been convicted of a sexually violent offence and/or crime against children, shall be permitted to reside in the City of Cedarburg and no supervised release of such Wisconsin Statute Chapter 980 sexually violent person shall be established in the City of Cedarburg unless such person had lived in the City of Cedarburg at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.

SEC. 5-6-4 LOITERING.

It is unlawful for any person defined as an offender pursuant to Section 9.34.020 to loiter or prowl in the locations enumerated under *Residential Restrictions* herein, in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity.

SEC. 5-6-5 PENALTIES AND REMEDIES

(a) Forfeitures. Any person found guilty of violating this chapter shall be subject to a forfeiture of not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000.00) for each violation. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(b) Injunction-Violation of Residency Restrictions. If an offender establishes a permanent or temporary residence in violation of the Residency Restrictions contained herein, the chief of police may refer the matter to the city attorney. The referral shall include a written determination by the chief of police that, upon all of the facts and circumstances and the purpose and intent of this chapter, such violation interferes substantially with the comfortable enjoyment of life, health, safety of another or others. Upon such referral, the city attorney shall bring an action in the name of the city in circuit court to permanently enjoin such residency as a public nuisance.

(Ord. 2010-02)

CHAPTER 7

Public Safety Fees for Services
(Ord. 2014-30)

SEC. 5-7-1 PUBLIC SAFETY FEES FOR SERVICES.

(a) **Vehicle Lockout Fee.** No charge for City residents or those employed by businesses within the City. $10 for all others.
(b) **Copies of Reports.** $0.25 per page.
(c) **Copies of Photo Prints.** $2.50 per photo page (8.5" x 11")
(d) **Copies of Accident Reports.** $1.00 per report.
(e) **Temporary License Plates.** $5.00
(f) **Fingerprinting.** No charge for City residents or those employed by businesses within the City. $10 for all others.
(g) **CD or DVD Recording.** $10.00 per CD or DVD.

CHAPTER 8

Establishment of the Fire Department
of the City of Cedarburg
(Ord. 2015-06)

5-8-1 Establishment of the Fire Department
5-8-2 Organization of the Fire Department
5-8-3 Maintenance of Personnel Records
5-8-4 Training

SEC. 5-8-1 ESTABLISHMENT OF THE FIRE DEPARTMENT.

The City of Cedarburg Fire Department consists of a Fire Chief, and such number of officers and members as shall from time to time be provided for by the City Council and appointed by the Fire Chief, subject to the approval of the Police and Fire Commission. The Department shall be organized under Wis. Stats. section 62.13, and it shall operate pursuant to the laws of the State of Wisconsin and ordinances of the City of Cedarburg, under the direct supervision of the Fire Chief, who is responsible for the fire defense and prevention and emergency medical services for the citizens and property within the City and within any areas outside of the City that are subject to fire service contracts.

SEC. 5-8-2 ORGANIZATION OF THE FIRE DEPARTMENT.

(a) The Fire Department of the City of Cedarburg shall be comprised of a combination of volunteer, paid, and voluntary paid-on-call personnel with salaries, benefits, expenses, and payments to be determined from time to time by the City Council.

(b) The Fire Department shall consist of a Fire Chief, who shall be the head of the Department and who shall be subject to the general supervision of the City Council. The Fire Chief shall appoint such deputies, assistant chiefs, captains, and lieutenants as determined to be in the best interests of the Department, provided funding has been appropriated by the City Council for such positions. The appointments of any such subordinate officers are subject to approval by the Police and Fire Commission. The Fire Chief shall appoint volunteer and paid on call firefighters as determined to be in the best interests of the Department and such appointees are subject to the approval of the Police and Fire Commission.

SEC. 5-8-3 MAINTENANCE OF THE PERSONNEL RECORDS.

The Fire Chief shall cause to be maintained adequate personnel records of employment, assignment, promotions, attendance, performance and training for all members of the Department. He shall keep

himself adequately informed of the activities of the Department, and shall be assured that the duties of his subordinates are properly discharged.

SEC. 5-8-4 TRAINING.

The Fire Chief is responsible for the training of all members of the Department. He shall cause adequate and progressive programs of training to be organized and conducted to prepare Department members in the knowledge, procedures, and techniques of their duties and responsibilities. He will insure that, within budgetary limitations, members of the Department attend training courses, seminars, and conferences necessary to maintain and improve their job skills and knowledge.

(Ord. 2015-06)

TITLE 6

Public Works

Chapter 1 Official Map; Grades
Chapter 2 Streets and Sidewalks
Chapter 3 Driveways
Chapter 4 Trees and Shrubs

CHAPTER 1

Official Map; Grades

6-1-1 Official Map
6-1-2 Establishment of Grades
6-1-3 Alteration of Grade Prohibited
6-1-4 Regulation and Grades of Underground Utilities

SEC. 6-1-1 OFFICIAL MAP.

(a) **Intent**. It is the intent of the Common Council to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to insure proper legal descriptions and proper monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

(b) **Official Map.** The Official Map shall show the location and extent of all platted and existing streets, highways, parkways, parks and playgrounds within the corporate limits of the City of Cedarburg as heretofore laid out, adopted and established by law. There is hereby established, as the Official Map of the City of Cedarburg, the Map which is herein incorporated by reference and made a part of this Section bearing the date of May 11, 1987. This Map is hereby designated as the "Official Map of the City of Cedarburg," and all notations, references and other information shown thereon shall be as much a part of this Section as though the matters and information thereon were fully described herein.

(c) **Changes and Additions.**

(1) The Common Council may change or add to the Official Map so as to establish the exterior lines of; widen; narrow; extend; or close any platted, existing, proposed, or planned streets, highways, parkways, parks or playgrounds. The Official Map may also include at the direction of the Common Council the location of railroad rights-of-way, waterways, public transit facilities and drainage ways.

(2) The Common Council shall refer any change or addition to the Official Map to the

City Plan Commission for review and report thereon prior to adoption. The City Plan Commission shall report their recommendation to the Common Council within sixty (60) days. In the event the Plan Commission fails to do so, it forfeits the right to further suspend action.

(3) Changes and additions for the locating, widening or closing, or the approval of the locating, widening or closing of streets, highways, parkways, parks or playgrounds by the City under provisions of law other than this Section shall be deemed to be a change or addition to the Official Map.

(4) A public hearing of parties in interest and citizens before the Common Council shall be required before any changes or additions to the Official Map are effective. Notice of the Public hearing shall be published as a Class 2 notice under Chapter 985, Wis. Stats.

(5) Changes and additions made by duly approved subdivision plats shall not require the public hearing if the changes or additions do not affect any land outside the area being platted.

(d) **Building Permits.**

(1) For the purpose of preserving the integrity of the Official Map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway or parkway shown on the Official Map unless a variance is granted. No for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on this Map.

(2) The Building Inspector may require each applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any street, highway or parkway is shown on the Official Map.

(e) **Municipal Improvements.** No public sewer or other municipal street utility or improvement shall be constructed in any street, highway or parkway within the corporate limits of the City of Cedarburg until such street, highway or parkway is duly placed on the Official Map.

(f) **Appeals**. The Board of Appeals shall have the power to review any administrative decision of the City Building Inspector to deny a permit for the erection of a structure under this Section and to grant relief from the requirements of this Section under the provisions of Sections 62.23(6)(d), (f) and (g), Wis. Stats.

(g) **Certified Copy of Map.** There shall be a certified copy of the Official Map described in Subsection (b) above. The certified copy shall be kept in the office of the City Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Section and shall show the date of adoption of this Section and shall be signed by the Mayor and countersigned by the City Clerk. Thereafter no change or

addition to such Official Map shall become effective until it shall have been indicated by the appropriate convention on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Mayor and countersigned by the City Clerk.

(h) **Map to be Filed with Register of Deeds.** The City Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto for recording a true copy of the amended Official Map with the Register of Deeds of the County of Ozaukee, Wisconsin.

(i) **Enforcement.**

(1) It shall be the duty of the Zoning Administrator, Director of Engineering and Public Works, City Engineer and the Chief of Police to enforce the provisions of this Section.

(2) No damages shall be allowed for the taking by any governmental agency for street, highway and parkway purposes any building erected in violation of this Section.

SEC. 6-1-2 ESTABLISHMENT OF GRADES.

(a) **Grades to be Established.** Where the approval of a subdivision is not approved, the grade of all streets, alleys and sidewalks shall be established by resolution by the Common Council and the same recorded by the City Engineer in his office. Where a new subdivision is being approved, grades are approved as part of the final plat approval. No street, alley or sidewalk shall be worked until the grade thereof is established. In all cases where the grade of sidewalks shall not have been specifically set by resolution, the sidewalks shall be laid to the established grade of the street. All such grades heretofore established are hereby confirmed.

(b) **New Sidewalk Grade.** Whenever a street shall be improved for the first time or the grade thereof changed and the street improved so as to conform to the new grade, the grading of the sidewalk shall be considered a part of the improvement, shall be let by contract with the other work of improving such street, and the expense thereof shall be provided for and borne in all respects like that of improving the street, in accordance with Title 3, Chapter 2, of this Code of Ordinances. Before such construction is commenced by the owners of the abutting lots or parcels of land, the City Engineer shall, upon application by the respective owners for a sidewalk grade, cause such sidewalk grade to be established.

State Law Reference: Sections 62.14(7) and 62.16, Wis. Stats.

SEC. 6-1-3 ALTERATION OF GRADE PROHIBITED.

No person shall alter the grade of any street, alley, sidewalk or public ground or any part thereof in the City of Cedarburg by any means whatsoever unless authorized or instructed to do so by the City Engineer, after approval by the Common Council following public hearing. All such alterations of grade shall be recorded in the office of the City Engineer, after hearing and approval by the Common Council.

SEC. 6-1-4 REGULATION OF UNDERGROUND UTILITIES.

(a) **Elevation.** The grade or elevation of all underground construction shall be pursuant to standards adopted by the City Engineer.

(b) **Approval of Location.** The location of any and all such underground construction must have the approval of the City Engineer/Director of Engineering and Public Works.

(c) **Filing Plans.** Complete plans for any such construction must be filed with and be approved by the City Engineer/Director of Engineer and Public Works before construction can begin.

(d) **Inspection.** On request of the City Engineer/Director of Engineering and Public Works, the utility company must provide opportunity for him to check any construction before it may be covered pursuant to City inspection policies. All public works improvements shall comply with the requirements of the City Engineering Services Policy, which is incorporated by reference herein, with respect to construction inspection services.

(e) **Conflict with Other Utilities.** If the grade or elevation herein set for the underground construction of utilities shall, in any instance, conflict with other existing utilities, the utility shall be required to lower the elevation of its underground construction, or of the storm sewer, at the election of the City Engineer/Director of Engineering and Public Works and in accordance with his directions and specifications.

(f) **Establishment of Grade.** At the request of the utility company, the City Engineer/Director of Engineering and Public Works shall, at the City's expense, give the utility company an established grade, if available, on any streets, alleys, public parks or easements where it proposes to install underground utilities.

(g) **Emergency**. In case of an emergency, when immediate action is necessary in order to protect life or property, the utility company may proceed with underground construction subject to obtaining the approval of such work by the City Engineer/Director of Engineering and Public Works as soon thereafter as is reasonably possible.

(h) **Restoration of Surface.** In the event of any such underground construction, the utility company shall leave the surface of the ground, or road, in the same condition as before said work was commenced, and in the event of its failure so to do, the City may proceed to place the surface of the ground or street in such condition at the utility company's expense. Such work shall comply with the provisions of Sections 6-2-3 and 6-2-4.

(i) **Non-Relief from Obligations.** Compliance with this Section does not relieve the utility company from any responsibility of any kind whatsoever by reason of the widening of the travel way, or any other improvements which may become necessary; nor does it relieve it from any liability of any kind or nature whatsoever. Compliance with this Section shall not relieve the utility company from the responsibility or obligation of removing, relocating or moving any of its mains, pipes or property due to the opening, widening or improving of streets, or due to any other changes which may occur by reason of which such moving, relocation or removing may be necessary.

(j) **Digger's Hotline.** The contractor planning to make excavations shall contact Digger's Hotline a minimum of three (3) days prior to the planned start of excavating.

SEC. 6-1-5 PROHIBITING INTERFERENCE WITH DRAINAGE AND UTILITY EASEMENTS (Ord. 91-40)

(a) Whereas, in order to promote the safety of the public and to maximize the efficiency of the City public works department and Cedarburg Light and Water Utility and this ability to serve the public, it is necessary that the above ground drainage facilities throughout the City remain unimpeded and that the City personnel and equipment have unobstructed access to the real property upon which the City has been granted various types of easements. This ordinance shall be passed in order to promote such purposes.

(b) No person shall cause any interference with any real property to which the City has been granted an easement for drainage purposes. For purposes of this subsection (b) "interference" shall include, without limitation, grade alteration; erection of any permanent or temporary structure including, without limitation, garages, buildings, sheds, fences, kennels, barns, antennas and satellite dishes; storage of firewood, trailers, vehicles, building materials or any other personal property; planting of shrubs, flowers gardens, trees or any other foliage; and any other activity which interferes with the purpose of such easement or impedes or prohibits the free access of the City to such real property or City-owned appurtenances thereon.

(c) No person shall cause any interference with any real property to which the City has been granted an easement for access, utility construction and maintenance or any other lawful purpose, except drainage. For purposes of this subsection (c) "interference" shall include, without limitation, major grade alteration; erection of any permanent structure such as garages, or barns, and any other activity which interferes with the purpose of such easement or permanently impedes or prohibits the free access of the City to such real property or City-owned appurtenances thereon.

(d) Upon request by a City Officer, the City Attorney shall notify any party violating this ordinance of the nature of the violation and shall instruct such party to remove the item(s) causing the interference with the real property to which the City has been granted an easement within thirty (30) days of the giving of the notification. The City police and/or building inspector are hereby authorized to issue citations for violations of this ordinance.

(e) The City is hereby authorized to remove the item(s) causing the interference with the real property to which the City has been granted an easement after notification pursuant to subsection (d) hereof to the owner of the interfering item(s) if the ownership may be readily ascertained. In the event that the ownership of the interfering item(s) cannot be readily ascertained or in the event of an emergency which, in the opinion of City personnel, requires immediate attention, the City may remove any item(s) causing interference with the real property to which the City has been granted an easement without the requirement of compliance with the notice provisions of Section 2 hereof. The City shall be reimbursed for all costs of removal of any items causing interference with the real property to which the City has been granted an easement by the owner of the interfering item(s).

CHAPTER 2

Streets and Sidewalks

6-2-1 Removal of Rubbish and Dirt From Sidewalks
6-2-2 Construction and Repair of Sidewalks and Curb and Gutter
6-2-3 Excavations of Streets, Alleys, Public Ways and Grounds
6-2-4 Regulations Governing Excavations and Openings
6-2-5 Obstructions and Encroachments
6-2-6 Street Privilege Permit
6-2-7 Snow and Ice Removal
6-2-8 Parkway Areas
6-2-9 Vaults
6-2-10 Downspouts and Eaves of Buildings Not to Drain on Sidewalks
6-2-11 Sale or Display of Merchandise Prohibited; Special Event Vending Permit
6-2-12 Requests for Improvements
6-2-13 Uniform Street Numbering System

SEC. 6-2-1 REMOVAL OF RUBBISH AND DIRT FROM SIDEWALKS.

No owner or occupant shall allow the sidewalk abutting on his premises to be littered with rubbish or dirt. If such owner or occupant shall refuse or fail to remove any such rubbish or dirt when notified to do so by the Public Works Superintendent or Building Inspector, the Public Works Superintendent or Building Inspector may cause the same to be done and report the cost thereof to the City Clerk who shall spread the cost on the tax roll as a special tax against the premises, pursuant to Sec. 66.60(16), Wis. Stats., or such cost may be recovered in an action against the owner or occupant.

SEC. 6-2-2 CONSTRUCTION AND REPAIR OF SIDEWALKS AND CURB AND GUTTER.

(a) **Council May Order.** The Board of Public Works, in the case of reconstruction, or the Plan Commission, in the case of a new subdivision or other new construction, may determine that sidewalks, curb and gutter shall be constructed, laid, rebuilt or repaired along or upon any public street, right-of-way or highway within the City. The Board of Public Works may determine or change the width or grade of any sidewalk. (Ord. 90-17)

(b) **Owner to Construct.**

(1) It shall be the duty of the abutting owner to construct new curb and gutter, or sidewalks along or upon any street, alley or highway in the City of Cedarburg and to reimburse the City in accordance with Title 3, Chapter 2, of this Code of Ordinances. Such costs shall include expenditures for engineering and administrative fees,

excavations, gravel and driveway approaches. (Ord. 90-17)

(2) Whenever the Board of Public Works shall by resolution determine that a sidewalk be laid, rebuilt, repaired, lowered or raised along or upon any public street, alley or highway within the City, it shall proceed according to Sec. 66.615 and/or 66.22, Wis. Stats. and the improvements shall be assessed to abutting property owners pursuant to Sec. 66.60, Wis. Stats. (Ord. 90-17)

(3) Sidewalks shall be located in such places as designated by the Board of Public Works, upon the recommendation of the Plan Commission and/or Director of Engineering and Public Works. No person shall remove any sidewalk without the permission of the Board of Public Works. (Ord. 90-17)

(c) **Sidewalk Permit Required.** No person shall hereafter lay, remove, replace or repair any public sidewalk within the City unless he is under contract with the City to do such work or has obtained authorization therefor from the Director of Engineering and Public Works or his designee at least three (3) days before work is proposed to be undertaken. No fee shall be charged for such permits.

(d) **Specifications.** Sidewalks and curb and gutter shall be constructed in accordance with the specifications adopted by the Board of Public Works, on file with the City Engineer, unless the City Engineer authorizes a different standard because of the unique characteristics of the site.

(e) **Construction of Extra Width Sidewalks.** Any person wishing to have the sidewalk in front of nonresidential premises wider than the established width may make written application therefor to the City Engineer. The City Engineer may cause the sidewalk to be built to the edge of the premises and shall notify the applicant of the extra cost and shall note such extra cost on the application and shall file such with the City Clerk. If the amount of such extra cost is not paid within thirty (30) days after notice by the City Engineer, the amount thereof shall be a lien against the premises and shall be inserted by the City Clerk in the tax roll and collected as other taxes or may be sued for on behalf of the City.

(f) **Contractor's Guarantee.** The contractor shall construct the sidewalk in such a manner that no settlement, cracks or any other defects due to bad material or faulty workmanship shall appear therein for a period of one (1) year from and after the completion of the work and shall furnish the City of Cedarburg where sidewalks are built a guarantee in writing. If the walk fails to conform to this requirement, the contractor, at its sole cost and expense, shall promptly repair it or, if necessary, reconstruct it according to order of the City Engineer.

(g) **Repair of Defective Sidewalks, Streets, Curbs, Etc.** (Ord. 90-17)

(1) Inspection. The Director of Engineering and Public Works shall cause frequent inspections to be made of all the streets, sidewalks, curb and gutter, pavements, bridges and other public ways in the City. He shall report any defects to the Board of Public Works at its next regular or special meeting. The Board of Public Works shall then take whatever action it feels is appropriate.

(2) Dangerous Conditions. Notwithstanding the provisions of Subsection (1), when the cost of repairs of any sidewalk in front of any lot or parcel of land does not exceed

the sum of One Hundred Dollars ($100.00), the repair may be immediately made without such report.

(3) Cost of Repairs. The cost of all sidewalk repairs under this Section, except to the extent damage is caused by the growth of trees in the parkway, or is caused due to improper initial grade setting, shall be charged to the property benefited thereby. Repairs required by parkway tree growth or improperly initial grade setting and all other repairs to public facilities shall be paid entirely out of the general fund of the City. Driveway approach repairs specifically requested by the abutting property owner shall be charged to the property benefited thereby. (Ord. 90-17)

(h) **Illegal Sidewalks.** No sidewalk which shall be constructed contrary to the provisions of this Section shall be considered a legal sidewalk and the same may be ordered to be replaced with a legal sidewalk which is in conformity with this Section, the same as if no sidewalk whatever had been built or constructed in the place where any such sidewalk is located. All costs associated with removing an illegal sidewalk constructed by the fronting property owner shall be assessed to the fronting property owner, together with the costs for new sidewalks. (Ord. 90-17)

(i) **Special District Sidewalk Requirements.** (Ord. 90-17)

(1) There shall be constructed on both sides of all streets which are not in an M-1 Limited Industrial District, M-2 General Industrial District or PDO Planned Public Development Overlay District, concrete sidewalks and driveway approaches, which are backfilled, graded and paved and parkways which are seeded in accordance with the specifications as set forth by the City Engineer. Sidewalks shall be constructed on at least one side in an M-1 Limited Industrial District and M-2 General Industrial District. Sidewalks may be required to be located on both sides of the street in those cases deemed warranted by the Plan Commission. The Plan Commission shall determine the sidewalk locations based on safety, serviceability and other land use planning considerations.

(2) The sidewalk requirement of Section 6-2-2 shall not apply to properties along streets in RM-2 zoning districts wherein said property is owned by a condominium development association and the condominium development association fronts both sides of the subject street and wherein the requirement of the construction of sidewalks on both sides of a street in said condominium area would cause a hardship upon the owners of said condominiums. In such a case, the Plan Commission may, by a three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of the street be waived and that the Council only require the installation of a sidewalk on one (1) side of the street. The Common Council, to approve such a proposal, shall determine by a three-fourths (3/4) vote, on the basis of hardship, to waive the installation of sidewalks on one (1) side of the street only.

(3) The sidewalk requirements of Section 6-2-2 shall not apply to properties along streets in RS-1, RS-7 and RS-8 zoning districts except in those instances in which the Plan

Commission recommends to the Council and the Council approves on a case-by-case basis the need for sidewalk. In such a case, the Plan Commission may, by three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of the street be waived and that the Common Council not require the installation of a sidewalk on either side of the street. The Common Council, to approve such a proposal, shall determine by a three-fourths (3/4) vote, to waive the installation of sidewalks on one (1) side of the street only.

(4) Except as otherwise provided in this section the sidewalk requirements of Section 6-2-2 shall apply to arterial streets, regardless of zoning district classification. In those cases where sidewalks on both sides of arterial streets are impractical due to unique site conditions, existing grades or structural and environmental features that would be unduly disrupted, the board of Public Works may, by three-fourths (3/4) vote, recommend to the Common Council that the requirements for installation of sidewalks on both sides of said arterial street be waived. The Common Council, to approve such a proposal, shall determine by a three-fourth (3/4) vote, to waive the installation of sidewalks one (1) side of the street only.

(5) The cost of the improvements are to be assessed pursuant to the City's special assessment policies and ordinances.

(j) **Curb and Gutter Required.**

(1) All streets within the City of Cedarburg shall have concrete curb and gutter in accordance with the specifications as set forth by the City Engineer, except in RS-7 and RS-8 zoning districts where the Plan Commission shall recommend to the Council on a case-by-case basis the need for curb and gutter, except along arterial streets where curb and gutter shall be required.

(2) Installation of curb and gutter shall require concurrent construction of adjacent sidewalks, unless otherwise determined by the Board of Public Works. (Ord. 90-17)

State Law Reference: Sec. 66.615, Wis. Stats.

SEC. 6-2-3 EXCAVATIONS OF STREETS, ALLEYS, PUBLIC WAYS AND GROUNDS.

(a) **Permit Required.** No person, partnership or corporation, or their agents or employees or contractors, shall excavate in or disturb the surface of any public street, public alley, public way, public ground, public sidewalk or City-owned easement within the City of Cedarburg without a permit from the City Engineer.

(b) **Application for Permit.** The application for a permit shall be in writing and signed by the applicant or his agent. The applicant shall submit to the City Engineer, at the time the permit is applied for, sufficient information relating to the work to be done including the general location and nature of the work and the method applicant proposes to use in doing the work. The City Engineer shall determine if sufficient information is submitted.

(c) **Exception**. The provisions of this Section shall not apply to City excavation work done

under the direction of the Director of Engineering and Public Works.

(d) **Validity of Permit.** Permits shall be valid for a period of ninety (90) days from the date of approval. Any person or utility who has been granted a permit to excavate in the public right-of-way or to disturb the same shall perform such work in such manner and in such time as the Director of Engineering and Public Works shall direct and shall restore the surface of the public right-of-way pursuant to the requirements of this Section and Section 6-2-4.

(e) **Excavations by Public Utilities.** Any public utility having a franchise to lay pipe in or near the public way shall, before excavation or disturbing any portion of the public right-of-way, give written notice and present plans thereof to the City Engineer in such form as the Director of Engineering and Public Works may prescribe.

(f) **City Standards.** All street work shall be performed in accordance with the current standard specifications for street openings. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage. All provisions of City Policy PR-6 "Protection of Public Trees During Construction" shall apply.

(g) **Permit Fee and Deposit.**

(1) The following fees shall be submitted with applications for permits under this Section:

a. Opening street	$250.00
b. Opening curb, alleyway, walkway or parkway	$150.00
c. Perform work or labor or deposit excavation or construction materials within a public right-of-way	$ 50.00

(Ord. 92-54) (Ord. 2006-39)

(2) The sum of One Hundred Dollars ($100.00) of the fees deposited under a. and b. hereof shall be refunded upon completion of the restoration of the disturbed surface to the satisfaction of the City Engineer.

(h) **Insurance Required.** A permit shall be issued only upon condition that the applicant submit to the City Engineer satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance in an amount prescribed by the City's Schedule of Insurance Requirements. The policy shall name the City of Cedarburg as the third-party insured and shall be subject to approval by the City Attorney.

(i) **Bond.**

(l) Before a permit for excavating or opening any street or public way may be issued, the applicant shall sign a statement that he will indemnify and save the City of Cedarburg and its officers from all liability for accidents and damage caused by any of the work covered by his permit, and that he will fill up and place in good and safe condition all excavations and openings made in the street, and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it, and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the City Engineer for a period of one (1) year, and that he will pay all fines of forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the

Common Council and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the City. Such statement shall also guarantee that, if the City shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for one (1) year.

(2) Faulty work or materials shall be immediately replaced by the permittee upon notice by the City. Failure to correct deficiencies shall result in a one (1) year revocation of the right to obtain a street opening permit. The City shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.

(3) The person who does such restoration shall be responsible therefore for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the City in the amount of Ten Thousand Dollars ($10,000.00).

(4) Whenever the City Engineer shall find that any such work has become defective within one (1) year of the date of completion, he shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the City Engineer to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the City for the cost of doing the work as set forth in the notice.

(5) An annual bond may be given under this Section covering all excavation work done by the principal for one (1) year beginning at the start of the project, which shall be conditioned as specified above and in the amount equal to one hundred percent (100%) of the project bid amount.

SEC. 6-2-4 REGULATIONS GOVERNING EXCAVATIONS AND OPENINGS.

(a) **Frozen Ground.** No openings in the streets, alleys, sidewalks or public ways shall be permitted between December 1st and April 1st except where it is determined by the City Engineer to be an emergency excavation or authorized Public Works Department projects.

(b) **Notification to Property Owners.** Any person who is granted a permit hereunder shall notify all property owners identified by the City Engineer or his designate as affected by this excavation. The notice shall be given in writing at least forty-eight (48) hours in advance of such excavation, except in emergencies as identified by the City Engineer, in which case the City Engineer may waive this requirement. When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least forty-eight (48) hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Sec. 6-2-4(i).

(c) **Protection of Public.**

(1) Every opening and excavation shall be enclosed with sufficient barriers, signing, and

such other traffic control devices as may be required by the Engineer, and in accordance with Section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunrise to sunset. No open flame warning devices shall be used. Except by special permission from the City Engineer, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying nor left unfilled more than five hundred (500) feet from where pipe or conduit has been laid.

(2) All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the City in defending any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property.

(3) Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to his project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.

(4) The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Police Department twenty-four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Section 6-2-4(c).

(d) **Standard Specifications.** Pavement removal, excavations, backfilling and pavement replacement shall be performed pursuant to standard specifications on file with the City Engineer.

(e) **Emergency Excavation.** In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley easement, way or ground and his agents and employees make take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Police Department immediately.

(f) **Excavation in New Streets Limited.** Whenever the Board of Public Works determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than thirty (30) days before the work of improvement or repaving shall begin. The City Engineer shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real

property abutting said street, prior to advertising for bids for such work, and that all such excavation work in such street must be completed within thirty (30) days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the City Engineer, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street parkways.

SEC. 6-2-5 OBSTRUCTIONS AND ENCROACHMENTS.

(a) **Obstructions and Encroachments Prohibited.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsections (b) and (c).

(b) **Exceptions.** The prohibition of Subsection (a) shall not apply to the following:

(1) Public utility encroachments duly authorized by State Law or by the Common Council.

(2) Goods, wares, merchandise or fixtures being loaded or unloaded which do not obstruct the width of a sidewalk by more than three (3) feet on a sidewalk, provided such goods, wares, etc., do not remain thereon for more than three (3) hours.

(3) Temporary encroachments or obstructions authorized by permit under Section 6-2-6 of this Section pursuant to Sec. 66.045, Wis. Stats.

(4) Building materials for the period authorized by the Building Inspector and City Engineer which shall not obstruct more than one-half (1/2) of the sidewalk or more than one-third (1/3) of the traveled portion of the street and which do not interfere with the flow in the gutters.

(5) Excavations and openings permitted under Sections 6-2-3 and 6-2-4 of this Code.

(c) **Issuance of Permit.**

(1) The Building Inspector is authorized to issue a temporary permit which allows property owners to place certain fixtures on sidewalks which immediately adjoin their property. In determining if a permit shall be authorized, all of the following requirements must be met:

a. The property must be located in an area zoned for commercial uses.

b. The fixture(s) shall not be physically attached to the sidewalk, any street fixture or any adjacent building, and shall be of a temporary design.

c. The placement of the fixture shall not impede the flow of pedestrian traffic on the sidewalk. In no event shall the fixture reduce the unobstructed sidewalk width to less than five (5) feet at any point.

d. The property owner shall provide the City with proof of liability insurance coverage. The insurance coverage shall be an amount prescribed by the City's

Schedule of Insurance Requirements, and the policy shall specifically state that it includes coverage for the fixtures located on the City sidewalks. In addition, the City shall be identified as a third-party insured.

e. The fixture(s) shall not be for sale nor shall the fixture(s) be used for the sale of merchandise. Specifically excluded are all forms of vending machines, vendors' carts or tables, etc.

f. The property owner whose property adjoins the City sidewalk shall file the permit application or authorize the occupant of the subject property to file the permit application.

(2) Upon reviewing the permit application if it is determined by the Building Inspector that all of the above requirements have been met, he shall issue the permit. Said permit may be revoked by the Building Inspector or any City law enforcement officer ("City enforcement officials") at any time when one (1) or more of the above requirements are not complied with or if he determines that the placement of the fixture(s) endangers the safety of the pedestrians who utilize the sidewalks.

(d) **Removal by City for Sidewalk Obstructions and Encroachments.** In addition to any other penalty imposed, if any City enforcement official determines that a sidewalk is unlawfully obstructed in violation of this Section, he shall issue a written notice to the owner or occupant of the premises which adjoins the obstructed sidewalk directing that the obstruction be removed within twenty-four (24) hours.

(e) **Removal by City for Obstruction and Encroachments Located in the City Streets, Alleys, Public Grounds or Lands Dedicated for Public Use.** In addition to any other penalty imposed, if any City enforcement official determines that a City street, alley, public grounds or land dedicated for public use is obstructed or encumbered, he shall issue a written notice to the property owner of the premises which adjoin the obstructed public area directing that the obstruction be removed within thirty (30) days.

(f) **Failure to Remove Obstruction.**

(1) If the owner or occupant fails to remove the obstruction within the time period established in Section (d) or (e) respectively, any City enforcement official shall cause the removal of the obstruction, keeping an account of the expense of the abatement, and such expenses shall be charged to and paid by such property owner. Notice of the bill for abatement of the obstruction shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by the State Statutes.

(2) The failure of the City Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the obstruction as provided for in this Section.

Cross Reference: Section 7-9-1.

SEC. 6-2-6 STREET PRIVILEGE PERMIT. (Ord. 2004-04)

(a) **When Required.** Permits for the use of the streets, alleys, sidewalks or other public ways may be granted to applicants by the Police Chief for the purpose of moving any building or structure or temporarily placing a dumpster, scaffolding, building materials, soil piles, mulch deliveries or other materials necessary in and about the construction, landscaping, or demolition of any building or structure, provided such applicant has complied with the other requirements of this Section and has obtained a building permit if required by this Code of Ordinances. The Police Chief shall request advisory recommendations from the City Engineer prior to issuance of the permit. City officials may attach conditions to the permit. The Police Department and Department of Public Works shall be notified of the issuance of a street privilege permit.

(b) **Bond.** No street privilege permit shall be issued for moving building structures over City streets until the applicant shall execute and file with the City Clerk a bond in the amount of Ten Thousand Dollars ($10,000.00), conditioned that the applicant will indemnify and save harmless the City from all liability for accidents or damage caused by reason of operations under said permit and will remove such encumbrance upon termination of the operations and will leave the vacated premises in a clean and sanitary condition and repair any and all damage to the streets, alleys, sidewalks or public property of the City resulting from such moving operations.

(c) **Fee**. The fee for a street privilege permit shall be Fifty Dollars ($50.00), plus any actual City costs.

(d) **Conditions of Occupancy.** The permission to occupy or obstruct the streets, alleys, sidewalks or public grounds is intended only for use in connection with the actual erection, alteration, repair, removal or moving of buildings or structures and shall be given upon the following terms and conditions and subject to revocation without notice by the Police Chief for violation thereof:

(1) Such temporary obstruction shall cover not more than one-third (1/3) of any street or alley.

(2) Obstructions shall be sufficiently lighted at night so as to be in full view of the public from all directions.

(3) Sidewalk traffic shall not be interrupted, but temporary sidewalks of not less than four (4) feet in width guarded by a closed fence at least four (4) feet high on both sides may be maintained during the period of occupancy.

(4) The process of moving any building or structure shall be as continuous as practicable until completed and, if ordered by the Police Chief and City Engineer, shall continue during all hours of the day and night.

(5) No building or structure shall be allowed to remain overnight on any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant.

(6) Buildings shall be moved only in accordance with the route prescribed by the City Engineer and Police Chief.

(7) Upon termination of the work necessitating such obstruction, all parts of the streets, alleys, sidewalks or public grounds occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permittee.

(e) **Termination**. All street privilege permits are valid for seven (7) days from start date unless extended by the Police Chief in consultation with the City Engineer.

(f) **Removal by City.** In addition to any other penalty imposed, if the owner or occupant of the premises adjoining any lawfully obstructed sidewalk , street or alley shall neglect to remove such obstruction within twenty-four (24) hours after such notice from the Police Chief or his designee to do so, it shall be the duty of the Police Chief or his designee to remove such obstruction and make return of the costs and expenses thereof to the City Clerk who shall enter such cost on the next annual tax roll as a special charge against the property abutting such obstructed sidewalk, street or alley and such sum shall be levied and collected as other special taxes against real estate. (Ord. 2004-04)

(g) **Exemptions.** City of Cedarburg municipal crews, Cedarburg Light and Water, and private contractors working for the City of Cedarburg are exempt from the requirements of this section.

State Law Reference: Sec. 66.045, Wis. Stats.

Cross Reference: Sections 6-2-11, 7-9-1 and 7-13-1.

SEC. 6-2-7 SNOW AND ICE REMOVAL.

(a) **Removal From Sidewalks.** The owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall keep said sidewalk clear of all snow and ice. In the event of snow accumulating on said sidewalk due to natural means and/or by any other means, said sidewalks shall be cleared of all accumulated snow and/or ice within twenty-four (24) hours from the time the snow ceases to accumulate on said sidewalk. Sidewalks are to be kept clear of snow and ice to a minimum of four (4) feet in width. In the event that ice has formed on any sidewalk in such a manner that it cannot be removed, the owner, occupant or person in charge of the parcel or lot which fronts upon or adjoins said sidewalk shall keep the sidewalk sprinkled with sand and/or salt to permit safe travel by pedestrians.

(b) **Notice and Removal of Snow from Sidewalks.** If the owner, occupant or person in charge of any parcel or lot which fronts upon or adjoins any sidewalk shall fail to keep said sidewalk clear of snow and ice as set forth in Subsection (a), the Director of Engineering and Public Works or City law enforcement officers shall take the following action:

(1) Hazardous Conditions. If the Director of Engineering and Public Works or City law enforcement officer determines that the failure to remove the snow and ice from the sidewalk creates an immediate danger to the public health and/or safety, he shall

cause the issuance of a written notice to the owner, occupant or person in charge of any parcel or lot directing that the snow and ice be removed within two (2) hours from the delivery of the notice. In the event the property owner, occupant or person in charge of said parcel or lot is unavailable to receive a written notice, the Director of Engineering and Public Works or police officer shall immediately cause the removal of the snow and/or ice. The Director of Engineering and Public Works or police officer shall send a written notice to the last-known address of the property owner notifying him that a hazardous condition existed which required immediately abatement.

(2) Non-Hazardous Conditions. If the owner, occupant or person in charge of the subject parcel or lot fails to remove the snow within the time period established in Subsection (a), the Director of Engineering and Public Works or police officer shall cause the issuance of a written notice to said owner, occupant or person in charge of the subject parcel or lot directing the responsible person (as defined) to remove said snow and ice no later than 12:00 Noon of the day following the issuance of said notice. The written notice shall be hand delivered when possible or mailed to the last-known address of the owner of the subject property as identified on the records in the City Clerk's office.

(3) Snow and Ice Not to Encroach. No person shall push, blow, shove or in any way deposit any snow or ice onto any public streets, alley, sidewalk or public lands dedicated to public use except for parcel or lots located where existing buildings are constructed within five (5) feet of the street right-of-way and the sidewalks exist from the City right-of-way to the curb line. In such instances, the owners, occupants and/or employees of parcels or lots shall be permitted to deposit snow and ice from their sidewalks onto the public streets

(c) **Enforcement.** The Director of Engineering and Public Works, his designees and all sworn police officers are hereby authorized and directed to enforce the provisions of this Section.

(d) **Continued Violations.** Each twenty-four (24) hour period where a violation occurs shall constitute a separate offense under this Section for enforcement purposes. Repeated violations or subsequent additional accumulations of snow and/or ice shall not nullify any pending notice issued under this Section.

(e) **Abatement After Notice.** Failure of the owner, occupant or person in charge of any parcel or lot to cause the removal of snow and/or ice within the time established under Subsection (b)(1) and (2) after receiving a written notice shall result in the Director of Engineering and Public Works causing the removal of said snow and/or ice.

(f) **Expense.** An account of the expenses incurred by the City to abate the snow and/or ice hazard shall be kept and such expenses shall be charged to and paid by the parcel or lot owner. Notice of the bill for the removal of snow and/or ice shall be mailed to the last-known address of the owner of the parcel or lot and shall be payable within ten (10) calendar days from the receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax

as provided by Sec. 66.615(5), Wis. Stats.

(g) **Penalty.** In addition to the provisions set forth in this Section, any person, firm or corporation who violates the provisions of this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

State Law Reference: Sections 66.60(16) and 66.615(3)(f) and (5), Wis. Stats.

SEC. 6-2-8 PARKWAY AREAS.

(a) **Definition.** The definition of "parkway" shall be as defined in Section 6-4-2(e).

(b) **Noxious Weeds; Paving.** All that part of the parkway not covered by a sidewalk shall be kept free and clear of all noxious weeds and shall not be paved, surfaced or covered with any material which shall prevent the growth of plants and shall be maintained as a lawn, except in areas specifically approved by the Common Council or its designee.

(c) **Responsibility to Maintain.** Every owner of land in the City whose land abuts a parkway is required to maintain, or have maintained by his tenant, the terrace directly abutting such land as provided in this Section and elsewhere in this Code. Every owner shall keep mailboxes located on a terrace free and clear of snow.

(e) **Injuring Grass Plots, Etc. Prohibited.** No person shall injure a grass plot, flower bed, tree, shrub, lamppost, signpost or street lamp within the public right-of-way

(e) **Canopies, Etc., Prohibited.** No canopy, awning or any portion of any building or any structure of any kind shall be erected or maintained over, under or upon any sidewalk or pedestrian way without written permission of the Plan Commission.

Cross Reference: Title 6, Chapter 4.

SEC. 6-2-9 VAULTS.

All vaults and cisterns under sidewalks shall be prohibited.

SEC. 6-2-10 DOWNSPOUTS AND EAVES OF BUILDINGS NOT TO DRAIN ON SIDEWALKS.

No downspouts from any building shall terminate on or upon, or in such position that the contents of such spout be cast upon or flow back or over any public sidewalk in the City. When the eaves of a building extend over or are so constructed that water may fall therefrom or run back upon any public sidewalk, such eaves shall be so protected by proper spouts or otherwise that no water shall fall or drain therefrom or run back upon or over any public sidewalk. The owner or owners of any building and the officers of any association or corporation owning any building on which any spouts or the eaves thereof shall be maintained contrary to this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances.

SEC. 6-2-11 SALE OR DISPLAY OF MERCHANDISE PROHIBITED; EVENT VENDING PERMIT.

(a) **Street Sales Prohibited Except by Permit.** No person shall display, sell or offer to sell on any street, sidewalk, alley or other public place within the City any goods, wares, foodstuffs or anything of value or service of any kind by putting up a booth or stopping a vehicle or person on foot or in any other manner attempting to publicly sell or offer for sale any such articles, unless such person shall have first applied for and obtained a special event vending permit from the City Clerk. A special event is a city-wide event such as Maxwell Street Days and Ridikulous Days. Sponsoring organizations may apply as agent for their members obtaining a group permit for a particular special event. (Ord. 90-21)

(b) **Procedure.**

(1) Application for a special event vending permit to be conducted on public street rights-of-way shall be filed with the City clerk and shall contain such information as the City Clerk may require. The license shall cover a period of no more than four (4) consecutive days. A separate permit shall be required for each special event. Licenses shall be signed by the City Clerk. Licenses applied for by individuals shall be conspicuously displayed at the place where such sales are being made. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. Applications for group permits shall include a complete list of sponsors and participants at the time of making application. (Ord. 90-21)

(2) The City Clerk shall review the application and either deny the permit, approve the permit or approve the permit conditionally. There shall be a Ten Dollar ($10.00) fee for such permit. (Ord. 90-21) (Ord. 92-20) (Ord. 93-32)

(c) **Conditions of License.** In addition to any other conditions imposed by the Common Council, all permittees shall fully comply with the following requirements:

(1) Liability Insurance. To hold a valid permit, the vendor must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees and agents harmless and to indemnify and defend the City, its employees and agents against all claims, liability, loss, damage or expense incurred by the City with adequate liability policy limits on account of any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a Certificate of Insurance in an amount prescribed in the City's Schedule of Insurance Requirements evidencing the existence of comprehensive general liability insurance (including contractual liability insurance with the City being named as an additional insured). The Certificate of Insurance shall provide thirty (30) days' written notice to the City upon cancellation, or nonrenewal or material change in the policy. Proof of insurance shall be submitted to the City Clerk a minimum of seven (7) days before

the start of the event.

(2) Cooperation with Law Enforcement Officials. To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police for his review and approval a minimum of seven (7) days before the start of the event.

(3) Clean-up. The permittee shall be fully responsible for all necessary cleanup associated with the licensed event.

(4) Compliance with Other Regulations. The permittee shall comply with all applicable state and county regulations governing health and sanitation for establishments, if applicable, and any other applicable City regulations, including, but not limited to, regulations pertaining to the issuance of Special Class "B" Fermented Malt Beverage Licenses.

SEC. 6-2-12 REQUESTS FOR IMPROVEMENTS.

Requests or petitions by City property owners for new streets, street resurfacing, curb and gutter, storm sewers, utility work and sidewalks shall be presented to the Board of Public Works on or before September 1st to be considered for installation in the following year.

SEC. 6-2-13 UNIFORM STREET ADDRESS SYSTEM.

(a) **System Established.** There is hereby established a uniform system of numbering properties fronting on all streets, highways and rights-of-way in the City of Cedarburg, and all existing residences and places of business and all residences and places of business which are hereafter constructed shall be numbered in accordance with the provisions of this Section.

(b) **Base Lines.** (Ord. 92-30)

(1) Base lines, as recommended for a uniform City and Town system, shall be used for determining the numbering in the City and Town of Cedarburg. The east-west base line, being Pioneer Road, as recommended, shall be used for numbering along all streets running north and south. This base line shall be a continuation of the east-west base line used in the Town of Cedarburg and shall be the south bottom line of Sections 31 to 35 inclusive. Its numerical designation shall be N. 100. All properties immediately north of and facing the east-west base line, and south of the east-west base line shall carry a number indicating its position following the Mequon numbering system. A north-south base line, as recommended, shall be used for numbering along all streets running in a westerly direction. This base line shall be the eastern boundaries of the Town of Cedarburg, Sections 2, 11, 14, 23, 26, 35 and its numerical designation shall be W. 4300.

(2) Each property north of the east-west base line and facing a street running in a northerly direction shall carry an address indicating its position west of the north-

south base line and its position north of the east-wide line.

(3) Each property west of the north-south base line and facing a street running in a westerly direction shall carry an address indicating its position north of the east-west base line and its position west of the north-south base line, except for those properties adjacent to and facing the east-west base line.

(4) Properties on diagonal or curvilinear streets shall be numbered the same as, or similar to, properties on northerly or southerly streets if the diagonal or curvilinear streets run more from the north to the south. The same shall hold for diagonal or curvilinear streets which run more from the east to the west in that properties on such streets shall be numbered the same as, or similar to, properties on westerly streets.

(5) Where the general direction of the diagonal or curvilinear street has a deviation of exactly forty-five (45) degrees, the direction of the street shall be considered as being northerly.

(c) **Rectangular Blocks.** A system of invisible rectangular blocks shall be established as a control grid in the following manner in conformity with the recommended uniform Town of Cedarburg address system:

(1) The established section lines shall form a basis for the block system and in a westerly direction from the eastern boundary of the Town of Cedarburg, Sections 2, 11, 14, 23, 26 and 35 shall be divided into seventeen (17) blocks each; Sections 3, 10, 15, 22, 27 and 34 shall be divided into sixteen (16) blocks each; Sections 4, 9, 16, 21, 28 and 33 shall be divided into fifteen (15) blocks each; Sections 5, 8, 17, 20, 29 and 32 shall be divided into fifteen (15) blocks each; Sections 6, 7, 18, 19, 30 and 31 shall be divided into seventeen (17) blocks each. These invisible block lines shall have numerical designations of from 4300 to the east line to 12300 at the west line.

(2) In a northerly direction from the east-west base line, the numerical designation shall be divided into four (4) equal blocks each. These invisible block lines shall have numerical designations of from N. 100, the base line which is Pioneer Road, to No. 2500 at the north Town of Cedarburg line.

(3) In a southerly direction from the east-west base line, the numerical designation shall be a continuation of the Mequon numbering system.

(d) **Block Numbers.**

(1) One hundred numbers shall be assigned to each invisible block, regardless of discrepancies in block sizes. Properties on the north and east sides of streets shall bear even numbers and properties on the south and west sides of streets shall bear odd numbers.

(2) The number assigned to each property shall be composed of two (2) parts. The first part, or street designation, shall be composed of a directional letter, "N" or "W," followed by the number of the appropriate block line expressed by a multiple of ten and represented by two (2) or three (3) digits. (Ord. 92-30)

(3) The second part of the property number, the block and house designation, shall be composed of a directional letter followed by the number of the appropriate block line plus two (2)

additional digits indicating the relative position of the property in the block.

(4) For a block which lies south of the east-west base line, the designation shall be a continuation of the Mequon numbering system.

(5) Properties and street intersections contained within any block shall bear numbers and directional letters related to the point of intersection of the block boundary lines stipulated in Subsections (b) and (c) above.

(e) **Property Number.** The point from which any property shall be assigned its proper number shall be determined as follows:

(1) Where land has been subdivided or platted into lots, the center point of the frontage line of each parcel shall be the point of determination.

(2) In cases of farm residences or other residences of business places situated on large acreage or away from other development, the point of determination shall be the intersection of the centerline of the principal driveway with the street or highway right-of-way line.

(3) The proper number shall be determined and assigned by the Building Inspector or his authorized agent.

(f) **Street Names.**

(1) Streets which are extensions of streets in Milwaukee County shall bear the name by which they are known in that county, excepting that directional prefixes shall be north.

(2) All numerical street names shall be abandoned and other names substituted.

(3) A list shall be compiled by the Assessor of all existing street names in the City of Cedarburg, and no future street shall be given a name which duplicates or approximates an existing name. Cooperation shall be sought with all towns and municipalities in the County to the end that duplication of street names shall be minimized.

(4) The City of Cedarburg shall cooperate with neighboring towns, villages and cities to the end that streets which are continuous from one municipality or town to another municipality or town may have but one name when such single name would be desirable.

(5) The Plan Commission shall have authority to accept or reject proposed names of new streets and of plats within the extra territorial plat approval of the City of Cedarburg or, where there is clearly a conflict or duplication in existing names, may direct the changing of one (1) or more new such names so that conflict or duplication may be minimized. Such Commission, if it sees fit, may hold public hearings at which interested property owners may express their views concerning the naming or renaming of a street or streets.

(g) **Assignment of Numbers.**

(1) For the purpose of facilitating the establishment and continuing workability of a uniform address system in the City of Cedarburg, there shall be prepared and kept on file in the office of the Clerk a plat book showing the proper addresses of all

residences and places of business within the City. It shall be the duty of the Building Inspector to inform any person applying therefor of the number or numbers and approved street names belonging to a lot or property. In case of doubt as to the proper address belonging to any property, the Building Inspector shall make the final determination.

(2) Within thirty (30) days after the final approval of any new subdivision or other division of land, the City Engineer shall assign addresses to each new building site. Records shall be kept of the assignments and numbers shall be provided for the developer at his request. (Ord. 90-23)

(h) **Installation of Numbers.**

(1) When the necessary survey has been completed and each residence and place of business has been assigned its respective number, the owner, occupant or agent shall install or cause to be installed in a conspicuous place upon the premises occupied by each house or place of business controlled by him, the number or numbers assigned under the uniform address system provided for by this Section.

(2) Numbers shall be installed within thirty (30) days from the date of assignment or immediately upon issuance of occupancy permit.

(3) Numbers shall be supplied by the Building Inspector at a cost of $15 a set if they are the original numbers and shall be installed by the owner in a conspicuous place. (Ord. 91-37)

(4) Numbers shall be conspicuously placed immediately above or at the side of the proper door of each building so that the number can be seen plainly from the street. Whenever any building is situated more than seventy-five (75) feet from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gate post, fence, post or other appropriate place so as to be easily discernible from the street. Numbers shall be placed not less than two (2) feet nor more than ten (10) feet above the surface of the ground and shall not be obscured by trees, landscaping or shrubbery.

(5) Numbers shall be not less than three (3) inches in height nor less than two (2) inches in width. Numbers shall have a contrasting background.

(6) Any use of script numbers shall be in addition to the use of numerals.

(i) **Responsibility of Owner.** Whenever any residence or place of business shall be erected in the City of Cedarburg after the work of establishing a uniform address system has been completed, it shall be the duty of the owner at the time of obtaining a building permit to procure the correct number and street name from the Building Inspector and, upon occupancy, to install the number on the building or premises as provided in Subsection (h).

(j) **Violations.** If the owner or occupant of any residence or place of business shall neglect for the period of thirty (30) days to duly attach and maintain the proper number on such premises, the Building Inspector shall serve upon him a notice requiring such owner or occupant to properly number the premises. If the owner or occupant neglects to do so after service of such notice and a period of ten (10) days elapses, he shall be deemed to have

violated this Section and shall be subject to a forfeiture as provided in Section 1-1-7.

CHAPTER 3

Driveways

6-3-1 Driveways
6-3-2 Permittee Liable for Damage or Injury

SEC. 6-3-1 DRIVEWAYS.

(a) **Permit Required.**

(1) Purpose. For the safety of the general public, the City shall determine the location, size, construction and number of access points to public roadways within the City limits. It is the City's intent to provide safe access to properties abutting public roadways suitable for the property to be developed to its highest and best use, provided that access is not deficient or dangerous to the general public.

(2) Permit Requirements. Unless otherwise permitted by resolution of the Common Council, upon written application giving the reason therefor, no person shall construct, repair or reconstruct any driveway located within the public right-of-way without having first obtained a permit from the City Engineer and paying the current fee as established by the Common Council. Such permit shall be issued upon an application form provided by the City and shall contain such information as the City Engineer or his designee shall deem necessary; issuance shall be conditioned upon complete compliance with the provisions of this Chapter. (Ord. 92-54)(Ord. 2011-01)

(b) **Installation Requirements.**

(1) Street Openings. Openings for vehicular ingress and egress shall not exceed eighteen (18) feet at the right-of-way line and twenty (20) feet at the curb for less than three car garages and twenty-four (24) feet at the right-of-way line and twenty-six (26) feet at the curb for garages for three or more cars in residential districts and shall not exceed thirty (30) feet at the right-of-way line and thirty-five (35) feet at the curb in all other zoning districts. (Ord. 90-50)

(2) Location. No driveway shall be closer than ten (10) feet to the extended street line at an intersection. At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the City for effective traffic control or for highway signs or signals. Vehicular entrances and exits to drive-in theaters, banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place of public assembly.

(3) Drainage. No driveway apron shall extend out into the street further than the facing of the curb and under no circumstances shall such driveway apron extend into any

gutter area. All driveway entrances and approaches shall be so constructed as not to interfere with the drainage of streets, side ditches or roadside areas or with any existing structure on the right-of-way. When required by the City Engineer so as to provide for adequate surface water drainage along the abutting street, the property owner shall provide any necessary culvert pipe at such owner's expense.

(4) Required Surfacing. All one (1) or two (2) family homes either completed or occupied after December 8, 1980, shall be required to have either a portland concrete or asphalt driveway installed within one (1) year after occupancy.

(5) Islands. Islands between driveway openings shall be provided with a minimum of six (6) feet between all driveways and three (3) feet at all lot lines except that driveway islands shall not be required between lots abutting a cul-de-sac or between vacant nonconforming lots meeting the minimum requirements set forth in the City Zoning Code.

(6) Curb Openings. When a new curb opening is to be made, the property owner shall have the option of removing the entire curb and gutter and pouring a new concrete gutter section with curb opening, or removing the vertical face of the curb through the use of a carriage mounted, large diameter, precision concrete saw, in accordance with the specifications on file in the office of the City Engineer. (Ord. 2004-03)

(7) Number. No more than one (1) driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible without the impairment of safety, convenience and utility of the street by the Plan Commission. Driveway approaches shall be at least ten (10) feet apart except by special permission from the City Engineer, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the City Engineer necessary before any utility may be relocated and the driveway installed.

(8) Construction Across Sidewalks. All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in Section 6-2-2(d) of this Code insofar as such requirements are applicable, including thickness requirements in Section 6-2-2(d).

(c) **Permit Applications**. Permit applications shall be made at least twenty-four (24) hours in advance of intended installation but this shall not be deemed to be a limitation of time within which a permit must be granted, and the City Engineer shall have such time as reasonably necessary for examination and consideration of any application before granting the permit. The City Engineer may hold the application in abeyance, when necessary, pending review and action by the Public Works Commission.

SEC. 6-3-2 PERMITTEE LIABLE FOR DAMAGE OR INJURY.

The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during construction or repair of driveway approaches or entrances.

When curb or gutter is removed, the new construction shall be of equivalent acceptable material and curb returns provided or restored in a neat, workmanlike manner. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner.

CHAPTER 4

Trees and Shrubs

6-4-1 Statement of Policy and Applicability of Chapter
6-4-2 Definitions
6-4-3 Authority of City Forester to Enter Private Premises
6-4-4 Interference with City Forester Prohibited
6-4-5 Abatement of Tree Disease Nuisances
6-4-6 Assessment of Costs of Abatement
6-4-7 Permit for Planting, Maintenance and Removal of Trees and Shrubs
6-4-8 Planting of Trees and Shrubs
6-4-9 Trimming
6-4-10 Trees and Shrubbery Obstructing View at Intersections or View of Traffic Signs
6-4-11 Removal of Trees and Stumps
6-4-12 Prohibited Acts
6-4-13 Appeal from Determinations and Orders
6-4-14 Tree Preservation
6-4-15 Adoption of State Statutes

SEC. 6-4-1 STATEMENT OF POLICY AND APPLICABILITY OF CHAPTER.

(a) **Intent and Purpose.** It is the policy of the City to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the City to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas; to promote and enhance the beauty and general welfare of the City; to prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and to guard all trees and shrubs both public and private within the City against the spread of disease, insects or pests.

(b) **Application.** The provisions of this Chapter shall apply to trees and shrubs growing or hereafter planted in or upon public areas and parkway areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.

SEC. 6-4-2 DEFINITIONS.

Whenever the following words or terms are used in this Chapter, they shall be construed to have the following meanings:

(a) **Person.** "Person" shall mean person, firm, association or corporation.

(b) **Public Areas.** "Public Areas" includes all public parks and other lands owned, controlled or leased by the City except the parkway areas.

(c) **Public Trees and Shrubs.** "Public Trees and Shrubs" means all trees and shrubs located or to be planted in or upon public areas.

(d) **Public Nuisance.** "Public Nuisance" means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; infected with a plant disease; infested with injurious insects or pests; injurious to public improvements or endangers the life, health, safety or welfare of persons or property.

(e) **Parkway or Terrace Areas.** "Parkway or Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area four feet from the curb line shall be deemed to be a parkway for the purpose of this Chapter. "Parkway" shall have the same meaning as "terrace" or "boulevard." Where there are only sidewalks, the area four (4) feet from the curb shall be deemed boulevard areas under this Chapter.

(f) **Major Alteration.** Trimming a tree beyond necessary trimming to comply with this Chapter.

(g) **Shrubs.** "Shrubs" shall mean any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

(h) **Tree.** "Tree" shall mean any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of sixteen feet or more.

(i) **Evergreen Tree.** "Evergreen Tree" shall mean any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

(j) **City Forester.** Person designated by the Common Council as authorized to carry out provisions of this Chapter.

SEC. 6-4-3 AUTHORITY OF CITY FORESTER TO ENTER PRIVATE PREMISES.

(a) The Common Council may designate a municipal employee or citizen to perform the duties of City Forester under Chapter 27, Wis. Stats., and may authorize such City Forester to perform the duties and exercise the powers imposed on the Common Council by this Chapter. The City Forester shall annually be appointed by the Mayor, subject to Council confirmation, at the Council's organizational meetings. The City Forester shall receive administrative guidance from and be responsible to the Director of Engineering and Public Works.

(b) The City Forester or his authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this Chapter.

SEC. 6-4-4 INTERFERENCE WITH THE CITY FORESTER PROHIBITED.

No person shall interfere with the City Forester or his authorized representative while they are engaged in carrying out any work or activities authorized by this Chapter.

SEC. 6-4-5 ABATEMENT OF TREE DISEASE NUISANCES.

(a) **Dutch Elm and Other Tree Diseases a Public Nuisances.** Whereas the Common Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the City, and that the health and life of such trees is threatened by fatal diseases such as Dutch Elm disease, which is spread by the elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.), the Common Council hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such diseases and specifically declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.

(b) **Definitions**. As used in this Section, unless otherwise clearly indicated by the context:

(1) "Public Nuisance" means:

a. Dutch Elm disease.

b. Elm bark beetles Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).

c. Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition which harbors any of the elm bark beetles, Scolytus multistriatus (Eichb.) or Hylurgopinus rufipes (Marsh.).

d. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.

e. Any other deleterious or fatal tree disease.

f. Any tree or part thereof which by reason of its condition and location is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the parkway.

g. Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.

(2) "Public property" means owned or controlled by the City, including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the parkway or improved portion of any public way.

(3) "Person" means person, firm or corporation.

(c) **Inspection.**

(1) The City Forester shall inspect or cause to be inspected all premises and places

within the City to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any elm tree reported or suspected to be infested with the Dutch Elm disease or any elm bark bearing materials reported or suspected to be infested with elm bark beetles.

(2) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens to the City Forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.

(3) The City Forester and his agents or employees shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this Section.

(d) **Abatement of Nuisances; Duty of City Forester.**

(1) The City Forester shall order, direct, supervise and control the abatement of Public nuisances as defined in this Section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus, other deleterious tree diseases or the insect pests or vectors known to carry such diseases.

(2) Whenever the City Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the City, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease, other deleterious tree diseases, or the inspect pests or vectors known to carry such disease fungus.

(3) a. When the City Forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the City, the City Forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the City.

b. If, after hearing held pursuant to this Subsection, it shall be determined by the Common Council that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance

as directed within thirty (30) days after such hearing, the City Forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this Section. The City Forester may extend the time allowed the property owner for abatement work but not to exceed thirty (30) additional days. (Ord. 94-13)

c. Notwithstanding the foregoing Subsections (d)(3)a and b, if the City Forester determines that any public nuisance as herein defined exists in or upon private premises and that the danger to other trees or foliage within the City is imminent, he shall immediately serve upon the owner of such property, if he can be found, or upon the occupant thereof, notice to abate such nuisance within thirty (30) days of the service of said notice. If, in the opinion of the City Forester, this removal period creates undue financial hardship or limits the practicality of obtaining timely removal services, the City Forester may extend the removal period to sixty (60) days. If such owner or occupant does not abate said nuisance within the time permitted, the City Forester shall cause the same to be abated. No damage shall be awarded to the owner for the destruction of any tree, wood foliage, or any part thereof pursuant to this Section. (Ord. 94-13)

(e) **Spraying or Inoculation.**

(1) Whenever the City Forester shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, he may cause all trees within a one thousand (1,000) foot radius thereto to be sprayed or inoculated with an effective disease destroying concentrate or other insecticide.

(2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this Section, the City Forester shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least twenty-four (24) hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the City Forester shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least twenty-four (24) hours in advance of spraying operations.

(3) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection (b) of this Section, the City shall not allow any claim for damages to any vehicle caused by such spraying operations

(4) When trees on private property are to be inoculated or sprayed, the City Forester shall

notify the owner of such property and proceed in accordance with the requirements of Subsection (d)(3).

SEC. 6-4-6 ASSESSMENT OF COSTS OF ABATEMENT.

(a) The cost of abating any public nuisance or spraying or inoculating trees located in the parkway as defined herein shall be borne by the City.

(b) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises when done at the direction and under the supervision of the City Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:

(1) The City Forester shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Common Council on or before October 15 of each year.

(2) Upon receiving the City Forester's report, the Council shall hold a public hearing on such proposed charges, giving at least fourteen (14) days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.

(3) After such hearing, the Common Council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.

(4) The City Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last-known address, stating that, unless paid within thirty (30) days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.

(5) The City hereby declares that, in making assessments under this Section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood or part thereof

SEC 6-4-7 PERMIT FOR PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS.

(a) **Permit Required.** No person, except upon order of the City Forester, shall plant or remove, or perform major alterations as determined by the Forester on a tree or shrub in the public right-of-way parkway area or cause such act to be done by others without first obtaining a

written permit for such work from the City Forester as herein provided. The applicant shall comply with the planting standards of Section 6-4-8

(b) **Permit Exemptions.** No permit shall be required to cultivate, fertilize or water trees or shrubs or for work by City personnel on park properties. No permit is necessary to plant trees inside the property line.

(c) **Permit Requirements and Conditions.** If the City Forester determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this Chapter, taking into account the safety, health and welfare of the public, location of utilities, public sidewalk, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological need of the genus, species and variety of tree or shrub, he shall issue a permit to the applicant.

(d) **Permit Form; Expiration; Inspection.** Every permit shall be issued by the City Forester on a standard form and shall include a description of the work to be done and shall specify the genus, species and variety, size, nursery grade and location of trees or shrubs to be planted, if any. Any work under such permit must be performed in strict accordance with the terms thereof and the provisions of this Chapter. Permits issued under this Section shall expire six (6) months after date of issuance. There will be no charge for this permit.

(e) **Permits to Public Utilities.**

(1) Whenever a permit is issued under this Section to a public utility to remove, trim, prune, cut, disturb, alter or perform surgery on any public tree or shrub, the City Forester shall limit the work to be done to the actual necessities of the utility and may assign an inspector to supervise the work done under the provisions of the permit. The expense of such inspection or supervision shall be charged to the utility at the usual City rate.

(2) A public utility may secure an annual working agreement with the City Forester's office which gives the City Forester the authorization to supervise and direct work associated with trees and shrubs.

SEC. 6-4-8 PLANTING OF TREES AND SHRUBS.

(a) **Purpose.** The Common Council hereby states its determination that the planting, care and protection of the trees within the City is desirable for the purposes of beauty, shade, comfort, noise abatement and economic betterment, and hereby encourages all persons to assist in a program of tree planting, care and protection.

(b) **Tree Planting Program.** The City Forester shall recommend to the Common Council a program for tree planting, care and protection for public parks. The Council shall also encourage the planting, care and protection of trees and shrubs on private premises within the City.

(c) **Planting.**

(1) The size and genus, species and variety of trees and shrubs to be planted in parkways

and the manner of planting shall be submitted to the City Forester for approval before commencement of such work. The permit application process is required in Section 6-4-7.

(2) There shall be a minimum distance of sixteen (16) feet and a recommended distance of twenty-five (25) to fifty (50) feet between terrace area trees depending upon the size of tree and other factors. Parkway trees shall be planted equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In parkway areas less than three (3) feet wide, planting will not be permitted. Parkway-area trees shall be a minimum of twenty-five (25) feet from an intersection.

(3) Evergreen trees shall not be planted in a parkway area.

(4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within parkway areas whose growth is in excess of eight (8) inches in height above the top of the nearest curb.

(5) Tree grates shall be provided for parkway trees surrounded by concrete by the adjacent property owner and shall be level with adjacent concrete.

(d) **Unlawfully Planted Trees.** Trees, plants or shrubs planted within any parkway or planting easement without the authorization and approval of the City Forester may be removed. The City Forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs, ordering their removal, and establishing a reasonable time within which such removal shall be accomplished. In the event that removal is not to be accomplished within the time specified, the City may remove such trees, plants or shrubs and assess the costs thereof to the owner.

(e) **Frames.** Any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may, for the propose of protecting such tree or shrub, surround the same with a suitable box or frame for protection, but all such work shall be performed under the supervision and direction of the City Forester.

SEC. 6-4-9 PRUNING (Ord. 2004-17)

(a) The necessity of pruning trees and shrubs standing in or upon any public area or upon any private premises adjacent to any public area shall be determined by the City Forester or the Director of Parks and Recreation.

(b) Streets and Alleys: Trees and shrubs shall be kept pruned by the owner of the property so that branches shall not be permitted to overhang streets and alleys at such a height that in the opinion of the City Forester interfere with vehicle traffic.

(c) Sidewalks and Pathways: Trees and shrubs shall be kept pruned by the owner of the property so that branches shall not be permitted to overhang sidewalks or pathways at such a height that in the opinion of the City Forester interfere with pedestrian traffic.

(d) Street Lights and Signs: No tree or shrub shall be permitted to grow in such a manner as to obstruct light from a street light or obscure public signage of any kind.

(e) The City shall have the right, but not the obligation, to prune any tree or shrub on private

property that is in violation of this ordinance when the owner fails to do so after notice, or when public safety and welfare requires that the pruning occur immediately.

SEC. 6-4-10 TREES AND SHRUBBERY OBSTRUCTING VIEW AT INTERSECTION OR VIEW OF TRAFFIC SIGNS.

(a) Notwithstanding any other provision of this Chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two (2) or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.

(b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the City. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

(c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel and the City Forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk, to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten (10) days of receipt of notice, to take such necessary steps, the Director of Engineering and Public Works employees shall order the City employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.

(d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the City Forester as specified in Subsection (c) above shall, upon conviction thereof, be subject to a forfeiture as established in Section 1-1-7 of this Code of Ordinances.

SEC. 6-4-11 REMOVAL OF TREES AND STUMPS.

(a) **Dangerous, Obstructive and Infected Trees.** Any tree or part thereof, whether alive or dead, which the City Forester shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the City, or to be injurious to public sewers, sidewalks or other public improvements whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The City Forester shall give written notice to said owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than twenty-four (24) hours nor more than fourteen (14) days as determined by the City Forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limited, the City Forester shall cause the tree to be removed,

treated or trimmed and shall report the full cost thereof to the City Clerk who shall thereupon enter such cost as a special charge against the property.

(b) **Removal Standards.** In cutting down trees located in public and parkway areas, the tree must be removed with the root stump grubbed out, or ground out to a depth of at least nine (9) inches below grade measured in a straight line with the normal grade of sidewalk to top of nine (9) inches below grade measured as a straight line, normal grade of sidewalk to top of curb. All wood and debris must be removed from the street prior to the end of each working day and all holes shall be filled to normal grade level with topsoil as soon as practicable.

(c) **Private Removal.** No person, firm, organization or corporation shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the City Forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the City Forester, because of disease, damage, hazardous condition, and/or location, or its location is such that substantial detriment is done to the property upon which the tree or shrub stands, or property abutting the same. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.

SEC. 6-4-12 PROHIBITED ACTS.

(a) **Damage to Public Trees.** No person shall, without the consent of the owner in the case of a private tree or shrub, or without written permits from the City Forester in the case of a parkway-area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:

(1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.

(2) Break injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.

(3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the same.

(4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.

(5) Attach any sign, poster, notice or other object on any tree, or fasten any guy wire, cable, rope, nails screws or other device to any tree; except that the City may tie temporary "no parking" signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.

(6) Cause or encourage any fire or burning near or around any tree.

(7) Damage a parkway-area tree with any vehicle.

(b) **Excavations.** All trees on any parkway or other publicly owned property near any excavation or construction of any building structure or street work shall be sufficiently

guarded and protected by those responsible for such work as to prevent any injury to said trees. No person shall excavate any ditches, tunnels or trenches, or install pavement within a radius of ten (10) feet from any public tree without a permit from the City Forester.

(c) **Interference With City Forester.** No person shall:

(1) Interfere with or prevent any acts of the City Forester or his agents or employees while they are engaged in the performance of duties imposed by this Section.

(2) Refuse to permit the City Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this Section.

(d) **Refusal to Abate Nuisance.** No person shall permit any public nuisance to remain on any premises owned or controlled by him when ordered by the City Forester to abate such nuisance. Persons found to be in violation of this Section shall be subject to the general penalty provisions of Section 1-1-7.

SEC. 6-4-13 APPEAL FROM DETERMINATIONS OR ORDERS. (Ord. 2007-20)

Any person who receives a determination or order under this Chapter from the City Forester and objects to all or any part thereof shall have the right to appeal such determination or order, subject to the provisions of Chapter 68, Wis. Stats., to the Park and Forestry Board within seven (7) days of receipt of the order and the Park and Forestry Board shall hear such appeal within thirty (30) days of receipt of written notice of the appeal. After such hearing, the Park and Forestry Board may reverse, affirm or modify the order or determination appealed from and the grounds for its decision shall be stated in writing. The Park and Forestry Board shall, by letter, notify the party appealing the order or determination of its decision within ten (10) days after the hearing has been concluded. The Park and Forestry Board shall file its written decision with the City Clerk.

SEC. 6-4-14 TREE PRESERVATION (Ord. 2001-52)

(a) **Purpose and Intent.**

(1) Cedarburg recognizes that trees and woodlands help to reduce storm water runoff and erosion, replenish ground water supplies, preserve wildlife habitats, enhance and preserve air quality, the climate, the environment, protect property values and provide educational and recreational opportunities.

(2) Cedarburg also recognizes that preservation and/or replacement of trees during the land development/building construction process is a public benefit and in the interest of preserving the health and welfare of the people.

(3) This ordinance applies to all land disturbance activity on undeveloped property, which has been recently annexed to the City or is in the process of being annexed for development. It shall be applied to such lands in their pre-development condition through the process of reviewing and approving land divisions, site plan approvals and subdivision development. Said development activity shall comply with the Tree Preservation ordinance and implementing regulations.

(4) This ordinance shall not apply to lands after their initial development has occurred.

(b) **Definitions**

(1) **Superintendent of Parks and Forestry** is designated as the "City Forester" per the meaning in Sec. 6-4-3.

(2) **Diameter at Breast Height (DBH)**: A standard measure of tree size. A tree trunk diameter measured at a height of four and on-half (4 ½) feet above the ground. If a tree splits into multiple trunks below the 4-½ foot mark, then the trunk is measured at its most narrow point beneath the split.

(3) **Land Disturbance Activity**: Any manmade change of the land surface including removal of a tree(s) or vegetative cover, excavation, filling, and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops.

(4) **Development Site**: Any area in the process of annexation; any undeveloped property already annexed, any area subject to land division, condominium or subdivision development.

(5) **Natural Areas**: Any area found on a parcel of land that includes but may not necessarily be limited to one of the following: wooded areas (trees, shrubs, etc), undisturbed areas, prairies, wetlands and natural ecosystems.

(6) **Undeveloped Property:** Lands, which are devoid of structures above and below the ground. (Note: Structures shall be as defined in Section 12-1-240(141) of the Zoning Code.)

(7) **Specimen Tree (s):** Any tree or grouping of trees which has been determined to be of high value by the Superintendent of Parks and Forestry because of its size (24" or greater DBH), age, historic significance or other professional criteria.

(8) **Tree:** Any self supporting woody plant having a well-defined stem, a well-defined crown and has attained a height of at least eight feet with a trunk of not less than three (3) inches diameter at breast height (DBH). Or, a cluster of main stems having an aggregate diameter of not less than three (3) inches DBH. (Note: Containerized trees and nursery stock in licensed commercial nurseries are exempt from the provisions of this ordinance.)

(9) **Tree Preservation Guidelines and Administrative Standards**: The implementing regulations established by the Park and Forestry Board and published by the Park and Recreation Department to be used by the Superintendent of Parks and Forestry, developers and residents of Cedarburg in identifying, preserving and protecting specimen and other trees.

(c) **Applicability**

(1) The terms of this ordinance shall apply to all proposed land disturbance activity occurring on undeveloped/unplatted annexed property and property in the process of being annexed, or platted property associated with a land division, other condominium and subdivision development including but not limited to residential, commercial, industrial, and institutional uses except as otherwise noted herein.

(2) With the submission of a preliminary plat or certified survey map, the developer/owner must identify and delineate all natural areas and indicate the approximate average DBH and the range of DBH sizes found in each natural area.

(3) Provisions of this ordinance shall not apply to the following:

a. Lots developed and platted prior to the adoption of this ordinance

b. Lots for which a building permit has been issued for principal structures or principal use

c. Projects initiated by the City, as determined by the Common Council on a case-by-case basis, where the public good and/or health and welfare are a concern (including but not limited to installation of sanitary sewer, public roads, drainage improvements)

(d) **Permit Procedure**

(1) The developer/owner shall submit a landscape plan in conjunction with the proposed development or land disturbance as specified in the Tree Preservation Guidelines. The landscape plan shall be submitted to the Superintendent of Parks and Forestry, Park and Recreation Department and Plan Commission or Park and Forestry Board, as applicable, for review. The Superintendent of Parks and Forestry may be requested to inspect the designated site for specimen and/or other trees for the purpose of preservation.

(2) Based upon the Superintendent of Parks and Forestry inspection and review of the land disturbance, preliminary plat or certified survey map (and landscape plan submitted for subdivision development, as required in the Tree Preservation Guidelines), the Superintendent of Parks and Forestry and/or Plan Commission, as applicable, may suggest a modification and/or alternate location for site development, if in their opinion it may preserve trees in accordance with this ordinance and the Tree Preservation Guidelines. This recommendation shall be in writing.

(3) The Superintendent of Parks and Forestry shall review all preliminary plats and certified survey maps and, when necessary, recommend modifications prior to Plan Commission approval.

(e) **Removal of Specimen Trees**

(1) No specimen trees shall be removed from a development site as of November 12, 2001 except as provided in (e) of this ordinance. Documentation requesting removal shall be submitted to the Superintendent of Parks and Forestry, as applicable, as part of a landscape plan, in accordance with the Tree Preservation Guidelines prior to final plat or land division or site plan approval.

(2) It shall be unlawful to remove, injure, destroy, or undertake any procedure that may cause the death or substantial destruction of any specimen tree located on the development site without the express written permission of the Superintendent of Parks and Forestry or his representative.

(3) If a specimen tree is proposed to be removed, the Superintendent of Parks and Forestry shall review the site for any alternative location for driveway, building

and/or other construction in order to preserve the specimen trees.

a. If it is found that construction cannot occur on a development site without removal of specimen tree(s), the Park and Forestry Board may require reconfiguration of the proposed locations of buildings, roads, parking areas, or lot lines in an effort to preserve trees.

b. In the case outlined above, the Park and Forestry Board can direct the Superintendent of Parks and Forestry to authorize the removal of specimen trees pursuant to Sec. 4 d. below.

(4) Authorization for removal of any specimen tree located on the development site may be granted for the following reasons:

a. The tree is dead or dying; or

b. The tree is diseased; or

c. The tree is damaged or injured to the extent that it is likely to die or become diseased; or

d. Where removal will avoid or alleviate unreasonable difficulty or hardship.

(5) The owner/developer shall pay specimen tree replacement fees in each of the following instances, as directed by the City:

a. In the event the removal of the tree is authorized to avoid or alleviate unreasonable difficulty or hardship.

b. In the event the tree is damaged or injured by other than natural causes to the extent that is likely to die or become diseased, or it constitutes a hazard to persons or property.

c. In the event the tree is unlawfully removed in violation with this ordinance.

(6) Tree replacement fees, pursuant to Subsections (e) (5) a. or (e) (5) b. will be in accordance with the Tree Preservation Guidelines. Where tree replacement fees are due as a result of unlawful removal of a tree, in violation of the ordinance, the Superintendent of Parks and Forestry will require fees based upon the replacement value as determined by a certified arborist in accordance with the latest revision of a Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

(f) **Enforcement.** It shall be the duty of the Superintendent of Parks and Forestry, Parks and Recreation Department, or its authorized representative to enforce this ordinance. The Superintendent of Parks and Forestry, Parks and Recreation Department or authorized representative shall have the authority to revoke, suspend or void any land disturbance permit and shall have the authority to suspend all work on a site or portion thereof for violation of this ordinance.

(g) **Violations and Penalty**. Any person, firm or corporation violating any of the provisions of the ordinance may be subject to a forfeiture of not less than $500.00 per violation together with the costs of such action. Each day during which any violation of the provisions of this ordinance shall occur or continue shall be a separate offense. If, as a result of the violation of any provision of this ordinance, the injury, mutilation or death of a specimen tree is caused,

the cost to repair or replacement shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined by a certified arborist in accordance with the latest revision of a Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture. The developer/owner shall pay all fees associated with the certified arborist's appraisal.

(h) **Appeal.** Any person aggrieved or affected by any decision of the Superintendent of Parks and Forestry, Park and Forestry Board, Plan Commission or City Staff relating to the application of this ordinance may appeal to the City of Cedarburg Board of Appeals.

SEC. 6-4-15 ADOPTION OF STATE STATUTES.

Sections 27.09 and 86.03, Wis. Stats., are hereby adopted and incorporated herein by reference.

State Law Reference: Sections 27.09 and 86.03, Wis. Stats.

TITLE 7

Licensing and Regulation

Chapter 1 Licensing of Dogs and Cats; Regulation of Animals
Chapter 2 Fermented Malt Beverages and Intoxicating Liquor
Chapter 3 Cigarette License
Chapter 4 Direct Sellers
Chapter 5 Newspaper Vending Devices
Chapter 6 Transient and Temporary Entertainments
Chapter 7 Taxicabs
Chapter 8 Regulation and Licensing of Fireworks
Chapter 9 Street Use Permits
Chapter 10 Regulation of Nonmetallic Mining
Chapter 11 Parade Permits
Chapter 12 Horse and Carriage Rides
Chapter 13 Licensees to Pay Local Claims; Appellate Procedures
Chapter 14 Festival Celebration Permit
Chapter 15 Filming Permit
Chapter 16 Weights and Measures License
Chapter 17 Employee Benefits for Private Business

CHAPTER 1

Licensing of Dogs and Cats; Regulation of Animals

7-1-1 Dog and Cat Licenses Required; Definitions; Adoption of Statutes
7-1-2 Rabies Vaccination Required for License
7-1-3 Issuance of Dog, Cat and Kennel Licenses
7-1-4 Late Fees
7-1-5 Rabies Quarantine
7-1-6 Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals
7-1-7 Impoundment of Animals
7-1-8 Dogs and Cats Restricted on Cemeteries
7-1-9 Duty of Owner in Cases of Dog or Cat Bite
7-1-10 Animal Feces
7-1-11 Injury to Property by Animals
7-1-12 Barking Dogs or Crying Cats
7-1-13 Prohibited and Protected Animals, Fowl, Reptiles and Insects
7-1-14 Sale of Rabbits, Chicks or Artificially Colored Animals
7-1-15 Providing Proper Food and Drink to Confined Animals

7-1-16 Providing Proper Shelter
7-1-17 Neglected or Abandoned Animals
7-1-18 Cruelty to Animals and Birds Prohibited
7-1-19 Trapping of Animals
7-1-20 Dognapping and Catnapping
7-1-21 Vehicle Accidents
7-1-22 Display of Birds in Food Establishments
7-1-23 City Designated a Bird Sanctuary
7-1-24 Keeping of Bees
7-1-25 Penalties

SEC. 7-1-1 DOG AND CAT LICENSES REQUIRED; DEFINITIONS; ADOPTION OF STATUTES.

(a) **License Required.** It shall be unlawful for any person in the City of Cedarburg to own, harbor or keep any dog or cat for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.

(b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:

(1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.

(2) "At large" means to be off the premises of the owner and not under the control of some person either by leash, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.

(3) "Dog" shall mean any canine, regardless of age or sex.

(4) "Cat" shall mean any feline, regardless of age or sex.

(5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.

(6) "Animal" means mammals, reptiles and birds.

(7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.

(9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.

(10) "Pet" means an animal kept and treated as a pet.

(11) "Leash" means a cord, thong or chain not more than six (6) feet in length by which a

dog or cat is controlled by the person accompanying it. (Ord. 2015-18)

(c) **Incorporation of Statutory Regulation.** Sections 174.01 through 174.046 of the Wisconsin Statutes, and such sections as they may hereafter be amended and/or renumbered, are hereby incorporated by reference with respect to restraining action against dogs, the imposition of forfeitures for violations of such regulations and other regulations of dogs imposed under this Code, and the impoundment and subsequent delivery, treatment and disposition of dogs, provided, however, that this Section shall not be construed to restrict or limit any authority heretofore granted to the Police Department with respect to the regulation of dogs and shall not operate to reduce any forfeitures or other penalties which might otherwise be imposed under this Code.
State Law Reference: Sections 174.05 through 174.10, Wis. Stats.

SEC. 7-1-2 RABIES VACCINATION REQUIRED FOR LICENSE.

(a) **Rabies Vaccination.** The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian within thirty (30) days after the dog or cat reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or cat or brings the dog or cat into the City of Cedarburg after the dog or cat has reached four (4) months of age, the owner shall have the dog or cat vaccinated against rabies within thirty (30) days after the dog or cat is brought into the City unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have the dog or cat revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Section 95.21(2), Wis. Stats.

(b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog or cat against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.

(c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog or cat is revaccinated, whichever occurs first.

(d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.

(e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a

collar and a collar with the tag attached shall be kept on the dog or cat at all times, but this requirement does not apply to a dog or cat during competition or to a dog or cat securely confined indoors. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog or cat which is not required to be vaccinated under Subsection (a).

(f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.

(g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

SEC. 7-1-3 ISSUANCE OF DOG AND CAT LICENSES.

(a) **Dog and Cat Licenses.**

(1) It shall be unlawful for any person in the City of Cedarburg to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of Section 174.05 through Section 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.

(2) The owner of any dog or cat more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog or cat becomes five (5) months of age, pay a license tax and obtain a license.

(3) The minimum license tax under this Section shall be Five Dollars ($5.00) for spayed female or neutered male dogs or cats; and Ten Dollars (10.00) for unspayed or unneutered dogs or cats. These amounts shall be reduced by one-half (1⁄2) if the animal became five (5) months of age after July 1 during the license year. The license year shall commence January 1 and end December 31. (Ord. 2014-02)

(4) Upon payment of the required license tax and upon presentation of evidence that the dog or cat is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Treasurer shall complete and issue to the owner a license for such dog or cat containing all information required by state law. The City Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in Section 7-1-2(e).

(6) The fact that a dog or cat is without a tag attached to the dog or cat by means of a collar shall be presumptive evidence that the dog or cat is unlicensed. Any City police or humane officer shall seize, impound or restrain any dog or cat for which a

dog or cat license is required which is found without such tag attached.

(7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Treasurer upon application therefor.

(See Sec. 7-1-6(f) combination of no more than 3 dogs or cats)

State Law Reference: Sec. 174.053, Wis. Stats.

SEC. 7-1-4 LATE FEES.

The City Treasurer shall assess and collect a late fee of Five Dollars ($5.00) from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each Year, or within thirty (30) days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog or cat reached licensable age. Said late fee shall be charged in addition to the required license fee.

SEC. 7-1-5 RABIES QUARANTINE.

(a) **Dogs and Cats Confined.** If the Health Officer determines that a dog or other domestically owned animal found in the City is infected with rabies or hydrophobia, the Mayor may, upon written advice of the Health Officer that the public safety and general welfare require it, order that all dogs and cats be muzzled. If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Treasurer shall promptly post in at least three (3) public places in the City notices of quarantine.

(b) **Exemption of Vaccinated Dog or Cat from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.

(c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**

(1) Quarantine or sacrifice of dog or cat. An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(2) Sacrifice of other animals. An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.

(d) **Suspected Infections.** Any person who shall suspect that any dog or domestically owned animal within the City is infected with rabies or hydrophobia shall report his or her suspicion to the Police Department, describing the dog or domestically owned animal and giving the name of the owner, if known.

(e) **Quarantine of Dog or Cat.**

(1) Delivery to isolation facility or quarantine. The Police Department or any owner of any dog or other domestically owned animal which has bitten any person shall immediately cause such dog or domestically owned animal to be examined, at the owner's expense, by a licensed veterinarian within the City. Thereafter, the dog or domestically owned animal shall be confined and isolated for a period of ten (10) days by a licensed veterinarian within the City of Cedarburg, at the owner's expense, to determine whether or not the dog or domestically owned animal is infected with rabies. If the owner of the animal cannot be determined, the expense of the examination and confinement will be borne by the City. The dog or other domestically owned animal will be released after the ten (10) day confinement period only after determination that it is free from rabies. Any dog or other animal found to be infected with rabies shall be surrendered to the Police Department upon demand.

(2) Health risk to humans. If a dog, cat or other domestic animal is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(3) Risk to animal health.

a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

(4) Sacrifice of a dog or cat exhibiting symptoms of rabies. If a veterinarian determines

that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

(f) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

(g) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.

(h) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

<u>Cross Reference</u>: Section 7-1-9.

SEC. 7-1-6 RESTRICTIONS ON KEEPING OF DOGS, CATS, AND OTHER ANIMALS. (Ord. 2015-18)

(a) **Restrictions.** It shall be unlawful for any person within the City of Cedarburg to own, harbor or keep any dog or cat which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
(2) Assaults or attacks any person as described in Subsection (b) or destroys property.
(3) Is at large within the limits of the City.
(4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-12.)
(5) Kills, wounds or worries any domestic animal.
(6) Is known by such person to be infected with rabies or to have been bitten by an

animal known to have been infected with rabies.

(b) **Vicious Dogs and Animals.**

(1) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over sixteen (16) years of age. For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises or when a propensity to attack or bite humans shall exist. No owner of a vicious dog shall allow it to be off the premises of its owner. Every owner of a vicious dog is required to post or place in a conspicuous place, so it can easily be seen at the regular entrance to his premises, a notice or sign reading "Beware of Dog." Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the police authorities.

(2) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.

(c) **Dogs Running at Large.** (Ord. 2015-18)

(1) It shall be unlawful for the owner or keeper of any dog to permit or suffer such dog to be at large, which shall mean that it is off the premises of its owner or keeper and upon any public street or alley, any school ground, any public park parking lot or paved pathway or upon any other public or private property without the permission of the owner of the property, provided, however, that a dog shall not be deemed to be at large if:

a. It is attached to a leash not more than six (6) feet in length which is of sufficient strength to restrain it, and the leash is held by a person competent to govern it of at least ten (10) years of age and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where dogs are forbidden; or

b. It is properly restrained within a motor vehicle.

(2) In addition to enforcement by law enforcement officers, any adult person alone or together with other adults may seek relief from dogs at large by a complaint to the Police Department setting forth the specific date and approximate time a dog of a particular owner was observed by them to be at large. The Police Department shall notify the owner of that dog, in writing, of the alleged violation and the provisions of this Section. If the petitioner(s) subsequently observe that same dog to be at large, he (they) may submit a written petition to the City Attorney's office for commencement of prosecution to obtain compliance with this Section. Such written petition shall contain the following:

a. Name and address of complainant(s).
b. Description of dog(s) and address of owner.
c. Dates and times violations were noted.
d. Date reported to Police Department.

(3) It shall be unlawful for any person to permit a dog to run at large by opening any door or gate of any premises or loosen any restraining device or otherwise entice any dog to leave any place of confinement.

(d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

(e) **Regulation of Cats.** Any person who owns, harbors or keeps any cat over the age of five (5) months within the City shall:

(1) Have such cat vaccinated against rabies and continue with such vaccinations at yearly intervals to ensure that the cat is effectively immunized against rabies at all times.

(2) Affix a bell to the neck of the cat by means of a collar or any other device which will not harm the cat in any way.

(3) Not permit any cat to be at large; any police officer or Health Officer may seize and cause to be impounded any cat found at large.

(4) Comply with Chapter 174, Wis. Stats., as though said Statutes were equally applicable to cats. These aforementioned Statutes and regulations are to apply to the listing, licensing and tagging of such cats. The license fee for cats shall be the same as for dog licenses.

(f) **Limitation on Number of Dogs and Cats.**

No person shall keep, maintain or harbor any combination of dogs and cats numbering more than three (3) in any apartment, residence, household, yard or business, except where specifically allowed by zoning ordinances. A time limit of five (5) months is allowed for litters. (Ord. 92-47)

(See Sec. 7-1-3(b) on limitation on numbers of dogs and cats)

SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

(a) **Animal Control Agency.**

(1) The City of Cedarburg may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(2) The City of Cedarburg does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.

(b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any Police or Humane Officer may impound any dog, cat or other animal which

habitually pursues any vehicle upon any street, alley or highway of the City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the City for any damages it sustains for improper or illegal seizure.

(c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the City, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his possession. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Common Council. In the alternative, animal control or humane agencies serving the City may provide notice pursuant to their operating procedures and state law. No animal shall be released from the pound without being properly licensed if so required by state law or City Ordinance.

(d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal warden may sell the animal to any willing buyer.

(e) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

SEC. 7-1-8 DOGS AND CATS RESTRICTED ON CEMETERIES AND OTHER GROUNDS.

No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead blind persons shall be exempt from this Section. No person shall walk a dog or permit any dog to be on public or private school grounds unless express permission from those in control of the school grounds have been secured.

SEC. 7-1-9 DUTY OF OWNER IN CASE OF DOG OR CAT BITE.

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the Police Department or Health officer and shall keep such dog or cat confined pursuant to the requirements of Section 7-1-5. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon

demand for examination.

SEC. 7-1-10 ANIMAL FECES.

(a) **Dog Litter Nuisance**. It shall be unlawful for any person in immediate control of any dog to permit fecal matter which is deposited by such dog while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any public property, and it shall be solely the responsibility of the person in control of said dog to immediately, after deposit, remove all fecal matter and dispose of the same. Any person owning or having control of a dog on any property, public or private, which is not owned or occupied by such person shall promptly remove excrement left by such dog and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person. This Section shall not apply to a person who is visually or physically handicapped. Any person causing or permitting a dog to be on any property, public or private, not owned or occupied by such person shall have in his or her immediate possession a device or object suitable for removal of excrement and a depository for the transmission of excrement to the property owned or occupied by such person.

(b) **Complaints.** Any adult person alone or together with other adults may seek relief from dog fecal matter deposits as described in Subsection (a) above by a complaint to the Police Department in the same manner and procedure as set forth in Section 7-1-6(c)(2).

SEC. 7-1-11 INJURY TO PROPERTY BY ANIMALS.

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

SEC. 7-1-12 BARKING DOGS OR CRYING CATS. (Ord. 92-48)

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance.

SEC. 7-1-13 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS. (Ord. 92-49)

(a) (1) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears

on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).

(b) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities.

(c) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; zoological gardens;

(1) Their location conforms to the provisions of the zoning ordinance of the City.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(4) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.

SEC. 7-1-14 SALE OF RABBITS, CHICKS OR ARTIFICIALLY COLORED ANIMALS.

(a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.

(b) (1) No person may sell, offer for sale, barter or give away living chicks, or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.

(2) No retailer, as defined in Sec. 100.30(2)(g), Wis. Stats., may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age, in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.

State Law Reference: Sec. 948.11, Wis. Stats.

SEC. 7-1-15 PROVIDING PROPER FOOD AND DRINK TO ANIMALS.

(a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.

(b) The food shall be sufficient to maintain all animals in good health.

(c) If potable water is not accessible to the animals at all times, it shall be provided daily and in

sufficient quantity for the health of the animal.

State Law Reference: Sec. 948.13, Wis. Stats.

SEC. 7-1-16 PROVIDING PROPER SHELTER.

(a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.

(b) **Indoor Standards.** Minimum indoor standards of shelter shall include:

(1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.

(2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:

(1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.

(2) Shelter from inclement weather.

a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.

(d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:

(1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.

(e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 948.14, Wis. Stats.

SEC. 7-1-17 NEGLECTED OR ABANDONED ANIMALS.

(a) **Neglected or Abandoned Animals.**

(1) No person may abandon any animal.

(2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice

(3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.

(4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.

(5) Section 948.16, Investigation of Cruelty Complaints, and Section 948.17, Wis. Stats., Expenses of Investigation, are hereby adopted by reference and made a part of this Chapter.

(b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

State Law Reference: Sections 948.15, 948.16 and 948.17, Wis. Stats.

SEC. 7-1-18 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.

(a) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of his duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.

(b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.

(c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the

animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

(d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.

(e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

SEC. 7-1-19 TRAPPING OF ANIMALS.

(a) In the interest of public health and safety, it shall be unlawful for any person, in or on land within the City of Cedarburg, to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.

(b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pantype traps or other traps designed to kill, wound or close upon a portion of the body of an animal.

(c) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.

(d) This Section shall not apply to trapping within the confines of buildings or homes.

(e) Nothing in this Section shall prohibit or hinder the City of Cedarburg or its employees or agents from performing their official duties.

SEC. 7-1-20 DOGNAPPING AND CATNAPPING.

No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of the City or held for any purpose without the owner's consent. This Section does not apply to law enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted herein.

SEC. 7-1-21 VEHICLE ACCIDENTS.

The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other animal which appears to be a pet shall immediately notify the Police Department or an animal control agency whose jurisdiction extends into the City.

SEC. 7-1-22 DISPLAY OF BIRDS IN FOOD ESTABLISHMENTS.

No person shall sell or display birds of the Psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are so enclosed as to prevent any possible contamination of the food or drink.

SEC. 7-1-23 CITY DESIGNATED A BIRD SANCTUARY.

(a) The entire area embraced within the corporate limits of the City of Cedarburg is designated a bird sanctuary.

(b) (1) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the City of Cedarburg, then in such event said health authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of said clubs as are found to exist in the City of Cedarburg, after having given at least three (3) days' actual notice of the time and place of said meeting to the representatives of said clubs.

(2) If, as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under the supervision of the Chief of Police of the City of Cedarburg.

(3) Upon direction from the Chief of Police, Police Officers or deputies shall have the option of shooting blanks in City parks, public lands and School District property (after receiving authorization from the School District) to deter the congregation of Canada geese. (Ord. 97-08b)

SEC. 7-1-24 KEEPING OF BEES.

(a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the City unless the bees are kept in accordance with the following provisions:

(1) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.

(2) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.

(3) Fresh, clean watering facilities for bees shall be provided on the said premises.

(4) The bees and equipment shall be kept in accordance with the provisions of the state statutes.

(5) A conditional use permit shall first be obtained pursuant to the City Zoning Code.

(b) Nothing in this Section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

SEC. 7-1-25 PENALTIES.

(a) Any person violating Sections 7-1-15, 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22, 7-1-23 or 7-1-24 shall be subject to a forfeiture of not less than Fifty Dollars ($50.00) and not more than Two Hundred Dollars ($200.00). This Section shall also permit the City Attorney to apply to the court of competent for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.

(b) (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars ($25.00) and not more than Two Hundred Dollars ($200.00) for the first offense and not less than One Hundred Dollars ($ 100.00) and not more than Four Hundred Dollars ($400.00) for any subsequent offenses.

(2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($ 1,000.00) or imprisoned not more than sixty (60) days or both.

(c) Any person who violates Section 7-1-6 through 7-1-14 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars ($25.00) and not more than One Hundred Dollars ($100.00) for the first violation and not less than Fifty Dollars ($50.00) and not more than Two Hundred Dollars ($200.00) for subsequent violations.

CHAPTER 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

7-2-1 State Statutes Adopted
7-2-2 Definitions
7-2-3 License Required
7-2-4 Classes of Licenses
7-2-5 License Fees
7-2-6 Application for License
7-2-7 Qualifications of Applicants and Premises
7-2-8 Investigation
7-2-9 Approval of Application
7-2-10 Granting of License
7-2-11 Transfer and Lapse of License
7-2-12 Numbering of License
7-2-13 Posting Licenses; Defacement
7-2-14 Conditions of License
7-2-15 Closing Hours
7-2-16 Restrictions on Special Class "B" Fermented Malt Beverage Picnic or Special Event Licenses
7-2-17 Beer Garden Licenses Required for Outdoor Consumption at Class B Premises
7-2-18 Revocation and Suspension of Licenses; Non-Renewal
7-2-19 Reserved for Future Use

Article B Operator's License

7-2-20 Operator's License Required
7-2-21 Procedure Upon Application
7-2-22 Duration
7-2-23 Operator's License Fee
7-2-24 Issuance or Denial of Operator's License
7-2-25 Display of License
7-2-26 Revocation of Operator's License
7-2-27 through
7-2-29 Reserved for Future Use

Article C Penalties

7-2-30 Penalties

ARTICLE A

Fermented Malt Beverages and Intoxicating Liquor and Wine (Ord. 91-36)

SEC. 7-2-1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of alcoholic beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control. (Ord. 91-17)

State Law Reference: Chapter 125, Wis. Stats.

SEC 7-2-2 DEFINITIONS.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wisconsin Statutes. In addition, the following definitions shall be applicable:

(a) "Business" shall mean all lawful activity contemplated to be conducted on the licensed premises at the time such license was issued.

(b) "Operate" or "Be Operated" shall mean the conducting of business, during all such times of the day in which such business is normally conducted, and shall mean that such business is open for business to the general public during such times. (Ord. 91-17)

SEC 7-2-3 LICENSE REQUIRED.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

SEC 7-2-4 CLASSES OF LICENSE.

(a) **Retail Class "A" Intoxicating Liquor License.** A retail Class "A" intoxicating liquor license, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

(b) **Retail Class "B" Intoxicating Liquor License.** A retail Class "B" intoxicating liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.

(d) **Class "B" Fermented Malt Beverage Retailer's License.** A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (½) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.

(e) **Temporary Class "B" Beer and Temporary "Class B" Wine Licenses.**

(1) License. A temporary Class "B" license, when issued by the City Clerk under authority of the Common Council, as provided for in Sec. 125.26(6), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages. A temporary "Class B" license, when issued by the City Clerk under authority of the Common Council, as provided by Sec. 125.51(10), Wis. Stats., shall entitle the holder thereof to possess, sell, or offer for sale wine containing not more than six (6) percent alcohol by volume. A temporary “Class B” license, when issued by the City Clerk under authority of the Common Council, as provided by Sec. 125.51(10), Wis. Stats. shall also entitle the holder thereof to possess, sell, or offer for sale wine; however, not more than two (2) Temporary “Class B” wine licenses may be issued to an organization under this subsection in any twelve (12) month period. Temporary Class “B” Fermented Malt Beverage, Temporary “Class B” wine containing not more than six (6) percent alcohol by volume, and Temporary “Class B” wine licenses may be issued only to a bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application, and to posts of veterans organizations, now or hereafter established. Such license is valid for dates as approved by the issuer. Pursuant to subsection 125.26(6) and 125.51(10), the City

Clerk is authorized to issue such licenses without approval of the Common Council; provided, however, that Common Council approval shall be required in any instance in which the applicant requests variances from the City's policies pertaining to hours of operation or any other aspect of the exercise of such privileges. (Ord. 90-37) (Ord. 91-17) Ord. 98-40)

(2) **Application**. Application for such license shall be signed by the president or corresponding officer of the society making such application and shall be filed with the City Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars ($200.00) and will be ineligible to apply for a temporary Class "B" or temporary "Class B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of ten (10) days before the first day the license is to be effective or four (4) working days prior to the meeting of the Common Council at which application will be considered for those licenses requiring Common Council approval. Such license shall be valid for no more than five (5) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility. (Ord. 90-37) (Ord. 91-17)

(f) **Class "C" Wine License.** A Class "C" license, when issued by the City Clerk, under the authority of the Common Council, shall entitle its holder to possess, sell or offer for sale, wine by the glass or in an opened original container for consumption on the premises where sold.

(g) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk under authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler. (Ord. 91-17)

(h) **Retail Reserve "Class B" License**. A Retail Reserve "Class B" Intoxicating Liquor License, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises. (Ord. 98-41)

SEC. 7-2-5 LICENSE FEES.

(a) **Application Fees.** The following nonrefundable application fees shall be charged for licenses issued by the Common Council for the sale of intoxicating liquors and fermented malt beverages within the City. All such fees shall be payable at the time of application:

(1) Class B Intoxicating Liquor and Fermented Malt Beverage Licenses – Fifteen Dollars ($15.00) for publication. (Ord. 2002-37) (Ord. 2008-26)

(2) Class C Wine License -- Fifteen Dollars ($15.00) for publication. (Ord. 2002-37) (Ord. 2008-26)

(3) All Operator Licenses -- Ten Dollars ($10.00). (Ord. 2002-37)

(4) Class A Intoxicating Liquor and Fermented Malt Beverage License – Fifteen Dollars ($15.00) for publication. (Ord. 2002-37) (Ord. 2008-26)

(b) **License Fees.** The following license fees shall be charged for licenses issued by the Common Council for the sale of intoxicating liquors and fermented malt beverages within the City. All such fees are payable after approval of the application by the Common Council and prior to the release of the license being delivered to the licensee, with the exception of Temporary Class B Licenses and Operator's Licenses, for which the fee shall be paid at the time the application is submitted.

(1) Class A Fermented Malt Beverage License -- One Hundred Dollars ($100.00) per year.

(2) Class B Fermented Malt Beverage License -- One Hundred Dollars ($100.00) per year.

(3) Class "B" Temporary License -- Under Sec. 125.26(6) and Sec. 125.51(10), Wis. Stats., Ten Dollars ($10.00) per event except that there shall be only application fee charged to a person who applies for both temporary "Class B" and Class "B" licenses for the same event.

(4) Class A Intoxicating Liquor License -- Five Hundred Dollars ($500.00) per year.

(5) Class B Intoxicating Liquor License -- Five Hundred Dollars ($500.00) per year.

(6) Class C Wine License -- One Hundred Dollars ($100.00) per year.

(7) Operator's License -- Thirty five Dollars ($35.00) per year. In addition, there shall be a Ten Dollar ($10) application fee for all new operator's licenses. (Ord. 92-54) (Ord. No. 95-50) (Ord. 2015-25)

(8) Wholesaler's Fermented Malt Beverage License -- Twenty-Five Dollars ($25.00) per year (Ord. 98-17)

(9) Retail Reserve "Class B" Licenses -- Five Hundred Dollars ($500.00) per licensing year, plus initial $10,000. (Ord. 98-41)

(a) 1997 Wisconsin Act 27, effective December 1, 1997, established a new alcohol beverage license called a Retail Reserve "Class B" Liquor License, and required that all who are granted such a license pay an initial license fee of $10,000 in addition to the regular Class "B" and "Class B" license fees. The number of Retail Reserve "Class B" licenses available to a municipality is determined by a series of calculations described in Wis. Stat. 125.51(4). The Common Council finds that businesses such as restaurants, hotels and taverns make important contributions to the City's economy and serve important public purposes, including, but not limited to, increasing the City's property tax base, providing employment and promoting tourism. The Common Council also finds that the new initial fees for a Retail Reserve "Class B" Liquor License far exceeds the actual cost of licensing the activity, and that the excessive license fee deters new business and is contrary to the

above-stated public purposes. It is the purpose of this ordinance to utilize the excess revenue generated by 1997 Wisconsin Act 27 to assist new Retail Reserve "Class B" licensees in order to achieve the important public purposes identified herein.

(b) The Common Council may provide a grant to a Retail Reserve "Class B" licensee if the following conditions are met:

1. A Retail Reserve "Class B" Liquor License is granted to the licensee; and
2. The Retail Reserve "Class B" Liquor License applicant properly completes and submits an application to the Common Council for a grant on a form provided by the City Clerk at the same time the applicant submits the completed application for a Retail Reserve "Class B" Liquor License.
3. The Retail Reserve "Class B" Liquor licensee pays the initial $10,000 fee to the City in addition to the regular fees for Class "B" and "Class B" licenses.

(c) In making its determination whether to award any grant to a Retail Reserve "Class B" Liquor licensee under this ordinance, the Common Council shall make such findings and establish such conditions as it deems necessary to ensure that any funds awarded hereunder further the important public purposes identified in Sec. 7-2-5(b)(9)(a). (Ord 98-41)

(c) **Cancellation for Failure to Pay Fee.** The City Clerk shall issue each license approved by the Common Council and shall make the same available at the City Clerk's office in City Hall. Any licenses for which the license fee is not paid within fifteen (15) days of approval of the application by the Common Council shall be returned to the Common Council for cancellation or other disposition.

SEC. 7-2-6 APPLICATION FOR LICENSE.

(a) General Considerations.

(1) The Common Council is not required to grant all the licenses available. All applications are subject to an investigation and inspection by the Chief of Police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. All licenses must be renewed annually. A license period is July 1 to June 30.

(2) Consideration for the granting or denial of a license will be based on:

a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322 and 111.335, Wis. Stats.;
b. The financial responsibility of the applicant;
c. The appropriateness of the location and the premises where the licensed business is to be conducted; and

d. Generally, the applicant's fitness for the trust to be reposed.

(3) If a licensee is convicted of an offense substantially related to the license activity, the Council may act to revoke or suspend the license.

(b) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sections 887.01 to 887.04, Wis. Stats., and shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

(c) **Photographing and fingerprinting.** If a first-time applicant, or a non-consecutive year reapplication, the applicant shall submit the application to the City of Cedarburg Police Department. The Police Department shall photograph and fingerprint the applicant. If the applicant is seeking a renewal of the license, no photograph or fingerprints are necessary, and the City Clerk shall cause the application to be delivered to the Police Department.

(d) **Corporations.** Such application shall be filed and sworn to by the applicant if the applicant is an individual, or by the president and secretary, if the applicant is a corporation.

(e) **Publication.** The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant. Publication is not required for temporary Class "B" Fermented Malt Beverage licenses or temporary "Class B" wine licenses.
(Ord. 91-17)

(f) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.

SEC. 7-2-7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

(a) **Residence Requirements.** A retail Class "A" or retail Class "B" fermented malt beverage or intoxicating liquor license shall be granted only to persons who have lived in the State of Wisconsin ninety (90) days prior to application.

(b) **Applicant to Have Malt Beverage License.** No retail Class "B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.

(c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.

(d) **Age of Applicant.** No Class "A", "B" or "C" licenses shall be granted to any underage person as defined by the Wisconsin Statutes.

(e) **Corporate Restrictions.**

(1) No license shall be granted to any corporation which does not comply with the provisions of Sec. 125.04(6), Wis. Stats., which does not have an agent eligible for a license under this Chapter or under state law, or which has more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation held by any person

or persons not eligible for a license under this Chapter or under the state law.

(2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the City Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.

(3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Section 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.

(f) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand or place which is in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

~~(g) **Number of Class "A" Intoxicating Liquor Licenses and Number of Class "A" Fermented Malt Beverage Licenses.**~~

~~(1) Intoxicating Liquor Licenses. The number of Class "A" Intoxicating Liquor Licenses shall not exceed one (1) license for two thousand five hundred (2,500) population in the City, as determined by the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government. An additional license may be granted for a fraction of said two thousand five hundred (2,500) population.~~

~~(2) Fermented Malt Beverage Licenses. The number of Class "A" Fermented Malt Beverage Licenses shall not exceed one (1) license for each two thousand five hundred (2,500) population in the City as determined by the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government. An additional license may be granted for a fraction of said two thousand five hundred (2,500) population.~~

~~(3) Exception. The population requirements of this Chapter shall not apply to any party which holds a Class "A" Intoxicating Liquor License and/or Class "A" Fermented Malt Beverage License at the time of the effective date of this Subsection (September 28, 1981) as long as said party has satisfied all other state and local requirements.~~

Sec. repealed 10/26/09 by Ord. No. 2009-11

(h) **Licensed Premises.** Licenses issued by the City shall be for the structure itself and shall not confer any license or right to property outside of the licensed structure.

(i) **Delinquent Taxes, Assessments, Etc.**

(1) Premises. No initial or renewal alcohol beverage licenses shall be granted for any premises for which City taxes, assessments, utility bills, garbage fees, sewer and

water bills or other assessments or other claims to the City are delinquent and unpaid.

(2) Persons. No initial or renewal alcohol license shall be granted to any person:

a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owed to the City.

b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the City.

(j) **Class "C" Wine License Restrictions.** A Class "C" license may only be issued to a person qualified under Section 125.04(5), Wis. Stats., as amended, for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which does not have a barroom if the City's quota prevents it from issuing a Class "B" license to that person. For purposes of this section, a "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the company of another.

(k) **Connecting Premises.** Except in the case of hotels, no person may hold both a Class "A" license and either a "Class B" license or permit for a Class "C" license for the same or connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issue is void from its issuance. If both licenses or permits are issued simultaneously, both are void from their issuance.

SEC. 7-2-8 INVESTIGATION.

(a) The City Clerk shall notify the Chief of Police, Fire Inspector, Health Officer and Building Inspector of each new or renewal application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Police Department shall conduct an investigation of the applicant, including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. These officials shall furnish to the City Clerk in writing, who shall forward to the Common Council, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

(b) If the inspecting officials recommend the denial of the application, the applicant shall be notified by the City Clerk at least fifteen (15) days prior to the Council meeting at which the application is to be considered. The notice shall set forth the basis for such recommendation and inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the application should be approved. In addition, the applicant

shall be notified that the consideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b) of the Wisconsin Statutes, unless the applicant requests such consideration be held in open session.

(c) In determining whether to grant such license, consideration shall be given to the arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322 and 111.335 of the Wisconsin Statutes, financial responsibility of the applicant, the appropriateness of the location and premises where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

(d) (1) If the Common Council denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b) of the Wisconsin Statutes, unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.

(2) If, upon reconsideration, the Council again denies the application, the City Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.

SEC. 7-2-9 APPROVAL OF APPLICATION.

(a) In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed. (Ord. 91-17)

(b) No license shall be granted for operation on any premises or with any equipment for which

taxes or assessments or other financial claims of the City are delinquent and unpaid.

(c) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City.

SEC. 7-2-10 GRANTING OF LICENSE.

Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the City. The full license fee shall be charged for the whole or fraction of any year.

SEC. 7-2-11 TRANSFER AND LAPSE OF LICENSE.

(a) In accordance with the provisions of Section 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars ($10.00). Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for reissuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser. (Ord. 91-17)

(b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City and the Wisconsin Department of Revenue.

SEC. 7-2-12 NUMBERING OF LICENSE.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee.

The City Clerk shall affix to the license his affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

SEC. 7-2-13 POSTING LICENSE; DEFACEMENT.

(a) Every person licensed in accordance with the provisions of this Chapter shall post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.

(b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

SEC. 7-2-14 CONDITIONS OF LICENSE.

All retail Class "A", "B" and "C" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the City applicable thereto.

(a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.

(b) **Employment of Minors.** No retail Class "B" or Class "C" licenses shall employ any person under the age of majority, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed but are not permitted to sell or dispense alcoholic beverages.

(c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(d) **Licensed Operator on Premises.** There shall be upon premises operated under a Class "A", Class "B" or Class "C" license, at all times that the premises are open for business, the licensee, the agent named in the license if the licensee is a corporation, the agent named in a Class "B" permit, or some person who has an operator's license or a provisional operators license and who is responsible for the acts of all persons serving as waiters, or serving or selling in any other manner any intoxicating liquor to customers. No person, including a member of the licensee's immediate family, other than the licensee or agent may serve alcohol beverages in any place operated under a Class "A", Class "B" or Class "C" license or permit unless he or she has an operator's license or a provisional operators license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee or agent or a person holding an operator's license or a provisional operator’s license, and who is

on the premises at the time of the service. (Ord. 92-36)

(e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all Class "B" liquor licenses and Class "C" wine license issued under this Chapter. No Class "B" or Class "C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

(f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B" or Class "C" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.

(g) **Consumption on Premises.** All purchase of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any thoroughfare, street, alley or sidewalk unless authorized by the Common Council.

(h) **Gambling Prohibited.** No gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin, except the Wisconsin State Lottery.

(i) **Credit Prohibited.** No retail Class "A", Class "B" or Class "C" licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except credit extended by a hotel to a resident guest, by a club to a bona fide member or to the holder of a credit card, as that term is defined in Section 943.41(1)(d), Wis. Stats., as amended. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

(j) **Licensee or Permittee Responsible for Acts of Employees.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.

Annotation: See Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S. Ct. 774 (1970); and State v. Erickson, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

SEC. 7-2-15 CLOSING HOURS. (Ord. 91-17) (Ord. 2012-02)

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and further restricted as follows:

(a) **Class "B" and "C" Licenses.**

(1) No premises for which a retail Class "B" liquor or fermented malt beverage license or Class "C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. On January 1 premises operating under a Class "B" license or permit are not required to close.

(2) Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

(3) The provisions of this code shall not be construed as to prohibit permittees, licensed employers, salespersons, employees of license wholesalers, or service personnel from being present on premises operated under a Class "A", Class "B", "Class C", "Class A", "Class B" or Class "C" license or permit during hours when the premises are not open for business if these persons are performing job-related activities.

(4) Between 12:00 midnight and 6:00 a.m., no person may sell intoxicating liquor or fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle for consumption away from the premises.

State Law Reference: Sections 125.10(4) and 125.67, Wis. Stats.

(b) **Class "A" Licenses and "Class A" Licenses.**

(1) Class "A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 12 midnight and 6 a.m.

(2) "Class A" retailers. No premises for which a "Class A" license or permit has been issued may remain open for the sale of intoxicating liquor between the hours of 9 p.m. and 6 a.m.

SEC. 7-2-16 RESTRICTIONS ON SPECIAL CLASS "B" FERMENTED MALT BEVERAGE SPECIAL EVENT LICENSE. (Ord. 91-17)

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any City-owned property or privately-owned property within the City of Cedarburg, except through the issuance of temporary Class "B" permit issued by the Common Council in accordance with Wisconsin State Statutes and as set forth in this Section. A temporary Class "B" permit authorizing the sale and consumption of beer on City-owned property or privately-owned property may be authorized by the Common Council provided the following requirements are met:

(a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Section 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-5-1.

(b) **Posting of Signs and Licenses.** All organizations issued a liquor license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person.

(c) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverage at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.

(d) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.

(e) **Permitted Cups or Cans Only.** Intoxicants will be sold outside only in foam or plastic cups or cans.

(f) **Insurance.** The applicant for a special Class "B" fermented malt beverage license may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the City of Cedarburg. The City of Cedarburg shall be named as an additional insured. The applicant may be required to furnish a performance bond prior to being granted the permit.

Cross Reference: Section 11-5-1.

SEC. 7-2-17 OUTDOOR ALCOHOL BEVERAGE LICENSES REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" PREMISES. (Ord. 92-54) (Ord. 94-45) (Ord. 96-01) (Ord. 2006-28)(Or. 2008-07)(Ord. 2015-14)

(a) **Required for Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under license granted by the Common Council. The licenses are a privilege in which no rights vest and, therefore, may be revoked by the Common Council at its pleasure at any time. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of the licensed premises which is not described in a valid Outdoor Alcohol Beverage License.

(b) **Limitations on Issuance of Outdoor Alcohol Beverage License.** In making their determination on whether or not to approve an Outdoor Alcohol Beverage license, the Common Council shall, on a case-by-case basis, take into consideration the size of the outdoor seating area and its location with respect to adjacent residential uses. Each applicant for an Outdoor Alcohol Beverage License shall accurately describe the outdoor seating area

and shall indicate the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. The Plan Commission shall review all proposed Outdoor Alcohol Beverage Licenses to determine if they are harmful, offensive or otherwise adverse to the surrounding neighborhood and shall recommend that the license be granted as requested, modified or denied. If the premises is within the Historic District, the Plan Commission shall take into consideration the recommendation of the Landmarks Commission. The Building Inspector shall verify that criteria established the Plan Commission and the Landmarks Commission are met prior to issuance of an Outdoor Alcohol Beverage License. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the outdoor seating area, subject to Section (e) herein. There shall be a licensed operator with the outdoor seating area at all times while in operation. There shall be a Fifty ($50.00) Dollar fee for an Outdoor Alcohol Beverage License. (Ord. 96-01) (Ord. 2006-28)(Ord. 2008-07)(Ord. 2015-14)

(c) **Adjoining Property Owners to be Notified of Pendency of Applications.** All property owners within one hundred fifty (150) feet of the outdoor seating area shall be notified by first class mail of the pendency of application for an Outdoor Alcohol Beverage License by the City Clerk's Office.

(d) **State Statutes Enforced Within Outdoor Seating Area.** Every licensee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the Outdoor Alcoholic Beverage License by the Common Council. (96-01)

(e) **Outdoor Amplified Sound and Music Permit.** As an exception to the amplified sound and music prohibition of subsection (b) herein, Outdoor Alcohol Beverage License holders whose underlying Class "B" liquor license(s) were granted to a club, society or lodge holding a current 501(c)(3) status may apply for an annual permit allowing outdoor amplified sound and music subject to the following limitations:

1. Amplified sound or music may only be generated in the outdoor seating area for which the Outdoor Alcohol License was issued.
2. An annual permit fee of $250.00 shall be required prior to issuance of any Outdoor Amplified Sound or Music Permit.
3. Permit holders shall be limited to 6 outdoor amplified sound or music events per calendar year. An "event" is defined as a single performance, occurrence, or presentation using amplified music or sound that occurs within a 24-hour period and lasts for duration of five (5) or fewer hours. An "event" shall not include any amplified sound or music generated on dates for which Festivals of Cedarburg sponsors a festival within the festival footprint as defined by City Code.
4. Amplified sound and music may be generated only between the hours of 11 a.m. and 9 p.m.
5. Amplified music or sound may not be played at such a level to unreasonably disturb the peace and quiet of persons in the vicinity thereof.

6. Notice of permitted events, and a brief description of the event, shall be given, in writing, by permit holders to the Cedarburg Police Department and all property owners within 150 feet of the outdoor seating area, by regular mail, at least seven days prior to the event.
7. All other restrictions and limitations of Section 7-2-17 remain in full force and effect. (Ord. 2015-14)

SEC. 7-2-18 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

(a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 5, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.

(b) **Cancellation of Premised Licenses.**

(1) Grounds for Cancellation for Nonuse of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor Licenses or Class "C" Wine License granted under this Chapter for which the subject premises:

a. Is not open for business within thirty (30) days of the granting of such license; or

b. Is not open for business for a period of thirty (30) consecutive days or more shall be canceled unless, after notice and hearing as provided in Subsection (2) hereof, the Common Council shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Common Council may extend the period for no more than two (2) additional thirty (30) day periods, and the Common Council may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license(s). (2008-16)

(2) Notice and Hearing. Prior to cancellation of any license, the City Clerk shall notify the licensee in writing of the City's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than fifteen (15) days after the date of the notice. Such hearing shall be conducted as provided in accordance with Sec. 125.12(2)(b) of the Wisconsin Statutes, or any amendments thereto.

(3) No refund. No refund shall be made of any part of the license fee if the any license is cancelled. (2008-16)

(c) **License Revocation or Suspension.**

(1) Notice and Hearing. Whenever a person holding a license to sell alcoholic beverages has failed to maintain the premises according to standards prescribed for sanitation,

or in whose premises persons are permitted to loiter for purposes of prostitution, or when the licensee has not observed and obeyed any lawful order of the Common Council or police officers of the City, has violated City Ordinances, or for any other good reason, the Common Council shall issue a summons, to be signed by the City Clerk commanding the licensee complained of to appear before the Common Council on a day and time and at a place named in the summons to show cause why the license should not be revoked or suspended. In addition, any resident may file a sworn, written complaint with the City Clerk. Such summons shall be served not less than three (3) and not more than ten (10) days before the time at which the licensee is commanded to appear and may be served personally upon the licensee or the agent of the licensee or upon the person in charge of the licensed premises. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of said offence and the facts constituting the alleged offense. If such licensee shall not appear as required by the summons, the complaint shall be taken as true, and if the Common Council deems its allegations sufficient, the Council shall recommend revocation or suspension of the license as provided herein.

(2) Procedure on Hearing Effect of Revocation.

a. The Mayor or, in his absence, the Council President shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Sec. 227.08, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges to a preponderance of the evidence. The licensee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the City shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The City Clerk shall serve as secretary to the Council and shall make and receive all exhibits admitted into the record. The Common Council, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true or not. If the vote is to suspend the license, it shall be for a period of not less than ten (10) days or more than ninety (90) days. Following the procedure above, the recommendation may be to revoke the license. If the Council determines that the charges are not substantiated, the complaint shall be dismissed without cost to either party. The Council's action shall be recorded by the Clerk.

b. If the complaint is found to be true, the licensee shall pay to the City the actual cost of the proceedings. If the complaint is found by the Common Council to be malicious and without probable cause, the complainant shall pay the cost of the proceedings in the same amount.

c. When a license is revoked, it shall be so entered of record by the City Clerk,

and no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation, nor shall any part of the money paid as application fee for any license so revoked be refunded.

(d) **Other Provisions.** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Common Council by amendment to this Section or by the enactment of new ordinances. If any licenses shall fail or neglect to meet the requirements imposed by such new restrictions and regulations his license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

SEC. 7-2-19 RESERVED FOR FUTURE USE.

ARTICLE B

Operator's License

SEC. 7-2-20 OPERATOR'S LICENSE REQUIRED.

(a) No premises operated under a Class "A", Class "B" or Class "C" or "Class A", or "Class B" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any alcohol beverages to customers. For the purpose of this subsection, any person holding a manager's license under Sec. 125.18 Wis. Stats. or any member of the licensee's or permittee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license. No person, including members of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve alcohol beverages in any place operated under as Class "A", Class "B" or Class "C" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee or permittee, agent or a person holding an operator's license who is on the premises at the time of the service.

(b) No person may allow another to use his or her Class "A", Class "B" or Class "C" or "Class A", or "Class B" license or permit to sell alcohol beverages. The license or permit of a person who allows another to use his or her license shall be revoked.

State Law Reference: Sec. 125.32(2) & (2m) and 125.68(a) & (2m), Wis. Stats.

State Law Reference: Sec. 125.17, Wis. Stats.

SEC. 7-2-21 PROCEDURE UPON APPLICATION.

(a) **Application**. The Common Council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk only to persons at least eighteen (18) years of age. Operator's licenses shall be operative only within the limits of the City. A nonrefundable application fee of Ten Dollars ($10.00) shall be charged for operator's licenses. The fee shall be payable at the time of application

(b) **Photographing; Fingerprinting; Investigation.** If a first-time applicant, or a non-consecutive year reapplication, the applicant shall submit the application to the City of Cedarburg Police Department. The Police Department shall photograph and fingerprint the applicant. If the applicant is seeking a renewal of the license, no photograph or fingerprinting are necessary, and the City shall cause the application to be delivered to the Police Department. The Police Department shall conduct an investigation of the applicant including,

but not limited to, requesting information from the State, surrounding municipalities and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the Common Council approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation. Upon receipt of recommendation from the Chief of Police, the City Clerk shall cause the name of the applicant to be placed on the agenda of the Common Council for action to either grant or deny such license application.

(c) No operator's license shall be issued to any applicant for a period beginning on or after July 1, 1991 unless the applicant has successfully completed a responsible beverage server training course as required by Section 125.17(6), Wis. Stats., as the same may be from time to time renumbered and amended unless the applicant fulfills one of the following requirements:

(1) The person is renewing an operator's license.

(2) Within the past two years prior to the filing of the application, the person held a Class "A", Class "B", "Class A" or "Class B" license or a permit or a manager's or operator's license.

(3) Within the two years immediately preceding the filing of the application, the person has completed such a training course.

An operator's license may be approved for future issuance to a person who has not filed written verification of successful completion of the training course required by Section 125.17(6) of Wisconsin Statutes; provided, however, that the City Clerk shall not issue the license until the requisite written verification is filed. (Ord. 91-08)

(d) A provisional operator's license shall be approved for issuance by the City Clerk if the following recommendations are met: (Ord. 92-36)

(1) The applicant has applied for an operator's license.

(2) The application has been reviewed and approved by the Chief of Police.

(3) Written verification has been received that the person is enrolled in a responsible beverage server training course.

A provisional license may not be issued to any person who has been denied an operator's license.

The provisional license will be immediately revoked if the holder made a false statement on the application.

A fee of Fifteen Dollars ($15) will be paid to the City Clerk for the issuance of a provisional license. (Ord 93-14) (Ord. 98-39)

A provisional license expires sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. Only one provisional license can be issued during the licensing year, July 1 through June 30 of the following year.

State Law Reference: Sec. 127.17(5).
Cross Reference: Section 7-2-5.

SEC. 7-2-22 DURATION.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

SEC. 7-2-23 OPERATOR'S LICENSE FEE.

The fee for renewal of an operator's license shall be Thirty Five Dollars ($35.00) per year. The application fee for a new operator's license shall be Ten Dollars ($10.00) and the fee for a new operator's license shall be Thirty Five Dollars ($35.00), for a total charge of Forty Five Dollars ($45.00). All fees are due at the time of application. There shall be a $10 fee for all renewal applications received after July 1. (Ord. 91-17) (Ord. 92-54) (Ord. No. 95-50) (Ord. 2015-16) (Ord. 2015-25)

State Law Reference: Sec. 125.25(4), Wis. Stats.

SEC. 7-2-24 ISSUANCE OR DENIAL OF OPERATOR'S LICENSE.

(a) **Issuance of Approved License.** After the Common Council approves the granting of an operator's license, the City Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license. The City Clerk shall issue each license approved by the Common Council and shall make the same available at the City Clerk's office in City Hall. Any operator's license for which the fee is not paid within fifteen (15) days of approval of the application by the Common Council shall be returned to the Common Council for cancellation or other disposition.

(b) **Basis for Granting or Denial.**

(1) Consideration for the granting or denial of a license will be based on:

a. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322 and 111.335, Wis. Stats.;

b. The financial responsibility of the applicant;

c. The appropriateness of the location and the premises where the licensed business is to be conducted; and

d. Generally, the applicant's fitness for the trust to be reposed.

(2) If a licensee is convicted of an offense substantially related to the license activity, the Council may act to revoke or suspend the license.

(c) **Denial.** (Ord. 2007-13) (Ord. 2014-14)

(1) New License Applications.

a. If the Common Council denies an application for a new operator's license, the City Clerk shall, in writing, inform the applicant of the denial and the reasons for the denial.

(2) Renewal License Applications.

(a) If the Chief of Police recommends that the Common Council not renew an operator's license, or, if the Common Council indicates an intention to not renew the operator's license, the City Clerk shall, in writing, inform the applicant of the recommended or intended non-renewal, the reasons, and of the opportunity to request a hearing before the Common Council. Such notice shall be sent by certified and regular mail to, or served upon, the applicant at least ten (10) days prior to hearing. The hearing shall be conducted in accordance with Wis. Stat § 125.12(3).

(3) A license shall not be granted if the applicant has been convicted of a felony substantially related to the licensing activity or if the applicant has habitually been a law offender.

(4) Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the circumstances, severity and facts of an offense, offenses or pattern of behavior when making the determination to grant, deny or not renew a license. Further, the Council at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

SEC. 7-2-25 DISPLAY OF LICENSE.

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or possessed by the licensed operator in the form of a wallet card.

SEC. 7-2-26 REVOCATION OF OPERATOR'S LICENSE.

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

SEC. 7-2-27 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.

ARTICLE C

Penalties

SEC. 7-2-30 PENALTIES. (Ord. 91-17)

(a) Forfeitures for violations of Chapter 125 Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances, City of Cedarburg, Wisconsin, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.

(b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the City of Cedarburg, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in 1-1-7 of the Code of Ordinances, City of Cedarburg, Wisconsin.

(c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

CHAPTER 3

Cigarette License

7-3-1 Cigarette License

SEC. 7-3-1 CIGARETTE LICENSE.

(a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.

(b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk a license fee of One Hundred ($100.00). (Ord. 98-39)

(c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the City Clerk. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

State Law Reference: Sec. 134.65, Wis. Stats.

CHAPTER 4

Direct Sellers

7-4-1 Registration Required
7-4-2 Definitions
7-4-3 Exemptions
7-4-4 Registration
7-4-5 Investigation
7-4-6 Appeal
7-4-7 Registration and Issuance of License
7-4-8 Regulation of Direct Sellers
7-4-9 Records
7-4-10 Revocation of Registration

SEC. 7-4-1 REGISTRATION REQUIRED.

It shall be unlawful for any direct seller to engage in direct sales within the City of Cedarburg without being registered for that purpose as provided herein. Licensing of direct sellers and exempt sellers (charitable organizations) during the annual Winter, Strawberry and Wine & Harvest Festivals shall be regulated through Section 7-14 of the Code of Ordinances (Festival Celebration Permit).

SEC. 7-4-2 DEFINITIONS.

In this Chapter:

(a) **Direct Seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(b) **Permanent Merchant** means a direct seller who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:

(1) Has continuously operated an established place of business in this City; or

(2) Has continuously resided in this City and now does business from his/her residence.

(c) **Goods** shall include personal property of any kind and shall include goods provided incidental to services offered or sold.

(d) **Charitable Organization** shall include any benevolent, religious, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such.

(e) **Clerk** shall mean the City of Cedarburg Clerk.

(f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations,

groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

(g) **Applicant shall** mean each individual applying for registration and licensing as a direct seller or solicitor.

(h) **Registrant** shall mean each individual registered by the Clerk and to whom a license has been issued.

SEC. 7-4-3 EXEMPTIONS.

(a) The following shall be exempt from all provisions of this Chapter:

(1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

(2) Any person selling goods at wholesale to dealers in such goods.

(3) Any person selling agricultural products which such person has grown.

(4) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.

(5) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person.

(6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.

(7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

(8) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(9) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the City Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.

(10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk that such person is a transient merchant, provided that there is submitted to the City Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.

(11) a. Charitable organizations shall be exempt from the requirements set forth in Section 7-4-4(a) and (c) if the organization has provided the individual representing it with credentials stating the name of the organization, the name

of the representative and the purpose of the solicitation and provided, further, that said individuals provide the Clerk with the following information:

1. The individual's name and permanent address.
2. The name and address of the organization represented.
3. The name and address of the officers or directors of the organization.
4. The nature of the sales or solicitations.
5. Proposed dates and time of sales or solicitations.
6. Exempt applicants shall deposit with the Clerk the sum of Twenty - five Dollars ($25.00). Said sum shall be refunded to such applicants upon their taking delivery of the license or licenses issued pursuant to Subsection (a)(11)b hereof. In the event such an applicant fails and neglects to take delivery of said license or licenses before initiating their solicitation, such deposit shall be forfeited to the City.

b. After approval by the Chief of Police, a license operative for the dates provided to the Clerk shall be issued without charge upon compliance with the foregoing.

(12) Any religious organizations for which there is provided proof of tax-exempt status pursuant to Sec. 501(c)(3) of the United States Internal Revenue Code shall be exempt from the requirements set forth in Section 7-4-4(a) and (c). The provisions of Subsection (11) above shall be applicable to such organizations.

(13) Any veteran who holds a special state license pursuant to Sec. 440.151, Wis. Stats., shall be exempt from the provisions of Section 7-4-4(a) and (c) provided that such veteran provides the Clerk with the following information:

a. The veteran's name and permanent address.
b. The nature of the sales or solicitations.
c. Proposed dates and times of sales or solicitations.
d. Copy of state license.

The Clerk shall then forward the above information to the Chief of Police.

SEC. 7-4-4 REGISTRATION.

(a) Applicants for registration must complete and return to the City Clerk a registration form furnished by the City Clerk which shall require the following information:

(1) Name, permanent address and telephone number, and temporary address, if any;
(2) Height, weight, color of hair and eyes, and date of birth;
(3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
(4) Temporary address and telephone number from which business will be conducted, if any;
(5) Nature of business to be conducted and a brief description of the goods offered and

any services offered;

(6) Proposed method of delivery of goods, if applicable;

(7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;

(8) Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration.

(9) Place where applicant can be contacted for at least seven (7) days after leaving this City;

(10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.

(b) Applicants shall present to the City Clerk for examination:

(1) A driver's license or some other proof of identity as may be reasonably required;

(2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;

(3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.

(c) **Registration Fee.**

(1) No application shall be processed until the application fee has been paid to the Clerk to cover the cost of processing said application. Said fee shall be Seventy-Five Dollars ($75.00) if the applicant is a resident of this City or the organization represented by the applicant has been conducting its business activities in this City for one (1) year prior to submission of the application. The fee for all other applicants shall be One Hundred ($100.00). A fee of $10 shall be paid for each additional direct seller within the organization. All licenses shall expire on December 31 of each year. (Ord. 90-38) (Ord. 92-54) (Ord. 94-01) (Ord. 2006-39)

(2) The applicant shall sign a statement appointing the City Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

(3) Applicants exempt from the requirements of this Chapter hereof shall deposit with the Clerk the sum of Twenty Five Dollars ($25.00). Said sum shall be refunded to such applicants upon their taking delivery of the license or licenses issued pursuant to Section 7-4-7 hereof. In the event such an applicant fails and neglects to take delivery of said license or licenses before initiating their solicitation, such deposit shall be forfeited to the City.

SEC. 7-4-5 INVESTIGATION.

(a) Upon receipt of each application, the City Clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.

(b) The City Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

SEC. 7-4-6 APPEAL

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council or, if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Wis. Stats.

SEC. 7-4-7 REGISTRATION AND ISSUANCE OF LICENSE.

(a) Upon compliance with the foregoing requirements, filing of a bond and payment of the license fee as hereinafter set forth, the Clerk shall register the applicant as a direct seller or solicitor and issue a license to the applicant. The license shall be operative only during the days requested on the registration form. (Ord. 90-38)

(b) Such license shall contain the signature of the Clerk, the name and address of the direct seller or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitations

(c) Registrants shall exhibit their license at the request of any citizen or police officer.

(d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Ozaukee County Wisconsin, or who is such a resident and represents a business or organization whose principal place of business is located outside the State of Wisconsin, shall file with the Clerk a surety bond for a term of one (1) year from the date of issuance of license, running to the City in the amount of Five Thousand Dollars ($5,000.00) with surety acceptable to the Mayor, conditioned that the applicant comply with all applicable ordinances of this City and Statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of this City that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such

bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the Clerk of Court in which suit is commenced and be relieved of all further liability.

SEC. 7-4-8 REGULATION OF DIRECT SELLERS.

(a) **Prohibited Practices.**

(1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

(3) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and parking regulations shall be observed. No direct seller or solicitor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon in excess of fifteen (15) minutes, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. Any move from a stationary location shall be to a place not less than one hundred (100) feet from such location, and the seller or solicitor shall not return to within one hundred (100) feet of any previously occupied location within four (4) hours of having moved from said location. For the purpose of this Section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and public impeded or inconvenienced.

(4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

(5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) **Disclosure Requirements.**

(1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company

or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

(2) If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars ($25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(3) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

SEC. 7-4-9 RECORDS.

The Chief of Police shall report to the City Clerk all convictions for violation of this Chapter and the City Clerk shall note any such violation on the record of the registrant convicted. The decision of the City Clerk regarding revocation may be appealed to the Common Council.

SEC. 7-4-10 REVOCATION OF REGISTRATION.

(a) Registration may be revoked by the City Clerk after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

CHAPTER 5

Newspaper Vending Devices

7-5-1 Special Privilege Permits; Newspaper Vending Devices

SEC. 7-5-1 SPECIAL PRIVILEGE PERMITS; NEWSPAPER VENDING DEVICES

(Ord. 2005-11)

(a) **Permit Required.**

(1) Special privilege permits for the installation and use of newspaper vending devices, whether freestanding or placed on or connected to poles or other structures on public ways or public places, may be granted by the City Clerk pursuant to Sec. 66.045, Wis. Stats.

(2) Such permits may be issued upon and subject to the following terms, and procedures of this Section.

(b) **Definition.** "Newspaper vending device" as used in this Section shall mean any type of self-service or coin-operated container, storage unit or other dispenser installed, used or maintained for the purpose and display of newspapers, pamphlets, magazines, or other printed or reproduced materials, whether for sale or free distribution.

(c) **Conditions**.

(1) The City Clerk shall determine if the proposed placement of a newspaper vending device will cause an undue health or safety hazard which will interfere with the right of the public to the proper use of the streets and sidewalks.

(2) The City Clerk shall make his determination from reports received from the Police Department and the Department of Public Works.

(3) A newspaper vending device shall not be placed, installed or used:

a. Within ten (10) feet of any fire hydrant or other emergency facility.

b. Within four (4) feet of any intersecting driveway, alley or street.

c. Within four (4) feet of any marked crosswalk.

d. At any location where the width of paved clear space in any direction for the passageway of pedestrians is reduced to less than five (5) feet.

e. At any location where the placement of the vending devices obstructs the vision of oncoming motorists or pedestrians.

f. Within two hundred and fifty (250) feet of another newspaper vending device containing the same newspaper or news periodical.

g. In any location within or immediately adjacent to a historic district where placement of a vending box would detract from the aesthetics.

(4) The permit shall specify the number and location of all vending devices of the permittee for which the special privilege permit is granted.

(5) The permittee, upon the removal of a newspaper vending device, shall restore the property of the City to the same condition as when the device was initially installed,

ordinary wear and tear excepted.

(6) The permittee shall maintain the device in good working order and in a safe and clean condition and keep the immediate area surrounding such device free from litter and debris.

(7) The permittee shall not use a newspaper vending device for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper sold therein.

(8) The permittee shall save and hold the City harmless from any and all liability for any reason whatsoever occasioned upon the installation and use of each newspaper vending device.

(9) The permittee shall temporarily or permanently remove a permitted vending device within a reasonable time after being requested to do so by the City in the event that such removal becomes necessary or appropriate to the accomplishment of any public improvement or to the operations of any City department. If the permittee fails to remove the vending device within a reasonable time, City personnel shall do so and shall bill the permittee for the cost of removal. A permittee has the right to the appeal process of this Section if there is an objection to the request of the City to remove the vending device.

(10) The special privilege permit shall authorize the installation of a number of vending devices and shall be for a term of two (2) years and shall not be assignable.

(d) **Revocation.** The City Clerk may revoke any special privilege permit issued pursuant to this Section after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or any false statement contained in the application for such a permit; or

(2) Violation of any provisions of ordinances regulating such special privilege permit; or

(3) Violation of the terms of the special privilege Permit granted.

Notice of hearing for such a revocation shall be given in writing stating the grounds for revocation, the time and place of the hearing, and shall be mailed to the permittee at the address given in the permit application at least five (5) days prior to the date set for the hearing.

(e) **Refusal; Appeal.** If the City Clerk refuses to grant a special privilege or if a permittee objects to a request to remove a permitted vending device, an applicant or a permittee may request a hearing by filing a notice of appeal with the City Clerk within ten (10) days after notice of the decision to refuse the permit, or a request for removal has been given. The request for an appeal hearing shall include a statement of the grounds for the appeal. The Common Council shall set the time and place for the appeal hearing and notice shall be sent to the applicant as set forth in Subsection (d). The Common Council may reverse, affirm or modify an earlier decision, and any such decision made by the Common Council after the appeal hearing shall be final.

(f) **Application Fee.** Application for such permit shall be made to the City Clerk and shall include the name and address of the applicant, the name of the newspaper to be sold, the

proposed maximum number and location of existing devices or locations where vending devices are proposed to be installed. The application shall be reviewed by the Department of Public Works and the Police Department and those departments shall file their written recommendations with the City Clerk within ten (10) working days. A permit application shall not be considered unless the departmental reviews have been completed. There shall be a Sixty Dollar ($60.00) per vending device fee for such permits; and the permit shall be renewed every two years.

CHAPTER 6

Transient and Temporary Public Entertainments

7-6-1 Transient and Temporary Public Entertainments

SEC. 7-6-1 TRANSIENT AND TEMPORARY PUBLIC ENTERTAINMENTS.

(a) **License Required.**

(1) No person shall maintain or operate any transient or temporary public entertainment within the City without first obtaining a license as hereinafter provided.

(2) This Section does not require a license for the giving of lectures, concerts, exhibitions or entertainments of a scientific, historical, political, literary or musical character for humane, religious, charitable or scientific purposes. (Ord. 98-27)

(b) **Definition.** A transient or temporary public entertainment is one to which the public may gain admission by payment of an admission charge. It includes, but is not limited to, shows, circuses, exhibitions, carnivals, county fair, concerts and vaudeville. All such events, for purposes of this Section, shall be referred to as "carnivals." (Ord. 98-27)

(c) **Application.** At least twenty (20) days before the planned event, the applicant shall apply, in writing, to the Common Council for a carnival license. The application shall be accompanied by a Certificate of Insurance and Clean-Up Bond (if applicable). At least five (5) working days prior to entering the City of Cedarburg, the applicant shall provide to the Chief of Police a list of each person employed or otherwise engaged in such entertainment, including the full (first, middle, and last) name, date of birth, social security number, driver's license number (including state) and current residence of each person. Prior to opening each day, the applicant shall provide to the Chief of Police an updated list of each person employed or otherwise engaged in entertainment to include information listed above. If a complete list is not provided to the Chief of Police each day, the applicant may not open. (Ord. 98-27) (Ord. 2004-14)

(d) **Requirements**.

(1) Insurance Required. No license shall be granted unless the applicant shall have filed with the City Clerk a certificate of liability insurance naming the City of Cedarburg as an additional insured in the amount of not less than One Million Dollars ($1,000,000.00) for personal injury and property damage coverage with the condition that the applicant shall indemnify and save harmless the City and its officers and agents and citizens against any injuries and damages resulting or arising from the conducting of any carnival for which the license is issued or from the performance by the applicant or his agents of any negligence incident to or connected with the conduct of such carnival and that the applicant shall pay all judgments, costs and charges that may be recovered against the City or any of its officers or agents by reason of the conduct of such carnival, together with the cost of defending any such action against the City, including actual attorney's fees. (Ord. 98-27)

(2) License Fees Required. No license shall be issued unless the applicant shall pay a license fee for the operation or maintenance of the public entertainment of Fifty Dollars ($50.00) per day. (Ord. 92-54) (Ord. 94-45) (Ord. 98-27)

(3) Bonded Insurance. Applicants who are nonresidents of Ozaukee County, Wisconsin, or residents of said county whose principal place of business is located outside of Wisconsin shall file with the City Clerk a Clean-up Bond in favor of the City of Cedarburg in the principal sum of Five Thousand Dollars ($5,000.00) which shall be maintained in full force and effect for a period of one (1) year commencing on the date of issuance of the license. The Council, at its option, may waive the Clean-up Bond requirement. (Ord. 94-18)

(4) Posting of License. Such license when issued shall be prominently displayed while the carnival is in operation. (Ord. 98-27)

(5) Inspection of Mechanical Devices. The applicant shall indicate the date of the last State inspection of amusement rides and other mechanical devices by the State Department of Commerce. The City reserves the right to require inspections of all mechanical devices that would be available to the public. All inspection costs shall be paid for by the licensee. (Ord. 98-27)

(6) Inspection of Tents. The City reserves the right to require inspection of all tents by the Cedarburg Fire Inspector. All inspection costs shall be paid for by the licensee. (Ord. 98-27)

(7) Food Handlers to Obtain Health Certificate. Any person employed in such carnival for the purpose of preparing, handling or selling food or drink shall submit to a physical examination and obtain a health certificate as required by State Statute. A copy of such certificate shall be filed with the City Clerk. (Ord. 98-27)

(8) Grounds for Denial of License. The Common Council may also deny a license for a carnival when the Common Council, in its opinion, believes the carnival is undesirable or presents a threat to the public safety or welfare. The City of Cedarburg Police Department will conduct criminal background checks on all persons employed or otherwise engaged by the carnival. The Common Council may deny a license for a carnival if the criminal background check reveals that any person employed or otherwise engaged by the carnival has a criminal record which in the Common Council's opinion indicates that person may present a threat to the public safety or welfare, unless the carnival agrees not to employ or otherwise engage the person whom the Common Council believes may present a threat. (Ord. 98-27)

(e) **Revocation.** Any license granted by the Common Council under the provisions of this Section may be revoked by the Mayor or Chief of Police, including when the person who maintains, owns, controls or operates such carnival permits the violation of any provisions of this Code of Ordinances or State laws or where, in the opinion of the Mayor or Chief of Police, the carnival is deemed undesirable or presents a threat to the public safety and welfare. The Mayor or Chief of Police may also revoke or suspend a license if a criminal background check, which will be conducted on a daily basis, reveals that any person employed otherwise engaged by the carnival has a criminal record which in the Mayor's or

Chief's opinion indicates that person may present a threat to the public safety or welfare, unless the carnival agrees not to employ or otherwise engage the person whom the Mayor or Chief may present a threat. Revocations or suspensions may be appealed to the Common Council. (Ord. 98-27) (Ord. 2004-14)

CHAPTER 7

Taxicabs

7-7-1 Regulation of Taxicabs
7-7-2 Insurance Required
7-7-3 Inspection Required
7-7-4 Conditions of License
7-7-5 Exceptions
7-7-6 Refusal to Pay Taxi Fare Prohibited
7-7-7 Revocation of License

SEC. 7-7-1 REGULATION OF TAXICABS.

(a) **Licensing of Taxicabs.**

(1) No person, firm or company shall conduct a taxicab or limousine business within the City of providing taxicab or limousine service to the public unless such person is licensed by the City by the licensing of each taxicab or limousine as hereinafter provided. (Ord. 91-16)

(2) Application for the licensing of a taxicab business shall be addressed to the Council and shall be filed with the City Clerk, together with a tendered license fee prorated on the basis of the annual license fee set forth in Subsection (4), should each remaining portion of the calendar license year be less than eleven (11) months. The Clerk shall present such application to the Council at its next regular meeting, and the Council shall consider such application and shall instruct the Clerk to issue the license or dismiss the application upon a majority vote of the Council. (Ord. 91-16)

(3) No license for taxicab business based on a new application therefor shall be issued, except upon a showing that the available transportation facilities are not adequate to meet the public need and that the applicant is proper and able to furnish it.

(4) The taxicab business license fee shall be Thirty Dollars ($30.00) for each vehicle. (Ord. 92-54)

(5) The license year for taxicab business licenses shall be from January 1 through December 31. As a condition to the continued holding and renewal of license for a taxicab business, the proprietor, owner or his agent shall pay to the City the license fees computed as set forth in Subsection (4) above, each year on or before the 15th day of January.

(b) **License Required for Taxi Operations.** No person shall operate any motor vehicle for taxicab or limousine purposes upon the highways and streets of the City unless such person is duly licensed by the State to operate said motor vehicle.

State Law Reference: Sec. 349.24, Wis. Stats.

SEC. 7-7-2 INSURANCE REQUIRED

(a) It shall be unlawful to operate a vehicle for the conveyance of passengers for hire or permit the same to be operated, nor shall any license be issued here under until and unless the applicant for a license deposits with the City Clerk a certificate of liability insurance for the vehicles for which licenses are sought, said certificate of liability insurance to be acceptable and approved by the City Clerk and issued by a company authorized to do business in the State of Wisconsin, indemnifying the applicant an amount prescribed by the City's Schedule of Insurance Requirements.

(b) Each taxicab insurance policy shall contain a provision that the same may not be canceled before the expiration of its term, except upon thirty (30) days written notice to the City of Cedarburg. Every day upon which any vehicle is operated for the conveyance of passengers for hire or when a taxicab or cab or similar transportation is offered to the public without an insurance policy as required herein being in effect and on file with the City Clerk shall be deemed a separate violation. The cancellation or other termination of any insurance policy issued in compliance with this Section shall automatically revoke and terminate all licenses issued for the taxicab covered by such insurance policy, unless another policy shall be provided and in effect at the time of such cancellation or termination.

SEC. 7-7-3 INSPECTION REQUIRED.

(a) No vehicle shall be licensed until it has been annually examined by the Chief of Police, or such person as he may designate, and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, or good appearance and well painted, and that said vehicle complies with all the other provisions of this Chapter. If such examination and inspection shows that the vehicle does not comply with any of the provisions of this Section, no license shall be issued. At the request of the Chief of Police, the taxicab owners shall take their vehicles to a reputable garage for an independent inspection at the owner's expense.

(b) No taxicab shall be licensed until the Police Department has approved that:

(1) The horn, footbrake, windshield, rear vision mirror, fenders, exhaust system, windshield wipers, emergency brake, directional signals, speedometer, license lamps, tires, headlamps, stop lamps and tail lamps are in legal working order as required by the Wisconsin Motor Vehicle Code.

(2) The taxicab is in a generally safe, sanitary and reliable condition.

(c) The inspection required by this Section is only an inspection of the taxicab's exterior and passenger areas and shall not be a thorough mechanical inspection of the taxicab. Nothing in this Section shall be interpreted as relieving the owner or operator of a taxicab from any and all liability arising from any unsafe, unsanitary, unreliable or illegal conditions existing in his taxicab, whether or not such conditions are discovered or omitted by the inspections required

herein. This Section shall not be interpreted as creating a duty or liability on the part of the City of Cedarburg, Wisconsin, the Police Department or any employee or agent of the City of Cedarburg, Wisconsin, or the Police Department, to any person.

(d) Any police officer of this City may, at all reasonable times, inspect any cab or public hack under such taxicab business license and may prohibit the use of any cab which is unsafe or not in proper repair.

SEC. 7-7-4 CONDITIONS OF LICENSE

(a) **Licenses Nontransferable.** Licenses issued or granted under this Chapter shall be nonassignable and nontransferable.

(b) **Information Card to be Displayed.** A card containing the name of the owner, license number, the number of the vehicle and rates of fare printed thereon shall be placed and at all times kept in a conspicuous place inside such vehicle

(c) **Liability of Licensee.** Any licensee shall be liable for any violations of ordinances or statutes by any and all persons operating taxicabs under its license.

(d) **Number of Passengers.** No licensee or person driving a taxicab shall carry or permit to be carried in any such vehicle more than the number of persons specified in the license applicable to such vehicle.

(e) **Common Council May Impose Further Restrictions.** Any licensee hereunder shall be subject to such further regulations and restrictions as may be imposed at any time by the Common Council.

SEC. 7-7-5 EXCEPTIONS.

This Chapter shall not apply to persons, firms or corporations engaged in the business of carrying passengers for hire, both interstate and intrastate, between regularly established points and on regularly established time schedules, nor to the operator of a motor vehicle engaged in the business of transporting school students for hire.

SEC. 7-7-6 REFUSAL TO PAY TAXI FARE PROHIBITED.

No person who has been transported by a taxicab shall refuse to pay the fare for such transportation as such fare is shown on the taximeter or zone meter.

SEC. 7-7-7 REVOCATION OF LICENSE.

(a) **Revocation.** Licenses granted under Sections 7-7-1 through 7-7-4 may be suspended or revoked at any time by the Chief of Police for any violation of this Chapter. When a taxicab license is revoked or canceled as herein provided, the Chief of Police shall immediately notify the owner to cease at once to operate the vehicle for which the license has been

revoked as a taxicab.

(b) **Appeals.** Any person who receives a revocation of license and objects to all or part thereof may appeal to the Common Council within seven (7) days of the receipt of the order and the Common Council shall hear such appeal within thirty (30) days of receipt of such written notice of the appeal. After such hearing, the Common Council may reverse, affirm or modify the order or determination.

CHAPTER 8

Regulation and Licensing of Fireworks

7-8-1 Regulation of Fireworks

SEC. 7-8-1 REGULATION OF FIREWORKS. (Ord. 89-29)

(a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

(1) Fuel or a lubricant.
(2) A firearm cartridge or shotgun shell.
(3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
(4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
(5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
(6) A toy snake which contains no mercury.
(7) A model rocket engine.
(8) Tobacco and a tobacco product.
(9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
(10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.

(b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
(1) To a person holding a permit under Subsection (c)(3);
(2) To a municipality; or
(3) For a purpose specified under Subsection (c)(2)b-f.

(c) **Use.**
(1) Permit Required. No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
(2) Permit Exceptions. Subparagraph (c)(1) above does not apply to:
a. The City, except that City fire and law enforcement officials shall be notified

of the proposed use of fireworks at least two (2) days in advance.

b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.

c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.

d. The possession or use of explosive or combustible materials in any manufacturing process.

e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.

(3) Who May Obtain Permit. A permit under this Subsection may be issued only to the following:

a. A public authority.

b. A fair association.

c. An amusement park.

d. A park board.

e. A civic organization.

f. An agricultural producer for the protection of crops from predatory birds or animals.

(4) Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(5) Bond. The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Clerk.

(6) Required Information for Permit. A permit under this Subsection shall specify all of the following:

a. The name and address of the permit holder.

b. The date on and after which fireworks may be purchased.

c. The kind and quantity of fireworks which may be purchased.

d. The date and location of permitted use.

e. Other special conditions prescribed by ordinance.

(7) Copy of Permit. A copy of a permit under this Subsection shall be given to the Fire Chief and Chief of Police at least two (2) days before the date of authorized use.

(8) Minors Prohibited. A permit under this Subsection may not be issued to a minor.

(d) **Storage and Handling.**

(1) Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.

(2) Smoking Prohibited. No person may smoke where fireworks are stored or handled.

(3) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.

(4) Storage Distance. No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.

(5) Restrictions on Storage. No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.

(e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

State Law Reference: Section 101(1)(1), Wis. Stats.

CHAPTER 9

Street Use Permits

7-9-1 Street Use Permits

SEC. 7-9-1 STREET USE PERMITS.

(a) **Purpose.** The streets in possession of the City are primarily for the use of the public in the ordinary way. However, under proper circumstances, the City Clerk may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit, such as for block parties, to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.

(b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk and shall be filed with the City Clerk. The application shall set forth the following information regarding the proposed street use:

(1) The name, address and telephone number of the applicant or applicants.

(2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.

(3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.

(4) The date and duration of time for which the requested use of the street is proposed to occur.

(5) An accurate description of that portion of the street proposed to be used.

(6) The approximate number of persons for whom use of the proposed street area is requested.

(7) The proposed use, described in detail, for which the Street Use Permit is requested.

(c) **Review by Chief of Police and Director of Engineering and Public Works.** Before any application for a Street Use Permit is considered by the City Clerk, the application shall be reviewed by the Director of Engineering and Public Works and Chief of Police for their recommendation as to the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

(d) **Mandatory Denial of Street Use Permit.** An application for a Street Use Permit shall be denied if:

(1) The proposed street use is primarily for private or commercial gain.

(2) The proposed street use would violate any federal or state law or any Ordinance of the City.

(3) The proposed street use will substantially hinder the movement of police, fire or

emergency vehicles, constituting a risk to persons or property.

(4) The application for a Street Use Permit does not contain the information required above.

(5) The application requests a period for the use of the street that would last later than 10:00 p.m.

(6) The proposed use could equally be held in a public park or other location.

(7) In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the City Clerk, in consultation with the Chief of Police and Director of Engineering and Public Works, may deny a permit for any other reason or reasons if he concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

(e) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee of Twenty-five Dollars ($25.00).

(f) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, each application for a Street Use Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, shall be accomplished by a petition designating the proposed area of the street to be used and time for said proposed use, said petition to be signed by not less than seventy-five percent (75%) of the residents over eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

PETITION FOR STREET USE PERMIT

We, the undersigned residents of the _____ hundred block of_____ Street in the City of Cedarburg, hereby consent to the _____ recreational or _____ business use of this street between the hours of_____ and _____ on _____, the _____ day of_____ , 19___ , for the purpose of _____ and do hereby consent to the City of Cedarburg to grant a Street Use Permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the City of Cedarburg shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for the event to last later than 10:00 p.m. on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

We designate_____ as the responsible person or persons who shall apply for an application for a Street Use Permit.

(g) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage

or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Cedarburg in an amount prescribed by the City's Schedule of Insurance Requirements. The applicant may be required to furnish a performance bond prior to being granted the permit.

(h) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or Ordinances of the City of Cedarburg. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

CHAPTER 10

Regulation of Nonmetallic Mining (Ord. 2006-31)

7-10-1 Statutory Provisions Adopted
7-10-2 Definitions
7-10-3 Existing Nonmetallic Mining Operations
7-10-4 Exempt Activities
7-10-5 Permit Required for Nonmetallic Mining
7-10-6 Permit Revocation
7-10-7 Blasting and/or Rock Crushing

SEC. 7-10-1 STATUTORY PROVISIONS ADOPTED.

This Chapter is adopted pursuant to Section 295, Wis. Stats., which is adopted by reference and made a part of this Chapter as if fully set forth herein.

SEC. 7-10-2 DEFINITIONS.

As used in this Chapter:

(a) **Environmental Pollution** has the meaning specified under Sec. 295.11(2) Wis. Stats.

(b) **Nonmetallic Mining or Nonmetallic Mining Operation** means operations or activities for the extraction from the earth for sale or use by the operator of mineral aggregates or nonmetallic minerals such as stone, sand, gravel, asbestos, beryl, clay, feldspar, peat, talc, and topsoil, including such operations or activities as excavation, grading and dredging.

(c) **Nonmetallic Mining Refuse** means waste soil, rock, mineral, and other natural material resulting from a nonmetallic mining operation. This term does not include marketable by-products resulting directly from or displaced by the nonmetallic mining operation.

(d) **Nonmetallic Mining Site or Site** means the location where a nonmetallic mining operation is proposed or conducted, including all surface areas from which materials are removed, related storage and processing areas, areas where nonmetallic mining refuse is deposited and areas disturbed by the nonmetallic mining operation by activities such as the construction or improvement of private roads or haulageways for nonmetallic mining.

(e) **Operator** means any person who is engaged in a nonmetallic mining operation or nonmetallic mining site reclamation or who applies for or holds a nonmetallic mining permit issued under this nonmetallic mining reclamation ordinance whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

(f) **Reclamation** means the rehabilitation of a nonmetallic mining site including, but not limited to, removal of nonmetallic mining refuse, grading of the site, replacement of topsoil, stabilization of soil conditions, establishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution, construction of fences and, if

practical, restoration of plant, fish and wildlife habitat.

(g) **Replacement of Topsoil** means the replacement of the topsoil which was removed or disturbed by a nonmetallic mining operation or the provision of material to substitute for the topsoil that was removed or disturbed which is at least as adequate as the topsoil which was removed or disturbed for the purposes of providing adequate vegetative cover and stabilization of soil conditions to achieve a land use specified in an approved nonmetallic mining reclamation plan.

SEC. 7-10-3 EXISTING NONMETALLIC MINING OPERATIONS.

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including unreclaimed portions of a site which were mined prior to the effective date of this Chapter.

SEC. 7-10-4 EXEMPT ACTIVITIES.

This nonmetallic mining reclamation Chapter shall not apply to the following activities per Section 295.16(4), Wis. Stats.:

(a) Excavations or grading by a person solely for domestic or farm use at his or her residence or farm.

(b) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway within the highway right-of-way.

(c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.

(d) Excavations for building construction purposes.

(e) Any mining operation, the reclamation of which is required in a permit obtained under Section 293, Wis. Stats.

(f) Any activities conducted at a solid or hazardous waste disposal site required to prepare, operate or close a solid waste disposal facility under subchs. II to IV of Section 289, Wis. Stats., or a hazardous waste disposal facility under Section 291, Wis. Stats., that are conducted on the property on which the facility is located, but a nonmetallic mining reclamation ordinance and the standards established under Section 295.12(1)(a), Wis. Stats. apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic mining site that is not on the property on which the solid or hazardous waste disposal facility is located such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

(g) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from that dredging.

SEC. 7-10-5 PERMIT REQUIRED FOR NONMETALLIC MINING.

(a) **Permit Required.** No person shall operate any nonmetallic mining site or operation within the City unless he obtains a nonmetallic mining permit from the Common Council. The fee for such permit shall be Two Hundred Dollars ($200.00), plus any actual City administrative expenses, payable by certified check. Operators of existing nonmetallic mining operations shall apply for such permit within thirty (30) days of the effective date of this Chapter.

(b) **Required Permit Information.** An application for a nonmetallic mining permit shall be submitted by the operator and shall include:

(1) An adequate description of the operation, including a legal description of the property;

(2) A plan of the site showing the proposed and existing roads and drives, and the sources, quantity and disposition of water to be used, if any;

(3) Estimated dates for completion of the extraction and commencement and completion dates for the reclamation;

(4) A reclamation plan and such other information as may be necessary to determine the nature of the operation and the effect on the surrounding area;

(5) Methods of screening from adjacent properties;

(6) Hours of operation;

(7) Dust and noise control;

(8) Maximum depth;

(9) Blasting procedures;

(10) Location and height of stockpiles; and

(11) Such other information the Common Council deems pertinent to the operation.

(c) **Reclamation Plan.** The reclamation plan shall contain adequate provision that:

(1) All final slopes around the area be flatter than a three (3) to one (1) horizontal slope in a sand, gravel or borrow pit operation, or in a safe angle or repose in a quarrying operation;

(2) Excavations below the grade of the nearest abutting public street or highway shall be set back from the street or highway a distance not less than that required for buildings and structures in the same zoning district;

(3) Excavations made to a water-producing depth shall be not less than three (3) feet measured from the low water mark;

(4) All final slopes shall be covered with adequate topsoil and seeded to prevent erosion;

(5) The plan shall require that, after completion of the anticipated operation, the area shall be cleared of all debris and be left in a workmanlike condition, subject to the approval of the Common Council;

(6) There is a timetable for completion of various stages of reclamation of the nonmetallic mining site.

(d) **Applications.** All applications for a license hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk at least sixty (60) days prior to the licensing period. The Clerk shall immediately refer all applications for

a license hereunder to the Common Council for public hearing and approval. The operator shall receive written notice of the public hearing. The license shall be for a period of time as stated in the application or as modified by the Council. Modification of the application or reclamation plan may be permitted or additional conditions may be required upon application. The Council shall consider the effect of the operation and the proposed reclamation upon existing and future conditions, including streets, neighboring land development, land use drainage, water supply, water pollution, air pollution, soil erosion, natural beauty and land value of the locality. The Council may approve, approve conditionally or reject the application and reclamation plan.

(e) **Financial Assurance.** Before a license and reclamation plan is approved by the Common Council, the operator shall submit an agreement and performance bond or cash escrow agreement to assure the following:

(1) The operator shall pay for the cost of all improvements required in the reclamation plan by the Common Council.

(2) Guaranteed completion of the required reclamation within a period determined by the Council.

(3) Payment by the operator for all costs incurred by the City for review and inspection. This would include preparation and review of plans and specifications by the City Engineer and Attorney, as well as other costs of a similar nature.

(4) The City may elect to have stages of the reclamation plan performed under the terms of a cash escrow agreement.

(5) The required performance bond or cash escrow agreement shall be equal to one and one-quarter (1¼) times the City Engineer's estimated cost of the required improvements.

(6) If the required reclamation is not complete within the designated period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required reclamation. Any balance remaining after such reclamation has been done shall be returned to the operator. The Common Council, at its option, may extend the bond period for additional periods

(f) **Fences.** Prior to reclamation, nonmetallic mining sites abutting areas zoned residential shall be enclosed by a security fence of not less than four (4) feet in height. Fence gates shall be locked or secured when the site is unattended so as to prevent uncontrolled access by children to the site.

(g) **Inspection.** An authorized agent of the City may enter the premises of a nonmetallic mining operation in the performance of his or her official duties by permission of the property owner or operator or pursuant to a special inspection warrant issued under Sec. 66.0119, Wis. Stats., in order to inspect those premises and to ascertain compliance with this nonmetallic mining reclamation Chapter.

(h) **Prohibitions and Orders.** Nonmetallic mining operations within the City are prohibited if the nonmetallic mining site cannot be reclaimed in compliance with the standards of this Chapter or if other requirements of this Chapter are not met.

SEC. 7-10-6 PERMIT REVOCATION.

If any permit is revoked, canceled, rescinded or terminated, the operator shall be given written notice of any charges or violations against him or the reasons proposed for revocation and shall have an opportunity to be heard before the Common Council.

SEC. 7-10-7 BLASTING AND/OR ROCK CRUSHING.

(a) **Definitions.** The following definitions shall apply in the interpretation and enforcement of this Section:

(1) Blasting. A method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, to prepare stone for building and/or ornamental use, or to prepare property for development.

(2) Person. Any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

(3) Rock Crusher. Any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing grinding, breaking or pulverizing rock or stone.

(b) **Operation.** No person within the City shall operate a rock crusher or perform blasting in such a manner so that any dust, dirt or vibration from such operation shall, in any way, damage or injure any person or property within the City. All blasting within the City shall be performed according to the requirements of Chapter 7 of ILHR, Explosive Materials, Wis. Adm. Code, and all subsequent amendments thereto.

(c) **Permit**

(1) Permit Required. No person within the City shall operate a rock crusher or perform blasting who does not possess a proper permit from the City.

(2) Applications. All applications for permits hereunder shall be made in writing upon the written form provided by the City and distributed by the City Clerk. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk at least thirty (30) days prior to the licensing period. The City Clerk shall immediately refer all applications for permits hereunder to the City Engineer. The City Clerk shall issue a permit hereunder only after first receiving the recommendation of the City Engineer, the duly executed certified check for the permit fee as hereinafter provided and the submittal of the Plan of Operation, if required, as approved by the City Engineer.

(3) Certified Check. Each application for a permit hereunder shall be accompanied by a certified check in the sum of the required permit fee as hereinafter provided, or a renewal thereof, the same to be payable to the City.

(4) Plan of Operation. Each application to permit a rock crusher hereunder or renewal thereof shall be accompanied by a Plan of Operation which shall include: methods of

screening from adjacent properties, hours of operation, hours of blasting and operation of rock crusher, dust and noise control, blasting procedures, location and height of stock piles, whether a rock crusher will be needed and how often, water supply, drainage course, maximum depth, legal description of property in question and other information the City Engineer deems pertinent to the proposed operation. Such Plan of Reorganization shall be approved by the City Engineer.

(5) Insurance. Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Cedarburg as a party insured in an amount as prescribed in the City's Schedule of Insurance Requirements.

(d) **Renewals.** All requests for renewals of permits hereunder shall be made at least thirty (30) days prior to the expiration date of the permit and must comply with all requirements of Subsection (c) above.

(e) **Blasting Procedures and Controls.**

(1) Energy Ratio. The allowable vibration of any blast at the nearest occupied or used building off the subject premises shall not exceed an energy ratio of 0.5 or resultant particle velocity of 1.35" per second based on the following formula:

Energy ratio = 0.5 = 10.823 f^2A^2 where: f = frequency in cycles per second, A = amplitude or displacement in inches.
Energy ratio = .274 V^2 (V = resultant particles velocity expressed in inches per second).

(2) Measurement of Blasts. The operator of the quarry operation, when requested to do so by the City Engineer, shall measure and submit data to substantiate compliance with the above formula and the operator of the quarry operation, when requested to do so by the City Engineer, shall measure air blast. This verification shall be performed by a seismological engineering firm acceptable to the City or by the City Engineer. Instrumentation shall be by seismograph similar to VME Seismolog Model "B" and approved seismograph sound measuring equipment or approved equivalents. All expenses for these tests shall be paid by the quarry operator.

(3) Blasting Log. A log in duplicate shall be kept of each blast on forms similar to the one on file with the City Clerk. The original copy of this blasting log shall be filed with the Clerk within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry office.

(4) Cover Material. Operators of quarries for building and/or ornamental stone removal shall cover Primacord, other detonating cord or surface-laid blasting devices with at least one foot (1') of dirt or other suitable cover material.

(f) **Permit Fee.** The permit fee for any permit issued pursuant to this Section shall be as set forth below. No permit fee shall be prorated. All permits issued hereunder shall expire on December 31 following the date of issue

(1) Quarries using blasting to supply buildings and/or ornamental stone: One Hundred Dollars ($100.00) per blasting period.

(2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days/year: One Hundred Dollars ($100.00) per year.

(g) **Penalty.** Any person who shall violate any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. However, upon conviction for the violation of any of the provisions of this Section by the holder of a permit issued hereunder, and in addition to the forfeiture provided, such permit shall thereupon be canceled, revoked, rescinded and terminated.

(h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, canceled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or vocation and shall have an opportunity to be heard before the Common Council.

CHAPTER 11

Parade Permits

7-11-1 Definitions
7-11-2 Permit Required; Exceptions
7-11-3 Application for Permit
7-11-4 Standards for Issuance
7-11-5 Notice of Denial
7-11-6 Notice to City and Other Officials
7-11-7 Contents of Permit
7-11-8 Duties of Permittee
7-11-9 Possession of Permit
7-11-10 Public Conduct During Parades

SEC. 7-11-1 DEFINITIONS.

(a) **Chief of Police** is the Chief of Police of the City of Cedarburg.
(b) **Parade** is any parade, march, ceremony, show, exhibition, pageant or procession or any similar display in or upon any street, park or any other public place in the City.
(c) **Parade Permit** is a permit required by this Chapter.
(d) **Person** is any person, firm, partnership, association, corporation, company or organization of any kind.

SEC. 7-11-2 Permit REQUIRED; EXCEPTIONS.

(a) **Permit Required.** No person shall participate in or form any parade unless a parade permit has been obtained from the City Clerk.
(b) **Exceptions.** This Chapter shall not apply to:
  (1) Funeral processions.
  (2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate supervision of the proper school authorities.
  (3) A governmental agency acting within the scope of its functions.

SEC. 7-11-3 APPLICATION FOR PERMIT.

(a) **Application**. A person seeking a parade permit shall file an application with the City Clerk. If the application contains the information required by Subsection (c), the Clerk shall refer

the application to the Chief of Police.

(b) **Filing Period.** An application for a parade permit shall be filed with the City Clerk not less than thirty (30) days nor more than sixty (60) days before the date on which it is proposed to conduct the parade.

(c) **Contents.** The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade.

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.

(3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.

(4) The date when the parade is to be conducted.

(5) The route to be traveled, the starting point and the termination point.

(6) The approximate number of persons who, and animals and vehicles which, will constitute such parade, the type of animals and description of the vehicles.

(7) The hours such parade will start and terminate.

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.

(9) The location by streets of any assembly areas for such parade.

(10) The time at which units of the parade will begin to assemble at any such assembly area or areas.

(11) The interval of space to be maintained between units of such parade.

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the City Clerk a communication in writing from the person proposing to hold the parade authorizing the applicant to apply for the permit on his behalf.

(13) Any additional information which the City Clerk and Chief of Police finds reasonably necessary to a fair determination as to whether a permit should be issued.

(d) **Late Applications.** The City Clerk and Chief of Police, where aide cause is shown, may consider any application which is filed less than thirty (30) days before the date such parade is proposed to be conducted.

(e) **Fee.** There shall be no fee required.

SEC. 7-11-4 STANDARDS FOR ISSUANCE.

The Chief of Police shall forward, with a recommendation, the application to the City Clerk, who shall issue a permit when, from a consideration of the application and from such other information as may otherwise be obtained, it finds that:

(a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.

(b) The conduct of the parade will not require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City.
(c) The conduct of such parade will not require the diversion of so great number of ambulances as to prevent normal ambulance service to portions of the City other than that to be occupied by the proposed line of march and areas contiguous thereto.
(d) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas.
(e) The conduct of such parade will not interfere with the movement of firefighting equipment enroute to a fire.
(f) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.
(g) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

SEC. 7-11-5 NOTICE OF DENIAL

The Chief of Police shall make his determination upon the application for a parade permit within three (3) days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant within five (5) days after the date upon which the application was filed a notice of his action, stating the reasons for his denial of the permit.

SEC. 7-11-6 NOTICE TO CITY AND OTHER OFFICIALS.

Immediately upon receiving of a parade permit application, the City Clerk shall send a copy thereof to the following:
(a) Mayor.
(b) Fire Chief.
(c) Director of Public Works.
(d) Chief of Police.

SEC. 7-11-7 CONTENTS OF PERMIT.

Each parade permit shall state the following:
(a) Starting time.
(b) The portions of the streets to be traversed that may be occupied by the parade.
(c) The maximum length of the parade in miles or fractions thereof.
(d) Such other information as the Chief of Police shall find necessary to the enforcement of this Chapter.

SEC. 7-11-8 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

SEC. 7-11-9 POSSESSION OF PERMIT.

The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

SEC. 7-11-10 PUBLIC CONDUCT DURING PARADES.

(a) **Interference.** No person shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(b) **Driving Through Parades.** No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) **Parking on Parade Route.** The Chief of Police may prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and no person shall park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this Chapter.

CHAPTER 12

Horse and Carriage Rides

7-12-1 Horse and Carriage Rides

SEC. 7-12-1 HORSE AND CARRIAGE RIDES.

(a) **Horses Prohibited on State Highways and on Sidewalk.**

(1) Except as permitted in an authorized parade or pursuant to a special Police Department permit, or pursuant to a permit issued below, no persons shall ride, lead, tie up or drive a horse upon any state highway within the City of Cedarburg. excepting from said prohibitions that section of Washington Avenue between West Fair Street and the northern boundary of the City of Cedarburg.

(2) No person shall ride, lead or drive a horse along, over or upon any sidewalk, except in necessarily crossing the same.

(b) **Licensing of Horse and Carriage Rides.** No horse and carriage rides shall be permitted on the streets of the City of Cedarburg except as provided in this Section. Each horse and carriage shall be licensed by the City of Cedarburg. No license shall be issued without written proof of compliance with the regulations hereinafter set forth.

(c) **Regulations.** (Ord. 2007-33)

(1) Routes. All proposed routes must be in writing and receive prior approval of the Chief of Police of the City of Cedarburg. A copy of the approved routes must be submitted to the City Clerk at the time of application for the license.

(2) Hours of Operation. No horse and carriage may operate before 10:00 a.m. or after 10:00 p.m.

(3) Equipment. Each carriage shall be equipped with rubber tires, brakes, brake lights, turn signals and a "slow moving vehicle" sign attached and visible to any person or vehicle following the horse-drawn carriage. The carriage shall be subject to inspection by the City of Cedarburg Police Department to insure adequate safety measures. Written proof of such inspection and approval by the Police Department shall be submitted to the City Clerk prior to issuance of the license.

(4) Sanitation. The horse and/or carriage shall be equipped with a sanitation device to insure no fecal matter of the animal falls to the street. Should any fecal matter or urine fall to the street, the driver shall take immediate steps to remove the same as soon as practicable.

(5) Number of Passengers. The carriage shall contain no more than the number of approved passengers, except that children under the age of eight (8) years may be carried on the laps or in the arms of adult passengers.

(6) Proof of Insurance. Each owner or operator of a horse and carriage operated for hire on the streets of the City of Cedarburg shall carry liability insurance in an amount of

not less than One Million Dollars ($1,000,000.00) and shall provide the City with a hold harmless agreement which is approved by the City. Proof of such insurance coverage and the hold harmless agreement shall be submitted to the City Clerk at the time of the application for the license.

(d) **Licenses.**

(1) License Applications. License applications shall be obtained from the City Clerk. The applicant shall then request route approval and equipment inspection by the Police Department. Completed applications shall be submitted to the City Clerk, together with route approval and equipment inspection approval. The City Clerk shall place the application on the Common Council agenda. If the Common Council determines that the issuance of a license is in the best interests of the City and is not likely to result in safety hazards or undue congestion, the Common Council may authorize the issuance of the license.

(2) Requirements. All licenses authorized by the Common Council shall be issued by the City Clerk upon receipt from the applicant of proof of liability insurance and a signed hold harmless agreement in a form approved by the City Clerk. All licenses shall state the name and address of the owner and/or operator, the approved number of passengers, liability insurance carrier and the days and hours of intended operation. A description of the approved routes shall be attached to the license. The fee for such license shall be One Hundred Ten Dollars ($110.00). Such fee shall be paid prior to the issuance of the license. The license shall be valid only in the calendar year for which it is issued. (Ord. 92-54)

(e) **Modification.**

(1) Police Authority. The Chief of Police shall have the authority to review routes, manner of operation and condition of equipment at any time and to modify or suspend any license or restrict any route if he deems it necessary for the protection of the public safety or interest. In the event the licensee desires to appeal any such action, the licensee may file a written request for hearing with the City Clerk.

(2) Commencement of Revocation Proceedings. Revocation or suspension proceedings for violations under this Section may be instituted by the Chief of Police upon written charges made and filed with the City Clerk or upon a sworn written complaint filed with the City Clerk by any person.

(3) Action. Upon receipt of an appeal or a suspension or modification, or upon receipt of charges or a complaint, the City Clerk shall schedule a hearing on the matter to be heard by the Common Council and shall send, by first class mail, a copy of the charges or complaint, together with a notice of hearing, to the licensee or the person against whom the charges or complaint was made. Such notice shall be sent no later than ten (10) days prior to the scheduled hearing. At the time of the hearing, the Chief of Police or his designee, or the complainant and the licensee or person against whom the charges or complaint was made, shall have an opportunity to present evidence and/or make a statement regarding the grounds for the suspension or modification of the charges or complaint. The Common Council shall, based upon the evidence and/or statements, dismiss the charges or complaint, uphold or revoke any modification or suspension, revoke the license, impose a forfeiture pursuant to

Section 1-1-7 or take other action as it deems appropriate.

(4) Request to Surrender. If a licensee wishes to surrender a license after receiving notice for hearing on revocation or suspension, the licensee may request, in writing, the license be surrendered. The Common Council may, at its discretion, accept the surrendered license or proceed with the hearing.

CHAPTER 13

Licensees to Pay Local Claims; Appellate Procedures

7-13-1 Licensees Required To Pay Local Taxes, Assessments and Claims; Appellate Procedures

SEC. 7-13-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.

(a) **Payment of Claims as Condition of License.** The City shall not issue or renew any license to transact any business within the City of Cedarburg:

(1) For any purposes for which taxes, assessments or other claims of the City are delinquent and unpaid.

(2) For any person who is delinquent in payment:

a. Of any taxes, assessments or other claims owed the City; or

b. Of any forfeiture resulting from a violation of any City Ordinance.

(b) **Exception.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapter 1.

(c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.

(d) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:

(1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Section 125.12, Wis. Stats., as amended from time to time.

(2) With respect to licenses other than those described in Subsection (a) herein or Section 7-12-1, the Common Council or its assignee shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Council on the date indicated on the notice, the Council shall deny the application for renewal. If the applicant appears before the Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the

applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

(e) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Clerk's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Clerk that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.

CHAPTER 14

Festival Celebration Permit

SEC. 7-14-1 FESTIVAL CELEBRATION PERMIT (Ord. 93-31) (Ord. 98-12) (Ord. 2003-11) (Ord. 2006-19) (Ord. 2013-12) (Ord. 2016-06)

(a) The annual Winter, Strawberry, and Wine & Harvest Festivals, and Oktoberfest activities which occur within the corporate city limits of the City of Cedarburg shall be subject to the following rules and regulations:

(1) **Festivals of Cedarburg, Inc.** is an independent corporation organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code. Festivals of Cedarburg, Inc. was organized for the purpose of planning festivals and events in the City of Cedarburg, which enhance the vitality and economic well-being of the City while fostering civic, cultural, and educational interests. Day to day operation of the festivals shall be conducted by the Executive Board and staff of Festivals of Cedarburg, in collaboration with the Festival Committee which shall be comprised of any number of volunteers from groups or businesses participating in the festivals and from the community at large. The President of Festivals of Cedarburg, Inc. or an assignee shall preside over Festival Committee meetings. (Ord. 2016-06)

(2) **A Common Council liaison** shall be appointed to the Festival Committee by the Mayor.

(3) **The President** of Festivals of Cedarburg, Inc. is authorized to execute such documents as are necessary to conduct the festival, subject to the terms and conditions outlined below.

(4) **Map.** Each application for a Festival Celebration Permit shall include a map designating the area and boundaries of the festival.

(5) **Fermented Malt Beverages, Wine Coolers, and Wine.** For each unlicensed location at which fermented malt beverages, wine coolers and wine will be sold, an application for a Temporary Class B License shall be filed with the City Clerk at least fifteen days prior to the event. Each location shall have an operator licensed by the City of Cedarburg present at all times when dispensing fermented malt beverages, wine coolers and wine. All sales, possession and consumption of fermented malt beverages, wine coolers and wine shall be within a designated and restricted area at each licensed location.

(6) **Regulation of Commercial Activities**.

(a) <u>The purpose</u> of festivals is to provide a congenial atmosphere for the enjoyment of the citizens of the City and surrounding communities; to attract visitors and tourists to the City; to further the economic interests of the businesspersons and community groups within the City; to enhance economic development through tourism; to promote the festivals in furtherance of and

in a manner consistent with the public health, safety, welfare, tranquility and interest.

(b) Public property. It shall be unlawful for any person, firm or organization to vend, sell, dispose, or offer to vend, sell, dispose or display any goods, wares or merchandise on any public sidewalk, public way, street, alley or within the public right of way within the festival area as defined in this ordinance without first having entered into a written contract with Festivals of Cedarburg, Inc. for that purpose, and having paid a license fee therefore, as set by said Committee. Festivals of Cedarburg, Inc. shall offer rental of street space in front of a business to the owner of the business, prior to offering it to another vendor, if, in the determination of Festivals of Cedarburg, Inc., the business owner has been compliant with prior contracts.

(c) The contract to vend, sell, dispose or display merchandise, goods or wares shall be made in writing with Festivals of Cedarburg, Inc. prior to the festival. The contract shall contain the name of the applicant if an individual, the names of partners if a co-partnership, or the names of principal officers if a corporation, club or charitable institution. The Committee shall be authorized to designate where such merchandise, goods or wares are to be so displayed and sold. (Ord. 2016-06)

(b) **Procedure.**

(1) Application for a Festival Celebration Permit shall be filed with the City Clerk thirty (30) days prior to the festival and shall contain such information as the City Clerk may require. The permit shall set forth the exact days on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. The Festival Committee or its authorized representative shall provide the City Clerk with a complete list of sponsors and participants at the time of making application, as well as a plan for approval showing the location of booths on public property. Per Policy PR-4, the final plan is required four (4) weeks prior to the festival.

(2) Upon receipt of an application for a permit, the City Clerk shall review the information given on the application for conformity with the provisions of this Section. The City Clerk shall distribute the application and accompanying materials to the Police Department, Public Works Department, Treasurer's Office, Park and Recreation Department and Fire Department. If the applicable requirements are clearly and unambiguously met in the City Clerk's opinion, he shall make a recommendation on the application to the Common Council.

(3) The Common Council shall review the application and the City Clerk's recommendation and either deny the permit, approve the permit or approve the permit conditionally. There shall be a fee of Three Hundred Dollars ($300) for such permit. The permit shall be signed by the City Clerk and shall be issued to Festivals of Cedarburg, Inc. who, in turn, shall issue identification permits to each vendor

approved by the Festival Committee. These permits shall be prominently displayed by all vendors during the festival period.

(c) **Conditions of Permit.** In addition to any other conditions imposed by the Common Council, all Festival Celebration Permit holders shall fully comply with the following requirements:

(1) Liability Insurance. To hold a valid permit, Festivals of Cedarburg, Inc. must have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees and agents harmless and indemnifying and defending the City, its employees and agents against all claims, liability, loss, damage or expense incurred by the City with adequate liability policy limits for any damage caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform this condition of the permit, the applicant shall furnish a Certificate of Insurance in an amount prescribed in the *City's Schedule of Insurance Requirements* evidencing the existence of comprehensive general liability insurance (including contractual liability, product liability and liquor liability insurance with the City being named as an additional insured). The Certificate of Insurance shall provide thirty (30) days' written notice to the City upon cancellation, or nonrenewal or material change in the policy. Proof of insurance shall be submitted to the City Clerk a minimum of seven (7) days before the start of the event.

(2) City Services. All requests by participants for city services must be made to the Festival Committee. The Festivals of Cedarburg, Inc. will be responsible for reimbursement to the City for any city personnel, services, equipment and facilities provided for the festival in the following two circumstances: 1) when deemed necessary by the City or 2) when requested by the Festival Committee or its authorized representative and approved by the City. For city personnel, the reimbursable costs associated with the festival shall include wages, overtime, and fringe benefits. An invoice shall be sent to the Festival Committee, if applicable, for city personnel, services, equipment and facilities within 15 days following the festival. Payment is due within 30 days of invoice. The City reserves the right to require full or partial payment of estimated costs in advance.

(3) Cooperation with Law Enforcement Officials. To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Final plans for street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief of Police for his review and approval a minimum of three (3) days before the start of the event.

(4) Clean-up. The permittee shall be fully responsible for all necessary cleanup associated with the licensed event to be completed within 48 hours after the conclusion of the event.

(5) Use of City Hall Meeting Rooms. An application form, available from the City Clerk's Office, must be filled out for use of the meeting rooms in the lower level of City Hall. A designated Board member of the Festival Committee shall be

responsible for lockup of City Hall after the festival.

(6) Compliance with Other Regulations. The permittee shall comply with all applicable state and county regulations governing health and sanitation for establishments, if applicable, and any other applicable City regulations, including, but not limited to, regulations pertaining to the issuance of Temporary Class "B" Retailers Licenses.

(7) Prohibition of Animals. No pets or animals of any kind shall be permitted within the festival area during festival hours, except such animals that are deemed medically necessary for the assistance of individuals. (Ord. 2016-06)

(8) Utility terrain vehicle event. Each festival specified in Section 7-14-1(a) is hereby designated a Utility Terrain Vehicle event pursuant to Wis. Stat. § 23.33(4)(c)(2). Operation of utility terrain vehicles is restricted to public highways closed to general traffic and to persons designated by the City or by Festivals of Cedarburg, Inc. who also hold a valid driver's license. All operators of utility terrain vehicles in use during the 2016 Strawberry Festival shall have successfully completed an online ATV safety course offered or endorsed by the DNR or the internal training course offered by the Cedarburg Police Department prior to that Festival. Commencing with the 2016 Wine and Harvest Festival, all operators of utility terrain vehicles shall have successfully completed an online ATV safety course offered or endorsed by the department of natural resources. (Ord. 2016-06)

(d) **Street Closure and Festival Hours.**

(1) For Strawberry Festival and Wine & Harvest Festival, Washington Avenue shall be closed from Western Avenue to Sheboygan Road from 7:00 a.m. to 8:00 p.m. on Saturdays, with local access for merchants and residents until 10:00 a.m. and from 7:00 a.m. to 8:00 p.m. on Sundays. In addition, the following streets shall be closed:

(a) Cleveland Street from Washington Avenue west to Hanover Avenue.
(b) Turner Street from Washington Avenue west to Hanover Avenue.
(c) Center Street from Washington Avenue west to Hanover Avenue.
(d) Columbia Road from Washington Avenue east to Portland Avenue.
(e) Mill Street from Washington Avenue west to Hanover Avenue.
(f) Mill Street from Washington Avenue east to the west driveway of N54 W6135 Mill Street parking lot. (Ord. 2016-06)

If during the scheduled time of a festival the Fire Chief or Chief of Police or his designee determines that for safety or other public purpose reasons street closures must be amended, he shall provide notice to the Executive Director of Festivals of Cedarburg, Inc.

For closure of other streets not listed herein, a Street Use Permit can be obtained from the City Clerk's Office under Section 7-9-1 of the Code of Ordinances.

CHAPTER 15

Filming Permit

7-15-1 Film Permit
7-15-2 Application for Filming Permit

SECTION 7-15-1 FILMING PERMIT (Ord. 98-08)

(a) **Purpose.** The purpose of requiring issuance of a filming permit is to protect the personal and property rights of City of Cedarburg residents, property owners and businesses. A filming permit shall be issued for filming of movies, television shows, commercials, training films and related activities in which there is commercial use of City-owned property (streets, rights-of-way, parks and public buildings), or commercial use of private property which may affect adjacent public or private property, equipment and personnel. The applicant agrees that the City of Cedarburg shall have full control over the use of public streets and buildings of the City while being used for filming activities, as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming if determined to be detrimental to the health, safety and welfare of the public.

(b) **Licensing of filming.** No filming shall be permitted on the streets or on private property (where filming may affect adjacent public or private property, equipment and personnel) in the City of Cedarburg unless a Filming Permit is obtained from the City Clerk.

(c) **Exemptions.** The following filming shall be exempt from the requirements of obtaining a Filming Permit: news events, casual photographer, social events (weddings, graduations, etc.), student assignments, or other circumstances as determined by the Mayor, City Administrator and Chief of Police.

(d) **Hours filming is permitted.** Filming in the City of Cedarburg shall be permitted at any time, if conducted in accordance with the Municipal Code of the City of Cedarburg.

SECTION 7-15-2 APPLICATION FOR FILMING PERMIT

(a) **Application.** A person seeking a filming permit shall file an application with the City Clerk. The application shall set forth the following information regarding the proposed filming:

(1) The name, address and telephone number of the filming entity.
(2) The name, title, and telephone number of person on location responsible for the company's adherence to terms and conditions of the permit.
(3) The location(s), date(s) and hours of filming.
(4) Signature of authorized representative.
(5) Date of signature.

If the filming event is determined by the Mayor, City Administrator and Chief of Police to have a

major impact on the City of Cedarburg, items 6 through 9 shall also be completed on the application.

(6) Type(s) of City services requested, if applicable.

(7) Type of filming: television, motion picture, commercial stills, video, educational, non-profit, and other.

(8) Number of each type of vehicle and equipment that will be placed on public or private property: cast and crew, cars, trucks, vans, motor homes, generators, camera cars, catering, other.

(9) Verification that all residents within three hundred (300) feet of the proposed filming location (or other such areas as designated by the Mayor, City Administrator and Chief of Police) and any residents and businesses whose property fronts the area being requested were provided with written notification of the filming schedule and a short description of the filming project by the filming entity. (A listing of property owners and addresses is available through the City Assessor's Office).

(b) **Insurance Required.** No permit shall be granted unless the applicant shall have filed with the City Clerk a certificate of liability insurance naming the City of Cedarburg as an additional insured in the amount of not less than one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) aggregate for personal injury and property damage, with the condition that the applicant shall indemnify and hold harmless the City and its officers and agents and citizens against any injuries and damages resulting or arising from the filming for which the permit was issued or from the performance by the applicant or his agents of any negligent incident to or connected with the conduct of such filming; and that the applicant shall pay all judgments, costs and charges that may be recovered against the City or any of its officers or agents by reason of the conduct of such filming, together with the cost of defending any such action against the City, including actual attorney's fees.

(c) **Application/Administrative Fee(s) Required.** No permit shall be issued unless the applicant pays an administrative fee of $20. In the event it is determined by the Mayor, City Administrator and Chief of Police that the filming event will have a major impact on the City of Cedarburg, an administrative fee of $200 shall be paid.

(d) **Payment for City Services.** The applicant shall agree to pay for the cost of any Police, Fire, Public Works, or other City personnel assigned to the project (whether specifically requested by the producer or not). If this determination is made, the applicant must pay an hourly fee for the personnel based on 1.5 times the salary for their classification and for activities involving Department of Public Works vehicles, the applicable equipment rate. Remuneration rates for the use of any City Equipment, will be established on a case-by-case basis by the City Administrator. The applicant will agree to pay in full, promptly upon receipt of an invoice, the charges incurred.

If City personnel have been assigned to the filming and actual filming time turns out to be different than that estimated on the application, the applicant will receive an invoice or refund from the City approximately three to four weeks after the filming is completed.

(e) **Distribution of Permit**. Upon completion, the City Clerk shall distribute copies of the Filming Permit to the Police Department, Fire Department, Chamber of Commerce, Mayor

and City Administrator

(f) **Posting of Permit.** Such permit when issued shall be prominently displayed on location while the filming is in operation.

(g) **Inspection.** The applicant shall agree to allow the respective City departments (i.e., Police, Fire, Building Inspection) to inspect all structures and/or devices and equipment to be used in connection with the filming and taping, if required by the City Administrator. The Fire Department may determine that no standby Fire Department personnel are required, but that an inspection will be needed.

(h) **Revocation**. Any permit granted by the City under the provisions of this Section may be revoked by the City Administrator, including when the person who maintains, owns, controls or operates such filming permits the violation of any provision of this Code of Ordinances or State laws or where, in the opinion of the City Administrator, the filming is deemed undesirable or presents a threat to the public safety. Revocations or suspensions may be appealed to the Common Council.

CHAPTER 16

Weights and Measures Regulations
(Ord. 2003-39) (Ord. 2009-03)

7-16-1 Definition
7-16-2 Weights and Measures Regulations
7-16-3 Appointment of Inspectors
7-16-4 Weights and Measures License Required
7-16-5 Application for License
7-16-6 License Term
7-16-7 Fees Assessment
7-16-8 Enforcement for Non-Renewal
7-16-9 Change of Ownership
7-16-10 through
7-16-29 Reserved for Future Use

SEC. 7-16-1 DEFINITION.

Commercial Weighing or Measuring Devices. Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

SEC. 7-16-2 WEIGHTS AND MEASURES REGULATIONS.

The statutory provisions of Chapter 98, Weights and Measures, Wis. Stats. and Wis. Adm. Code, ATCP 92, Weighing and Measuring Devices are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any Statute or Code incorporated herein by reference is required or prohibited by this section. Any further amendments, revisions or modifications of the Statutes incorporated herein or Wis. Adm. Code provisions incorporated herein are intended to be made a part of this section. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

SEC. 7-16-3 APPOINTMENT OF INSPECTORS.

In order to assure compliance with this section, the City hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

SEC. 7-16-4 WEIGHTS AND MEASURES LICENSE REQUIRED.

(a) License Requirements. Except as provided in subs. (b), no person shall operate or maintain any commercial weighing or measuring devices or any other weights and measures systems and related accessories which are used commercially within the City of Cedarburg for determining the weight, measure or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this section.

(b) Exemptions. Sales permitted at a Farmers' Market or sales permitted by Direct Sellers, Transient Merchants and Solicitors are exempt from licensing under this section.

SEC. 7-16-5 APPLICATION FOR LICENSE.

An application for a weights and measures license shall be made in writing on a form provided for such purpose by the City of Cedarburg Clerk and shall be signed by the owner of the commercial business, or by its authorized agent. The application shall be returned to the City of Cedarburg Clerk's Office by June 30. Such applications shall state the type and number of weighing and measuring devices to be licensed, serial number, location of the devices, the applicant's full name and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent.

SEC. 7-16-6 LICENSE TERM.

A license issued under this section shall expire on June 30 of each year.

SEC. 7-16-7 FEES ASSESSMENT.

(a) The annual assessment shall be determined based on the number and types of weighing and measuring devices licensed as of July 1 each year along with a $20 annual license fee. Payment of the fee shall be returned with the application to the City Clerk's Office by June 30. The total of the fees assessed and fees collected shall not exceed the actual costs of the Weights and Measures Program.

(b) Fees charged shall be $5.00 per device and $20 annual license fee and shall be calculated at the time the application is filed with the City Clerk's Office.

(c) If the assessed fee is not paid within 30 days of the due date, June 30, interest shall accrue thereon at the rate of 1.5% per month until paid. If the licensee is the owner of the real estate premises where the licensed weights and measures devices are located, any delinquent assessment shall be extended upon the current or the next tax roll as a charge against the real estate premises for current services, as provided in Sec. 66.0627, Wis. Stats. No licenses

shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.

(d) Upon receipt of application and assessment payment, the City Clerk's Office shall issue a license to the applicant. Each business location shall require a separate license. The license fee shall not be prorated for a partial year.

SEC. 7-16-8 ENFORCEMENT FOR NON-RENEWAL.

It shall be the duty of the City of Cedarburg Clerk's Office to notify the City Attorney and other appropriate City officials and to order the immediate enforcement of the provisions of this section in cases involving failure to renew a weighing or measuring device license. Said licensee shall be prohibited from operating or maintaining a weighing or measuring device until such time as a valid license has been obtained under the provisions of this section.

SEC. 7-16-9 CHANGE OF OWNERSHIP

If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.

(State Law Reference: Chapter 98, Wis. Stats.)

SEC. 7-16-10 THROUGH SEC. 7-16-29 RESERVED FOR FUTURE USE.

CHAPTER 17

Employee Benefits for Private Business (Ord. 2009-02)

7-17-1 Employee Benefits for Private Business

SEC. 7-17-1 EMPLOYEE BENEFITS FOR PRIVATE BUSINESS.

No ordinance of the City of Cedarburg nor any other municipal ordinance, resolution, rule, or regulation shall mandate that any business entity, other than the City itself, shall provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits provided by an employer located within the City limits.

TITLE 8

Health and Sanitation

Chapter 1 Health and Sanitation
Chapter 2 Pollution Abatement
Chapter 3 Refuse Collection and Disposal
Chapter 4 City Cemeteries

CHAPTER 1

Health and Sanitation

8-1-1 Rules and Regulations
8-1-2 Health Nuisances; Abatement of
8-1-3 Keeping of Livestock
8-1-4 Deposit of Deleterious Substances Prohibited
8-1-5 Destruction of Noxious Weeds
8-1-6 Regulation of Natural Lawns
8-1-7 Regulation of Length of Lawn and Grasses
8-1-8 Regulation of Smoking
8-1-9 Compulsory Connection to Sewer and Water
8-1-10 Disposal of Storm and Other Clear Water Wastes
8-1-11 Monuments and Markers

SEC. 8-1-1 RULES AND REGULATIONS.

The Health Officer may make reasonable and general rules for the enforcement of the provisions of this Chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Health Officer shall be subject to the general penalty provided for in this Code.

SEC. 8-1-2 HEALTH NUISANCES; ABATEMENT OF.

(a) **Defined.** A health nuisance is any source of filth or cause of sickness.

(b) **Duty to Abate.** The Board of Health and Health Officer shall abate health nuisances pursuant to Sec. 252.03 and 252.06, Wis. Stats., which is adopted by reference and made a

part of this Section.

(c) **Communicable Diseases.** Chapter 252, Wis. Stats., and Ch. H 45, Wis. Adm. Code, are adopted by reference and made a part of this Chapter, and it shall be the duty of the Health Officer to enforce the provisions thereof.

State Law Reference: Sec. 252, Wis. Stats.

SEC. 8-1-3 KEEPING OF LIVESTOCK.

(a) **Sanitary Requirement.** All structures, pens, buildings, stables, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors, and shall only be kept in properly zoned areas.

(b) **Animals Excluded From Food Handling Establishments.** No person shall take or permit to remain any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for consumption by the general public.

SEC. 8-1-4 DEPOSIT OF DELETERIOUS SUBSTANCES PROHIBITED.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

SEC. 8-1-5 DESTRUCTION OF NOXIOUS WEEDS. (Ord. 2014-06)

(a) The City Clerk shall annually on or before May 15 publish as required by state law a class 2 notice that every person is required by law to destroy all noxious weeds on lands in the City which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

(b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.0407 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax

thereon.

(c) As provided for in Sec. 66.0407(1)(a), Wis. Stats., the City shall require that all noxious weeds shall be destroyed at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom and flower stage. The growth of noxious weeds shall be prohibited within the City corporate limits. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section, shall include but not be limited to the following weeds and those designated as noxious weeds in the Wisconsin Statutes:

Cirsium Arvense (Canada Thistle)
Ambrosia artemisiifolia (Common Ragweed)
Ambrosia trifida (Great Ragweed)
Euphorbia esula (Leafy Spurge)
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)
Tragopogon dubius (Goat's Beard)
Rhus radicans (Poison Ivy)
Cirsium vulgare (Bull Thistle)
Pastinaca sativa (Wild Parsnip)
Arctium minus (Burdock)
Xanthium strumarium (Cocklebur)
Amaranthus retroflexus (Pigweed)
Chenopodium album (Common Lambsquarter)
Rumex Crispus (Curled Dock)
Cannabis sativa (Hemp)
Plantago Ianceolata (English Plantain)
Alliarita Petiolata (Garlic Mustard) (Ord. 98-20)

Noxious grasses, as defined in this Section, shall include but not be limited to the following:
Agrostis alba (Redtop)
Dactylis glomerata (Orchard)
Phleum pratensis (Timothy)
Sorghum halepense (Johnson)
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:
Ragweed
Thistles
Smartweed
Dandelions (over 10 inches in height)

State Law Reference: Sec. 66.0407, Wis. Stats.

SEC. 8-1-6 REGULATION OF NATURAL LAWNS.

(a) **Natural Lawns Defined.** Natural lawn as used in this Section shall include common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 8-1-5 of this Chapter. The growth of a natural lawn in excess of eight (8) inches in height from the ground surface shall be prohibited within the City corporate limits unless a Natural Lawn Management Plan is approved and a Permit is issued by the City as set forth in this Section. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife

(b) **Natural Lawn Management Plan Defined.**

(1) Natural Lawn Management Plan as used in this Section shall mean a written plan relating to the management and maintenance of a lawn which contains a legal description of lawn upon which the planted grass will exceed eight (8) inches in length, a statement of intent and purpose for the lawn, a detailed description of the vegetational types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.

(2) Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information on the form provided by the City. "Property Owner" shall be defined to include the legal title holder and/or the beneficial owner of any such lot according to most current City records. Natural Lawn Management Plans shall only indicate the planting and cultivating of natural lawns on property legally owned by the property owner. Applicants are strictly prohibited from developing a natural lawn on any City-owned property including street rights-of-way. This shall include at a minimum property located between the sidewalk and the street or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten (10) feet of the abutting property owner's property unless waived in writing by the abutting property owner on the side so affected. Such waiver is to be affixed to the Lawn Management Plan.

(3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten (10) foot section abutting the neighboring property owner. Such revocation shall be put in writing and presented to the City Clerk by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the Common Council shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten (10) foot section abutting the neighboring property owner. The Common Council shall revise the approved Natural Lawn Management Permit accordingly. The owner of the

approved natural lawn shall be required to remove the ten (10) foot section abutting the neighboring property owner within twenty (20) days of receipt of the written notification from the City provided the notification is received sometime between May 1 and November 1. Property owners who receive notification from the City between November 1 and April 30 shall be required to remove the ten (10) foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.

(c) **Application Process.**

(1) Property owners interested in applying for permission to establish a natural lawn shall obtain and complete an application form available from the City Clerk. The completed application shall include a Natural Lawn Management Plan. Upon submitting a completed application, a Twenty-five Dollar ($25.00) non-refundable filing fee will be assessed by the City. Upon receiving payment, copies of the completed application shall be mailed by the City to each of the owners of record, as listed in the Office of the City Assessor, who are owners of the property situated wholly or in part within three hundred (300) feet of the boundaries of the properties for which the application is made. If within fifteen (15) calendar days of mailing the copies of the complete application to the neighboring property owners the City receives written objections from fifty-one percent (51%) or more of the neighboring property owners, the City Clerk shall immediately deny the application. Neighboring property owners shall be defined as all those property owners who are located within three hundred (300) feet of the proposed natural lawn site.

(2) If the property owner's application is in full compliance with the Natural Lawn Management Plan requirements and less than fifty-one percent (51%) of the neighboring property owners provide written objections, the City Clerk shall issue permission to install a natural lawn.

(d) **Application For Appeal.** The property owner may appeal the Clerk's decision to deny the natural lawn permit request to the Common Council at an open meeting. All applications for appeal shall be submitted within fifteen (15) calendar days of the notice of denial of the Natural Lawn Management Plan. The decision rendered by the Common Council shall be final and binding.

(e) **Safety Precautions For Natural Grass Areas.**

(1) When, in the opinion of the Fire Chief, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within the three (3) days upon receiving written direction from the Fire Chief.

(2) Natural lawns shall not be removed through the process of burning unless stated and approved as one of the management and maintenance techniques in the Lawn Management Plan. The Fire Chief shall review all requests to burn natural lawns and

shall determine if circumstances are correct and all applicable requirements have been fulfilled to insure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby insuring the public safety. In addition, the property owner requesting permission to burn the natural lawn shall produce evidence of property damage and liability insurance identifying the City as a party insured. The minimum amount of acceptable insurance shall be as prescribed by the City's Schedule of Insurance Requirements.

(f) **Revocation Of An Approved Natural Lawn Management Plan Permit.** The Common Council, upon the recommendation of the Weed Commissioner, shall have the authority to revoke an approved Natural Lawn Management Plan Permit if the owner fails to maintain the natural lawn or comply with the provisions set forth in this Section. Notice of intent to revoke an approved Natural Lawn Management Plan Permit shall be appealable to the Common Council. All applications for appeal shall be submitted within fifteen (15) calendar days of receipt of the written Notice of Intent to revoke the approved Natural Lawn Management Plan. Failure to file an application for appeal within the fifteen (15) calendar days shall result in the revoking of the Natural Lawn Management Plan Permit. The Common Council in an open meeting shall review all written applications for appeal filed within the fifteen (15) calendar day requirement. The decision rendered by the Common Council shall be final and binding.

(g) **Public Nuisance Defined - Abatement After Notice.**

(1) The growth of a natural lawn as defined in this Section shall be considered a public nuisance unless a Natural Lawn Management Plan has been filed and approved and a permit is issued by the City as set forth in this Section. Violators shall be served with a notice of public nuisance by certified mail to the last-known mailing address of the property owner.

(2) If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Common Council may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the City Clerk shall enter those charges onto the tax roll as a special tax as provided by State statute.

(3) The failure of the City Clerk to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the City expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section.

(h) **Penalty.**

(1) Any person, firm or corporation which does not abate the nuisance within the

required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-7.

(2) In addition to any penalties herein provided, the City may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

SEC. 8-1-7 REGULATION OF LENGTH OF LAWN AND GRASSES. (Ord. 2014-06)

(a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the City of Cedarburg.

(b) **Public Nuisance Declared.** The Common Council finds that lawns, grasses and noxious weeds on lots or parcels of land which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely affects property values of other land within the City. For that reason, any lawn, grass or weed on a lot or other parcel of land which exceeds eight (8) inches in length is hereby declared to be a public nuisance. An exception to the height requirement will be allowed for property located in designated floodplain areas, drainageways and/or wetland areas or where the lawn, grass or weed is part of a natural lawn approved pursuant to Section 8-1-6 above.

(c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him within the City.

(d) **Inspection.** The Weed Commissioner or his designee shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (b) above exists.

(e) **Abatement of Nuisance.**

(1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he shall immediately cause written notice to be served that the City proposes to have the lot grass or lawn cut so as to conform with this Section and Section 8-1-5.

(2) The notice shall be served at least seven (7) days prior to the date of the City's date of action to have the grass or lawn cut and shall be mailed or served on the owner of the lot or parcel of land or, if he is not known and there is a tenant occupying the property, then to the tenant, of the time and place at which the hearing will be held.

(f) **Due Process Hearing.** If the owner believes that his grasses or weeds are not a nuisance, he may request a hearing before the Common Council. The request for said hearing must be made in writing to the City Clerk's office within the seven (7) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a $25.00 bond. If a decision is rendered in the property owner's favor, the $25.00 will be

returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of City personnel abating the nuisance, if necessary. When the owner of the property requests a hearing, a hearing by the Common Council shall be held within fourteen (14) days from the date of the owner's request. The City will not mow the property in question until such time as the Council holds the hearing. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the City as well as subpoena witnesses for his own case. At the close of the hearing, the Common Council shall make its determination in writing specifying its findings, facts, and conclusions. If the Common Council determines that a public nuisance did exist, the Council shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Common Council's decision. If the owner does not abate the nuisance within the described forty-eight (48) hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.

(g) **City's Option To Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then, and in that event, the City may elect to cut said lawn, grass or weeds as follows:

(1) The written notice required in Subsection (e) shall inform said person that in the event of his failure to abate the nuisance within the prescribed time, the City shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.

(2) The City shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Common Council. The charges shall be set forth in a statement to the City Clerk who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the City Clerk shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.615(3)(f), Wisconsin Statutes.

SEC. 8-1-8 REGULATION OF SMOKING. (Ord. 2010-11)

(a) Smoking Prohibited in Public Places. The provisions of Chapter 101.123 of the Wisconsin Statutes, as amended from time to time, relating to the prohibitions of smoking in various enclosed places are hereby adopted and made part of this Code by reference. Smoking in any public place shall be unlawful, including, but not limited to the following:

1. Residence halls or dormitories owned or operated by a college or university.
2. Day care centers.
3. Education facilities.
4. Inpatient health care facilities (includes hospitals, county homes, and county

infirmaries, nursing homes, hospices, veterans' homes, and treatment facilities).

5. Theaters.
6. Correctional facilities.
7. State institutions.
8. Restaurants.
9. Taverns.
10. Private clubs (a facility used by an organization that limits the membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose).
11. Retail establishments.
12. Common areas of multiple unit residential properties.
13. Lodging establishments (a bed and breakfast, hotel, or tourist rooming house).
14. All enclosed places, other than those listed above, that are places of employment or public places.
15. Government buildings.

(b) Definitions.

(1) "Enclosed Place" and "Substantial Wall". An enclosed place is a structure or area that has a roof and more than two substantial walls. A substantial wall is a wall with no opening or with an opening that either does not allow air in from the outside or that is less than 25% of the wall's surface area.

(2) "Public Place". A public place is an enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

(3) "Place of Employment". A place of employment is any enclosed place that employees normally frequent during the course of employment, such as an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.

(c) Designation of Outdoor Area for Smoking. The person in charge of any restaurant, tavern, private club or retail establishment subject to this Code and the smoking restrictions in Wisconsin Statutes 101.123 may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club or retail establishment where customers, employees or persons associated with the restaurant, tavern, private club or retail establishment may smoke. Smoking needs to be a reasonable distance from smoke-free places and entrances.

(d) Outdoor Smoking. Outdoor smoking is prohibited in the following places, regardless of whether it meets the definition of an enclosed space:

(1) Sports arenas (any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held).

(2) Bus shelters.

(3) Public conveyances.

(e) **Smoking on Outside Property Under the City's Jurisdiction.** Smoking on outside property under the City's jurisdiction is prohibited in the following areas:

(1) Park shelters, athletic fields, bleachers and dugouts, restrooms, and playground and swing set areas.

(f) **Smoking Outside School Areas.** Smoking is prohibited at outside areas at schools consistent with School Board policy.

(g) Enforcement.

(1) Persons in charge of places where smoking is prohibited must enforce the prohibitions by taking steps to ensure compliance, such as not providing ashtrays and matches; posting "no smoking" signs; asking a person to stop smoking; asking a person who is smoking to leave; refusing to serve the person if the place is a restaurant, tavern, or private club; and notifying law enforcement if the person does not leave after being requested to do so.

(2) The Cedarburg Police Department and the Department of Engineering and Public Works have the power and duty to enforce the smoking ban. In addition, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of the smoking prohibition.

(h) Penalty. Penalties for violation of this section shall be in accordance with Wisconsin Statutes 101.123. Statutory court costs and assessments shall be added to all forfeitures for such violations.

State Law Reference: Sec. 101.123, Wis. Stats.

SEC. 8-1-9 COMPULSORY CONNECTION TO SEWER AND WATER.

(a) **Connections Required.**

(1) Whenever systems for sewer and water service are available to any building used or to be used for human habitation, the facilities for such building shall be connected within one (1) year to the available sewer and water mains of the systems. "Available" shall be defined as City sewer and water service being available in front of the property or in an easement adjacent to the property.

(2) Whenever sewer and water service becomes available to any building already in existence and used for human habitation, the Building Inspector shall notify in writing the owner, agent or occupant thereof to connect all facilities thereto required by the Building Inspector. If such person to whom the notice has been given shall fail to comply for more than ten (10) days after the notice, the Building Inspector shall cause the necessary connections to be made and the expense thereof shall be assessed as a special tax against the property pursuant to Sec. 144.06, Wis. Stats.

(b) **Abatement of Privies and Cesspools.** After connection to a water main and public sewer, no privy, privy vault or cesspool shall be constructed or maintained upon such lot or parcel and shall be abated upon ten (10) days' written notice for such abatement by the Building

Inspector. If not so abated, the Building Inspector shall cause the same to be done and the cost thereof assessed as a special tax against the property.

(c) **Extension of Time.** The Sewage Commission may extend the time for connection hereunder or may grant another temporary relief where strict reinforcement would work an unnecessary hardship without corresponding public or private benefit.

(d) **Sewer Connection Charge.**

(1) Before the required connection is made for an existing or new building used or to be used for human habitation, a sewer connection charge will be imposed on all such connections and levied as a special assessment. The charges to be assessed are as follows:

a. One (1) time connection charge -- Five Hundred Fifty Dollars ($550.00) per connection. (Ord. 92-54)

b. Additional charges as required by Title 9, Chapter 2, of this Code of Ordinances.

(2) Whenever such buildings are to be erected on lots or parcels which are subject to the provisions for subdivisions within the Land Division and Platting Chapter of this Municipal Code, connection and payment of the above charges shall be in accordance with the appropriate provisions of the Subdivision and Platting Chapter.

(e) **Annexed Areas.** Buildings used for human habitation which are located in areas annexed to the City of Cedarburg are subject to Subsections (a) through (d) above.

(f) **Exception**. The sewer connection charge shall not apply to existing buildings already serviced by City sewer when a change of use or remodeling of the premises is undertaken.

SEC. 8-1-10 DISPOSAL OF STORM AND OTHER CLEAR WATER WASTES.

(a) **Prohibition on Disposition.** No person shall connect or continue the connection of any premises with any main sanitary sewer by a drain or sewer through which rain or surface water, foundation footing drainage, garage drainage or other clear water wastes may be discharged into the sanitary sewer system. All such existing connections must be disconnected within thirty (30) days of the date of notice to the owner of the property by the Building Inspector or his designee. The Sewage Commission may grant variances with respect to the time within which disconnection must be completed upon a showing of undue hardship.

(b) **Required Connections.** Storm and other clear water wastes shall discharge to a storm sewer system where available. Where no storm sewer system is available or is not adequate to receive the anticipated flow, the storm and clear water wastes shall be disposed of by means of a sump pump and drain on the premises. Drainage shall be controlled so as to minimize the flow of such storm and clear water wastes onto streets, sidewalks and adjoining properties.

(c) **Compliance.**

(1) General Inspections. The Building Inspector, or his designee, bearing proper

credentials and identification, shall make such inspections of individual disposal systems as are necessary to insure compliance with this Section. In those cases in which the City lacks an easement for the purpose of making such inspections and the owner or other occupant of the premises refuses voluntary access to the premises, the Building Inspector is authorized to seek a special inspection warrant under Sec. 66.122, Wis. Stats.

(2) Change of Ownership Inspection. Prior to a change in ownership of premises used for residential purposes, whether or not such use is exclusive, the Building Inspector shall inspect the premises to determine whether the disposal of storm and other clear water wastes is in compliance with the provisions of this Section.

(3) Certificate of Compliance. Upon an inspection under Subsection (c)(1) or (2) above that shows that the premises inspected comply with the requirements of this Section, a Certificate of Compliance shall be issued to the owner. Except as hereinafter provided, no change in ownership of any such property shall take place unless the Building Inspector has issued a Certificate of Compliance with the provisions of this Section within three (3) months prior to the time such change in ownership takes place. For purposes of this Section, the date the new owner acquires legal title or the right to possession, subject to rights of tenants, shall be deemed the date on which the change in ownership takes place. If a change in ownership occurs prior to the issuance of a Certificate of Compliance, the new owners shall be under a continuing duty to obtain said Certificate of Compliance.

(4) Written Notice of Violation. A person found to be violating any provision of this Section shall be served by the City with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof The person committing the violation shall, within the period stated within such notice, correct the situation and permanently cease all violations.

(5) Escrow. In the event no inspection of the premises has been made prior to the change in ownership or in the event an inspection of the premises prior to the change in ownership discloses noncompliance with the provisions of this Section and insufficient time remains to effect compliance prior to such change in ownership, then in either event the sum of Six Hundred Dollars ($600.00) shall be withheld from the proceeds of the transaction and shall be placed in escrow with an agent agreeable to the parties, or with the new owners in the absence of such an agreement, to insure compliance with the provisions of this Section. The parties to a change in ownership shall cause the premises to come into compliance and shall obtain a Certificate of Compliance within thirty (30) days after the change in ownership. After issuance of a Certificate of Compliance and after payment of all labor and materials provided, any balance remaining in the escrow fund shall be released to the former owner of the premises.

(d) **Penalty.** Every person, firm or corporation who is a party to a change in ownership which takes place prior to the issuance of a Certificate of Compliance and who has not established

an escrow as stated previously, who refuses to comply with a special inspection warrant issued pursuant to Sec. 66.122, Wis. Stats., or violates this Section in any other manner, shall be subject to the penalties set forth in Section 1-1-7. Imposition of a penalty shall not abrogate the requirement that a Certificate of Compliance be issued after a change in ownership takes place or that any violation be corrected. Every day that elapses until said Certificate is issued shall constitute a separate violation of this Section.

(e) **Liability.** Any person violating any provisions of this Section shall be liable to the City for any expense, loss or damage to the City which results from such violation.

(f) **Appeal.** Any person adversely affected by the enforcement of this Section may file with the Sewage Commission within ten (10) days of the date of the enforcement action a written request for reconsideration, setting forth in detail the facts supporting such request. The Commission shall render a decision within thirty (30) days of receipt of the request. Decisions of the Commission may be appealed to the Common Council. The Council shall hear the appeal within forty-five (45) days of filing the appeal from the decision of the Sewage Commission and render its decision on appeal within twenty (20) days of its hearing. A fee of Twenty-five Dollars ($25.00) shall be paid to the City Clerk at the time of filing any appeal to the Common Council under this Section. This fee may be refunded by the Common Council if the appeal is sustained in favor of the appellant.

(g) **Fees.** A fee of fifty ($50.00) dollars shall be paid to the City Treasurer prior to inspection of the subject premises pursuant to Subsection (c) above. If additional inspection(s) are required to assure compliance with the provisions of this Section and the issuance of a Certificate of Compliance, an additional fee of forty-five ($45.00) dollars shall be paid to the City Treasurer prior to each such inspection. (Ord. 90-02) (Ord. 90-36) (Ord. 91-37)

(h) **Disclaimer.** A Certificate of Compliance indicates that, so far as can be reasonably determined by a visual inspection of the premises and a review of City records, the premises meets the requirements of this Section. Neither the City of Cedarburg nor the Building Inspector assumes any liability in the inspection or issuance of a Certificate of Compliance and, by the issuance of a Certificate of Compliance, does not guarantee or warrant the condition of the premises inspected.

CHAPTER 2

Pollution Abatement

8-2-1 Cleanup of Spilled or Accidentally Discharged Wastes
8-2-2 Storage of Polluting Substances

SEC. 8-2-1 CLEANUP OF SPILLED OR ACCIDENTALLY DISCHARGED WASTES.

(a) **Cleanup Required.** All persons, firms, or corporations delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, the following: fuel oil gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catch-basin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the City.

(b) **Notification.** Spills or accidental release of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible party or parties shall be immediately reported to the City Clerk, Fire Department and Police Department so that assistance can be given by the proper.

(c) **Financial Liability.** The party or parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the City, or its designated agent, in an effort to minimize the pollutional effects of the discharged waste.

SEC. 8-2-2 STORAGE OF POLLUTING SUBSTANCES.

It shall be unlawful for any person, firm or corporation to store any potentially polluting substances unless such substances are stored in such manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the City.

Cross Reference: Title 5, Chapter 2.

CHAPTER 3

Refuse Collection and Disposal

8-3-1 Title
8-3-2 Declaration of Policy
8-3-3 Definitions
8-3-4 Refuse Storage Areas
8-3-5 Approved Waste and Refuse Containers
8-3-6 Collection of Refuse
8-3-7 Recycling of Deciduous Material
8-3-8 Special Collections for Violations
8-3-9 Title to Waste
8-3-10 Prohibited Activities and Non-Collectible Materials
8-3-11 Garbage Accumulation; When a Nuisance
8-3-12 Refuse From Outside the Municipality
8-3-13 Recycling

SEC. 8-3-1 TITLE.

This Chapter shall be known as the Solid Waste Management Ordinance of the City of Cedarburg, hereinafter referred to as this "Ordinance" or "Chapter."

SEC. 8-3-2 DECLARATION OF POLICY.

It is hereby declared to be the purpose and intent of this Chapter to enhance and improve the environment and promote the health, safety and welfare of the City by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

SEC. 8-3-3 DEFINITIONS.

For the purpose of this Chapter, the following words and phrases shall have the meanings given herein unless different meanings are clearly indicated by the context.

(a) **Appliances, major** - Residential or commercial air conditioners, clothes dryers, clothes washers, dishwashers, freezers, refrigerators, microwave ovens, stoves, ovens, water heaters and dehumidifiers. (Ord. 91-05) (Ord. 95-36)

(b) **Building** - A single, occupied structure composed of single or multiple units.

(c) **Bulky Waste** - Items whose large size precludes or complicates their handling by normal collection, processing or disposal methods (items larger than four (4) feet in any direction and/or weigh more than fifty (50) pounds).

(d) **Commercial Unit** - Commercial units shall be all property other than residential units and shall include boarding houses, motels and resorts.

(e) **Curb** - The back edge or curb and gutter along a paved street or where one would be if the street was paved and had curb and gutter.

(f) **Deciduous Material** - Yard and garden wastes including leaves, grass clippings, flowers and similar vegetation, but specifically excluding sod, dirt, fruits, vegetables and other similar waste material.

(g) **Demolition Wastes** - That portion of solid wastes consisting of wastes from the repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.

(h) **Disposal** - The orderly process of discarding useless or unwanted material.

(i) **DNR** - The Wisconsin Department of Natural Resources.

(j) **Dump** - A land site where solid waste is disposed of in a manner that does not protect the environment.

(k) **Dwelling Unit** - A place of habitation occupied by a normal single family unit or a combination of persons who may be considered as equivalent to a single family unit for the purposes of this Chapter.

(l) **Garbage** - Includes every refuse accumulation of animals, fruit or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit or vegetables originally used for foodstuffs.

(m) **Hazardous Waste** - Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property and the environment.

(n) **Industrial Waste** - Waste material, except garbage, rubbish and refuse, directly or indirectly resulting from an industrial processing or manufacturing operation. (Ord. 95-36)

(o) **Litter** - Solid waste scattered about in a careless manner, usually rubbish. (Ord. 95-36)

(p) **Multi-family** - means a property containing four (4) or more residential units, including those which are occupied seasonally.

(q) **Non-Residential Solid Waste** - Solid waste from agricultural, commercial, industrial or institutional activities or a building or group of buildings consisting of four (4) or more dwelling units.

(r) **Person** - Individuals, firms, corporations and associations, and includes the plural as well as the singular.

(s) **Private Collection Services** - Collection services provided by a person licensed to do same by the DNR.

(t) **Recyclable Waste** - Waste material that can be remanufactured into usable products and shall include, by way of enumeration but not by way of limitation, glass, plastics, newspapers cardboard, metals (aluminum, steel, tin, brass, etc.).

(u) **Refuse** - Includes all waste material, including garbage, rubbish and industrial waste and shall, by way of enumeration but not by way of limitation, include stone, cement, boards,

furniture or household appliances, garden debris.

(v) **Residential Solid Waste** - All solid waste that normally originates in a residential environment from residential dwelling units.

(w) **Residential Unit** - Residential unit shall mean an individual household capable of independent habitation by a family unit. A single family dwelling shall be considered to be one (1) residential unit; multi-family dwelling shall be considered to be multiple residential units, the number of residential units to equal the number of family units to be housed therein. Residential units shall not include boarding houses, motels or resorts.

(x) **Rubbish** - Includes combustible and noncombustible waste material, except rocks, concrete, bricks and similar solid materials, plaster or dirt, that is incidental to the operation of a building.

(y) **Scavenging** - The uncontrolled removal of materials at any point in solid waste management.

(z) **Solid Waste** - Garbage, rubbish and other useless, unwanted or discarded material from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.

(aa) **Storage** - The interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.

(bb) **Storage Areas** - Areas where persons place containers during non-collection days as well as areas where containers are set out on collection day.

SEC. 8-3-4 REFUSE STORAGE AREAS.

Storage areas shall be kept in a nuisance- and odor-free condition. Litter and solid waste shall not be allowed to accumulate. Collection crews will not be responsible for cleaning up loose materials from any containers which have become ruptured or broken due to wet conditions, animals, vandalism or other cause. The occupant and/or owner shall be responsible for cleaning up this litter. Litter not collected shall not be allowed to accumulate. Violation will result in the occupant and/or owner being notified to clean up his area with continued violation resulting in the owner being prosecuted under the provisions of this and other City Ordinances.

SEC. 8-3-5 APPROVED WASTE AND REFUSE CONTAINERS.

(a) **General Container Standards.** Suitable containers of a type approved by the City shall be provided by the property owner or tenant in which to store all solid waste except for bulky or certain yard wastes as provided for herein. Containers, in order to be approved, shall provide for efficient, safe and sanitary handling of solid wastes. They shall be maintained in a nuisance- and odor-free condition and shall be sufficient to prevent the scattering of contents by weather conditions or animals. Dumpsters for commercial or multi-family properties shall be screened, subject to the approval of the Building Inspector.

(b) **Approved Containers.**

(1) All garbage created, accumulated or produced shall be deposited in containers of a

type approved by the Public Works Commission. Each container for a residential unit shall be equipped with suitable handles and tight fitting covers, shall be watertight and shall have the capacity of not less than twenty (20) nor more than thirty-two (32) gallons if of a metal construction and not less than twenty (20) nor more than forty (40) gallons if of a plastic construction, and no single receptacle shall weigh more than fifty (50) pounds when filled. All garbage containers shall be kept in a neat, clean and sanitary condition at all times. All garbage containers for residential units shall be of metal, durable plastic or other suitable, moisture-resistant materials, including heavy-duty refuse disposal plastic bags.

(2) Metal garbage cans shall be of sufficient thickness to resist denting during normal handing by collection crews. Plastic garbage bags must be closed with a tie and shall consist of plastic material not damaged by freezing and not susceptible to melting. They shall be capable of being handled during hot and cold weather without damage during normal handling by collection crews. Plastic bags shall be of sufficient strength to allow lifting and loading of contents without tearing.

(3) All boxes are to be recycled and not considered refuse containers. (Ord. 2008-15)

(c) **Householder to Provide Containers.** It shall be the duty of every occupant, tenant and proprietor of any residential unit to provide, and at all times keep in a suitable place readily accessible to the garbage collector, garbage containers capable of holding all garbage which would ordinarily accumulate on such premises between the times of successive collections. The owner of any multiple dwelling shall furnish or require the tenant thereof to furnish proper garbage containers. Garbage containers located at multiple dwellings shall be marked so as to indicate the residential unit to which they belong.

(d) **Ashes**. Cold, completely extinguished ashes shall be placed in metal containers of no more than one (1) bushel size, or in cans of the type as specified for garbage, provided that no receptacle shall weigh more than fifty (50) pounds when filled. (Ord. 2008-15)

(e) **Illegal Containers.** Containers not approved consist of metal barrels and drums, wooden or cardboard barrels, wheelbarrows and other such containers not approved by this Chapter. These containers will not be emptied regardless of contents or weight. (Ord. 95-36)

(f) **Defective Containers.**

(1) All garbage cans incapable of continuing to meet the definition of an approved container because of damage, loss of handles, or other factors, shall be tagged by the collection crew. The collection crew will also leave notification of the defects on the premises. The next collection day the container appears it will be collected and disposed of. The Department of Engineering and Public Works or the private collection firm under contract with the City shall establish standards for the collection crews to use in the determination of whether a container is defective and the methods and procedures for tagging defective containers. (Ord. 95-36)

(2) Where garbage cans from several residential units are placed for collection at the same location, the garbage cans shall be identified with the address number so ownership can be determined.

SEC. 8-3-6 COLLECTION OF REFUSE.

(a) **Placement For Collection**

(1) Residential solid waste shall be accessible to collection crews. Collection by packer truck is limited to rubbish and garbage. Residential solid waste in approved containers shall be placed immediately behind the curb of the public street for collection. Bulky wastes will not be collected under the normal pickup. During winter months, solid waste shall not be placed on top of the snow bank nor shall it be placed in the roadway. The owner shall either shovel out an area behind the curb in which to place his wastes or he shall place it in his driveway. Collection crews will not collect residential solid waste unless it is placed at the curb of a public street. Residential units shall bring their solid waste to the public right-of-way for collection. Should collection crews be unable to discharge contents of garbage cans into collection vehicles using normal handing procedures, the cans, including contents, will be left at curb side. The owner shall make provisions to assure that the solid waste therein can be collected on the next collection day. Collection crews will not empty garbage cans by means other than dumping.

(2) No garbage containers or other containers for refuse other than those of the City shall be placed, kept, stored or located within the right-of-way of a street or alley; provided, however, that the Director of Engineering and Public Works may authorize the location of such containers within the public right-of-way at specified places and times when such location is necessary for the expeditious collection and disposition of refuse. (Ord. 95-36)

(b) **Restriction on Time of Placement.**

(1) The City shall provide facilities for the collection of residential garbage, ashes and rubbish once per week. (Ord. 95-36)

(2) All receptacles and containers for refuse and rubbish and all bundles of rubbish shall be placed in collection locations as designated in Subsection (a) above only after 5:00 p.m. on the evenings prior to the regular collection time the following day and no later than 6:30 a.m. on the day of pickup. All receptacles, bags and containers for refuse disposal and recycling carts shall be removed from the curbside collection point within twenty-four (24) hours after the regular collection time. Refuse and recycling containers must be stored within a garage or accessory structure or in a location screened from street view. City employees or employees of licensed collectors will not enter any structures to remove garbage or refuse, except by written agreement with the property owner. (Ord. 91-05) (Ord. 91-07) (Ord. 95-36) (Ord. 2001-15) (Ord. 2003-34) (Ord. 2008-15)

(c) **Qualifications to Receive Municipal Refuse & Recyclable Collection Service.**

Effective January 1, 2009, all occupied buildings are eligible to receive refuse and recyclable collection service, subject to the following limitations:

(1) The base level of service per building for refuse will be up to the equivalent of six

(6), thirty-two (32) gallon garbage containers per building per week. If a building generates more refuse than this amount, the building would not be eligible for service through the City. (Ord. 2008-15)

(2) The base level of service per building for recycling will be one (1), sixty-four (64) gallon recycling cart per building biweekly (every two weeks). If a building generates more recycling than this amount, the building owner has the option to exchange the one sixty-four (64) gallon recycling cart for one ninety-six (96) gallon recycling cart upon paying a one-time non-refundable fee of $25.00. Pickup would continue to be on a biweekly (every two weeks) basis. If additional carts are needed, the building owner may purchase an additional cart(s) and an invoice will be sent on a yearly basis for the actual cost of pickup. All recyclable material must be placed within the cart. Any recyclable material placed outside of the cart will not be picked up. (Ord. 2008-15)

(3) In order to receive municipal service (equivalent of six (6) thirty-two (32) gallon garbage containers or less weekly and up to one (1) sixty-four (64) gallon recycling cart biweekly(every two weeks)), commercial, business, industrial and multi-family building owners shall sign and return a service request form to the Department of Engineering and Public Works. (Ord. 2008-15)

(4) Buildings regularly exceeding the described municipal service limits for refuse amounts shall have their service revoked. For the purpose of this ordinance, regularly exceeding shall mean having more garbage than the described limits for two (2) consecutive weeks, or five (5) times in a calendar year. (Ord. 2008-15)

(5) The Director of Engineering & Public Works shall be responsible for making decisions regarding refuse and recycling service qualification. If a building is to have service revoked, such service shall cease no sooner than fourteen (14) days following notice of the Director of Engineering & Public Works. Building owners who have had their service revoked may appeal this decision to the Public Works Commission. The Public Works Commission shall render a final decision regarding garbage and recyclable service appeals.

(6) Buildings which have had service revoked may request restoration of the service no sooner than the beginning of the next calendar year following the year of their revocation. Such request must also include a statement from the building owner on how they reduced their volume to meet the prescribed limits.

SEC. 8-3-7 RECYCLING OF DECIDUOUS MATERIAL.

Every owner, occupant or person in charge of any lot, place or parcel of land within the limits of this City shall separate all deciduous material from all other garbage, rubbish and construction waste.

SEC. 8-3-8 SPECIAL COLLECTIONS FOR VIOLATIONS.

If any person, including those receiving collection from a private firm, is found in violation of the

collection and storage requirements of this Chapter and fails to comply with a notification and/or citation, the Director of Engineering and Public Works shall be empowered to order a special collection to remove such violation. The person shall be notified of such special collection and the charges therefor. The special collection shall be made and if billing is unpaid, the bill shall be considered a lien on the property and shall be placed on the tax roll. A person shall not use the special collection provisions of this Chapter to circumvent requirements for collection by a private firm. (Ord. 95-36)

SEC. 8-3-9 TITLE TO WASTE.

In the absence of an agreement to the contrary, title to the solid waste placed for collection by the City of Cedarburg shall vest in the City of Cedarburg as soon as it is placed for collection.

SEC. 8-3-10 PROHIBITED ACTIVITIES AND NON-COLLECTABLE MATERIALS.

(a) **Dead Animals.** It shall be unlawful to place any dead animal, or parts thereof, in a container for collection provided, however, this Section shall not apply to animal parts from food preparation for human consumption.

(b) **Undrained Food Wastes.** It shall be unlawful to place any garbage or other food wastes in a container for collection unless it is first drained and wrapped.

(c) **Ashes.** It shall be unlawful to place hot ashes for collection. (See Section 8-3-5(d).

(d) **Improper Placement.** It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, public or private property within the City to the provisions of this Chapter.

(e) **Compliance With Chapter.** It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste within the boundaries of the City contrary to the provisions of this Chapter.

(f) **Improper Transportation.** It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. If spillage does occur, the collection crew shall immediately return spilled materials to the collection vehicle and shall properly clean, or have cleaned, the area. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leakproof, if necessary, considering the type of waste and its moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.

(g) **Interference With Authorized Collector.** No person other than an authorized collector shall collect or interfere with any garbage after it shall have been put into a garbage receptacle and deposited in the proper place for the collector, nor shall any authorized person molest, hinder, delay or in any manner interfere with an authorized garbage collector in the discharge of his duties.

(h) **Scavenging**. No person except law enforcement personnel and authorized employees of the City of Cedarburg shall remove, take, or otherwise meddle or tamper with solid waste placed

for collection. (Ord. 95-04)

(i) **Private Dumps.** It shall be unlawful for any person to use or operate a dump.

(j) **Burning of Waste.** It shall be unlawful for any person to burn solid waste in any manner, except as provided elsewhere in this Code of Ordinances.

(k) **Non-Collectible Materials.** It shall be unlawful for any person to place for collection any of the following wastes:

(1) Hazardous waste.
(2) Toxic waste.
(3) Chemicals.
(4) Explosives or ammunition.
(5) Drain or waste oil or flammable liquids.
(6) Large quantities of paint (paint which is dried out and lid removed is acceptable).
(7) Inoperable vehicles.
(8) Lumber which is not bundled, exceeds four foot in length, or exceeds 50 pounds in total.
(9) Trees and shrubbery.
(10) Lead acid batteries. (Ord. 91-05)
(11) Major appliances. (Ord. 91-05)
(12) Grass clippings, leaves, brush and organic garden and yard waste. (Ord. 92-37)
(13) Bulky wastes (items larger than four (4) feet in any direction and/or weighting more than fifty (50) pounds.

(l) **Animal or Human Wastes.** It shall be unlawful for any person to place animal wastes and/or human wastes for collection. These wastes should be disposed of in plastic bags or in the sanitary sewer system. Such items as "kitty litter" may be placed for collection if animal wastes are removed prior to disposal.

(m) **Hospital Wastes.** It shall be unlawful for any person to place for collection any pathogenic hospital wastes. Such items as needles and syringes may be disposed of as long as they are contained to eliminate injury to collection crews.

(n) **Building Waste.** All waste resulting from remodeling, construction or removal of a building, roadway or sidewalk shall be disposed of by the owner, builder or contractor. (Acceptable amount per week is materials under four (4) feet in length and width which is tied or confined and under fifty (50) pounds.

(o) **Unlawful Dumping.** No person shall dump any garbage, rubbish, ashes, refuse or deciduous material anywhere in the City except in an approved private or public dump or refuse container at such times and places and conditions as designated by the Director of Engineering and Public Works and except where certain of these materials are used in a normal manner for improving property by grading, fertilizing or resurfacing.

SEC. 8-3-11 GARBAGE ACCUMULATION; WHEN A NUISANCE.

The accumulation or deposit of garbage, trash, bulky waste or putrescible animal or vegetable matter

in or upon any lot or land or any public or private place within the City which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health is prohibited and declared to constitute a nuisance.

SEC. 8-3-12 REFUSE FROM OUTSIDE THE MUNICIPALITY.

It is unlawful for any person, firm or corporation to place, deposit or cause to be deposited, for collection, any waste or refuse not generated within the corporate limits of the City of Cedarburg.

SEC. 8-3-13 RECYCLING (Ord. 94-46) (Ord. 2008-15)

(a) **Purpose:** The purpose of this ordinance is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in § 287.11, Wis. Stats., and Chapter NR 544, Wis. Administrative Code.

(b) **Statutory Authority:** This ordinance is adopted as authorized under §287.09(3)(b), Wis. Stats.

(c) **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

(d) **Interpretation:** In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544, Wis. Administrative Code, standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment of this ordinance.

(e) **Administration.** The provision of this ordinance shall be administered by the Public Works Commission.

(f) **Definitions.** For the purposes of this ordinance:

(1) "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(2) "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.

(3) "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

a. Is designed for serving food or beverages;
b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container;
c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(4) "HDPE" means high density polyethylene, labeled by the SPI (The Society of the Plastic Industry, Inc.) Code #2.
(5) "LDPE" means low density polyethylene, labeled by the SPI Code #4.
(6) "Local Authorized Dealer" means a business or individual that is authorized to accept for recycling or other processing any recyclable materials.
(7) "Magazines" means magazines and other materials printed on similar paper.
(8) "Major appliance" means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.
(9) "Multiple-family dwelling" means a property containing four (4) or more residential units, including those which are occupied seasonally.
(10) "Newspaper" means a newspaper and other material printed on newsprint.
(11) "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
(12) "Office paper" means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. The term does not include industrial process waste.
(13) "Other resins or multiple resins" means plastic resins labeled by the SPI Code #7.
(14) "Person" including any individual, corporation, partnership, association, local governmental unit, as defined in §287.01(5m), Wis. Stats., state agency or authority or federal agency.
(15) "PETE" means polyethylene terephthalate, labeled by the SPI Code #1.
(16) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
(17) "Postconsumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in §291.01(7), Wis. Stats.; waste from construction and demolition of structures; scrap automobiles; or high-volume industrial waste, as defined in §289.01(17), Wis. Stats.
(18) "PP" means polypropylene, labeled by the SPI Code #5.
(19) "PS" means polystyrene, labeled by the SPI Code #6.
(20) "PVC" means polyvinyl chloride, labeled by the SPI Code #3.
(21) "Recyclable materials" includes lead acid batteries; major appliances, waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam

polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers; including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers; waste tires; and bi-metal containers.

(22) "Solid waste" has the meaning specified in §289.01(33), Wis. Stats.

(23) "Solid waste facility" has the meaning specified in §289.01(35), Wis. Stats.

(24) "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

(25) "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(26) "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean wood vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(g) **Separation of Recyclable Materials.** Occupants of single family and two to four unit residences, multiple family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

(1) Lead acid batteries
(2) Major appliances
(3) Waste oil
(4) Yard waste
(5) Aluminum containers
(6) Bi-metal containers
(7) Corrugated paper or other container board
(8) Foam polystyrene packaging
(9) Glass containers
(10) Magazines
(11) Newspaper
(12) Office paper
(13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins
(14) Steel containers
(15) Waste tires

(h) **Separation Requirements Exempted.** The separation requirements of Section 8-3-13(g) do not apply to the following:

(1) Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in Section 8-3-13(g) from solid waste in as pure a form as is technically feasible.

(2) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental

fuel.

(3) A recyclable material specified in Section 8-3-13(g)(5-15) for which a variance has been granted by the Department of Natural Resources under §287.07(7)(h), Wis. Stats. or NR544.14, Wis. Admin. Code.

(i) **Care of Separated Recyclable Materials.** To the greatest extent practicable, the recyclable materials separated in accordance with Section 8-3-13(g) shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored between collection dates in a manner which protects them from wind, rain, and other inclement weather conditions.

(j) **Management of Lead Acid Batteries, Major Appliances, Waste Oil and Yard Waste.** Occupants or single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries, major appliances, waste oil, and yard waste as follows:

(1) Lead acid batteries shall be taken to a local authorized dealer accepting this product.

(2) Major appliances shall be taken to a local authorized dealer accepting this product or picked up under the City of Cedarburg Appliance Pickup policy. (Ord. 2008-15)

(3) Waste oil shall be taken to a local authorized dealer accepting this product. Waste oil may be taken to the Public Works Facility for acceptance during posted hours of operation.

(4) Yard waste, brush and grass clippings shall be handled in accordance with adopted City policies. (Policy PW-6) (Ord. 96-31)

(k) **Preparation and Collection of Recyclable Materials.** Except as otherwise directed by the Director of Engineering & Public Works, occupants of single family and two to four unit residences and multiple families shall do the following for the preparation and collection of the separated materials specified in Section 8-3-13(g).

(1) Aluminum containers shall be mixed together with other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated collection day. (Ord. 2008-15)

(2) Bi-metal containers shall be mixed together with other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated collection day. (Ord. 2008-15)

(3) Corrugated paper or other container board, magazines, newspapers and office paper shall be mixed together with other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated collection day. (Ord. 2008-15)

(4) Glass containers shall be mixed together with other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated collection day. (Ord. 2008-15)

(5) Rigid plastic containers including PETE (#1), HDPE (#2), PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7) shall be mixed together with

other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated collection day. (Ord. 2008-15)

(6) Steel containers shall be mixed together with other recyclables within the provided sixty-four (64) gallon recycling cart gallon and placed at the curb on the designated day of collection. (Ord. 2008-15)

(7) Waste tires shall be disposed at designated local authorized dealer accepting this product.

(8) All recyclable material must be placed within the cart. Any recyclable material placed outside the cart will not be picked up.

(l) **Responsibilities of Owners or Designated Agents of Multi-Family Dwellings.**

(1) Owners or designated agents of multi-family dwellings shall do all of the following to recycle the materials specified in Section 8-3-13(g)(15):

a. Provide adequate separate containers for the recyclable materials.

b. Notify tenants in writing at the time of renting or leasing the dwelling at least semi-annually thereafter about the established recycling program.

c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.

d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation and a contact person or company, including a name, address and telephone number

(2) **The requirements specified in (1) do not apply to the owners or designated agents of multi-family dwellings if:**

a. The postconsumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in Section 8-3-13(g)(5-15) from solid waste in as pure a form as is technically feasible.

b. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input of the facility is derived from the solid waste burned as a supplemental fuel at that facility.

c. Items have been granted a separation variance by the Department of Natural Resources under §287.07(7)(h), Wis. Stats. Currently the items which need not be separated from solid waste are foam polystyrene packing and rigid plastic containers made of PVC (#3), LDPE (#4), PP (#5), PS (#6), and other resins or multiple resins (#7).

(m) **Responsibilities of Owners or Designated Agent of Non-Residential Facilities and Properties.**

(1) Owners or designated agents of non-residential facilities and properties shall do all of the following to recycle the materials specified in Section 8-3-13(g)(5-15):

a. Provide adequate separate containers for the recyclable materials.

b. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

d. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(2) The requirements specified in (1) do not apply to the owners or designated agents of non-residential facilities and properties if the postconsumer waste generated within the facility or property is treated at a processing facility licenses by the Department of Natural Resources that recovers for recycling the materials specified in Section 8-3-13(g)(5-15) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(n) **Prohibitions on Disposal of Recyclable Materials Separated for Recycling.**

No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in Section 8-3-13(g)(5-15) which may have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(o) **Enforcement.**

(1) For the purpose of ascertaining compliance with the provisions of this ordinance, the Director of Engineering & Public Works or his or her designee may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to the Director of Engineering & Public Works or his or her designee, who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

(2) Any person who violates a provision of this ordinance may be issued a citation by the City of Cedarburg Police Department to collect forfeitures. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this paragraph.

(3) Any person who violates a provision of this Ordinance may be required to forfeit not less than $50 or more than $1,000 for each violation.

CHAPTER 4 (Ord. 97-15)

City Cemeteries

8-4-1 Policy Statement
8-4-2 Control and Management of Zur Ruhe Cemetery
8-4-3 Control and Management of Immanuel Cemetery
8-4-4 Platting of New Cemetery Lots
8-4-5 Purchase of Lots
8-4-6 Ownership Rights of Interment
8-4-7 Care of Lots
8-4-8 Privileges and Restrictions
8-4-9 Rules for Visitors
8-4-10 Interments
8-4-11 Monuments and Markers
8-4-12 Vaults and Mausoleums
8-4-13 Trees, Shrubs and Flowers
8-4-14 Miscellaneous

SEC. 8-4-1 POLICY STATEMENT.

The Zur Ruhe Cemetery, Immanuel Cemetery and other municipal cemeteries of the City are owned and maintained by the City for the benefit of all citizens. Definite rules and regulations shall be established by the Public Works Commission to insure proper maintenance and beauty and to prevent abuse and destruction. The following rules and regulations are set forth in the ordinances of this Chapter to govern the City cemeteries. The City reserves the right to amend or change any of these ordinances to conform with newly developed cemetery practices. However, before such change is made, a public hearing shall be held thereon before the Public Works Commission and a notice thereof shall be published in the official City newspaper at least seven (7) days prior to such hearing.

SEC. 8-4-2 CONTROL AND MANAGEMENT OF ZUR RUHE CEMETERY.

(a) **Management.** The Zur Ruhe Cemetery is under the control and management of the Public Works Commission for the City of Cedarburg under the terms and conditions as set forth in this Section.

(b) **Area**. The Zur Ruhe Cemetery, located along Bridge Road, between Jefferson Avenue and the WEPCO right-of-way, was established in 1870 by the owners thereof on that part of the S.W. 1/4 of Sec. 26, T. 10 N., R. 21 E. and described as follows: Commencing at the N.W. corner of the S.W. 1/4 of Sec. 26, running thence East 4 chains and 31 links, thence South 6 chains and 66 links, thence West 4 chains and 31 links, thence North 6 chains and 66 links to the place of beginning;

And also a parcel of land lying in the N.W. 1/4 of the S.W. 1/4 of Sec. 26, T. 10 N., R. 21 E., commencing at a point 439.56 feet South of the 1/4 post; running thence East 281.5 feet to a point, thence South 79.2 feet to a point in the North line of the right-of-way of the Milwaukee Northern Railway Co., thence Southwesterly on the North line of said Railway Company 303.0 feet to a point, thence West 58.0 feet to a point in the West line of said Sec. 26, thence North on said Section line 278.0 feet to the place of beginning; an addition made in 1919;

And also on Lot 1, Block 1 of Hilgen Schroeder's Addition, a recorded subdivision in the City of Cedarburg; an addition made in 1971;

And also on the Southerly ½ of that part of the S.E. 1/4 of Sec. 27, T. 10 N., R. 21 E., bounded and described as follows: Commencing at the N.W. corner of Lot 1, Block 1 of Hilgen Schroeder's Addition; thence North along the East line of Jefferson Street, 33.0 feet to the S.W. corner of Lot 10, Block 7 of Ludwig Groth's Subdivision, thence East along the South line of said Lot 10, 102.5 feet to a point, thence South on a line parallel and 102.5 feet distant from the East line of Jefferson Street, 33.0 feet to the N.E. corner of Lot 1, Block 1 of Hilgen Schroeder's Addition; thence West along the North line of said Lot 1, Block 1, 102.5 feet to the N.W. corner of Lot 1, Block 1, the point of beginning, an addition made in 1971;

And also on the Northerly ½ of that part of the S.E. 1/4 of Sec. 27, T. 10 N., R. 21 E., bounded and described as follows: Commencing at the N.W. corner of Lot 1, Block 1 of Hilgen Schroeder's Addition; thence North along the East line of Jefferson Street, 33.0 feet to the S.W. corner of Lot 10, Block 7 of Ludwig Groth's Subdivision; thence East along the South line of said Lot 10, 102.5 feet to a point; thence South on a line parallel and 102.5 feet distant from the East line of Jefferson Street, 33.0 feet to the N.E. corner of Lot 1, Block 1 of Hilgen Schroeder's Addition; thence West along the North line of said Lot 1, Block 1, 102.5 feet to the N.W. corner of Lot 1, Block 1 and the point of beginning; an addition made in 1971.

(c) **Conveyance.** The cemetery association organized to care and maintain the Zur Ruhe Cemetery on June 1, 1977, voted to convey the cemetery property and all of the trust funds pertaining thereto to the City of Cedarburg.

(d) **Regulation**. The Zur Ruhe Cemetery shall be cared for and maintained by the City of Cedarburg and placed under the control and management of the Public Works Commission under the following terms and conditions, which terms and conditions may be modified or changed by the acts of the Common Council of the City of Cedarburg as conditions warrant:

(1) The name Zur Ruhe Cemetery shall be retained.

(2) The cemetery shall be maintained in a neat and orderly and attractive appearance as the income of trust funds and appropriations by the City will permit.

(3) The regulations contained in this Chapter shall be applicable.

SEC. 8-4-3 CONTROL AND MANAGEMENT OF IMMANUEL CEMETERY.

(a) **Area**. The Immanuel Cemetery, located on Hamilton Road between Park Lane and Landmark Drive, was established in 1924 and has maintained a cemetery on the following-described parcels of land:

Commencing at a point in the center of the Hamilton and Cedarburg Road and being the Southeast corner of a piece of land now owned by Henry Marquardt, and running from there N. 60E E. 7.95 chains, thence South 46E East, 3.43 chains, thence South 61E West 7.95 chains to the center of said Hamilton and Cedarburg road, thence along the center of said road North 46E East 3.43 chains to the place of beginning. And containing 2.64 acres and being a part of Sec. 35-10-21 East.

Commencing at a point, which is 1.38 chains North from the Southeast corner of the Northwest 1/4 of Section 35-10-21 East, and running from there North 2.33 chains to a point, thence North 46E West 2.95 chains to a point, thence South 61E West 1.90 chains to a point, thence South 46E East 5 chains to the place of commencement. Containing 75/100 of an acre and being a part of Section 35, Town 10, North, of Range 21 East.

Commencing at a point in the North and South quarter line of Section 35, Township 10 North, Range 21 East, which point is 2383.85 feet South 0 degrees 9 minutes West from the North quarter stone of said Section 35, and running from there North 47 degrees 18 minutes West 194.7 feet to a point; thence South 58 degrees 46 minutes West 127.55 feet to a point, and which point is the point of commencement of the parcel of land to be described, and running from there North 47 degrees 53 minutes West 943.45 feet to a concrete monument; thence South 43 degrees 49 minutes West 499.6 feet to the centerline of the Cedarburg Hamilton Road; thence 47 degrees 59 minutes East 809.8 feet along the centerline of the Cedarburg-Hamilton Road to a point; thence North 58 degree 46 minutes East 519.85 feet to the point of commencement, containing 10.04 acres of land, more or less, together with all buildings and improvements thereon, and being part of the Northwest Quarter of Section 35, Township 10 North, Range 21 East, in the Town of Cedarburg, Ozaukee County, Wisconsin.

(b) **Conveyance.** The cemetery association organized to care and maintain the Immanuel Cemetery on September 1, 1978, voted to convey the cemetery property and all of the trust funds pertaining thereto to the City of Cedarburg.

(c) **Regulation.** The cemetery shall be cared for and maintained by the City of Cedarburg and placed under the control and management of the Public Works Commission under the following terms and conditions, which terms and conditions may be modified or changed by the acts of the Common Council of the City of Cedarburg as conditions warrant:

(1) The name Immanuel Cemetery shall be retained.
(2) The cemetery be maintained in a neat and orderly and attractive appearance as the income and trust funds and appropriations by the City will permit.
(3) The regulations contained in this Chapter shall be applicable.

SEC. 8-4-4 PLATTING OF NEW CEMETERY LOTS.

(a) **Platting.** Before any new block of a municipal cemetery is opened for the sale of lots, the Public Works Commission shall cause it to be platted and recorded in the office of the Register of Deeds.

SEC. 8-4-5 PURCHASE OF LOTS.

(a) **Definition of Cemetery Lot.** Definition according to Wis. Stats. 157.061(2m), "Cemetery Lot" means "a grave or 2 or more contiguous graves and, when used in reference to the sale, purchase or ownership of a cemetery lot, includes the right to bury human remains in that cemetery lot."
(b) **Price of Lots.** The Public Works Commission shall, from time to time, fix a price on all lots to be sold or transferred in City cemeteries.
(c) **Sale of Lots.** Persons or their agents desiring to purchase a lot in the cemetery are referred to the Cemetery Supervisor or to the duly authorized agent. The Cemetery Supervisor will have available suitable plats showing size and price of lots, and such other information as may be required, and will render assistance to those desiring to make lot purchases. Upon having made a lot selection and upon receipt of proper payment, the City Clerk shall issue a deed to the lot in the form prescribed by the City Attorney. The deed shall be signed by the City Clerk and Mayor and sealed with the corporate seal and acknowledged so as to entitle it to be recorded. The purchaser may record this deed with the County Register of Deeds.

SEC. 8-4-6 OWNERSHIP RIGHTS OF INTERMENT.

(a) (1) The lot owner or his authorized agent shall have the right to use a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.
(2) Upon full payment of the purchase price of a lot, the City Clerk will issue a cemetery deed, under seal, and the deed will be recorded in the records of the City as evidence of ownership of the lot. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.
(3) The lot owner shall have acquired the lot for interment of himself and members of his family. However, the lot owner may grant written permission (which must be notarized and placed on file with the City Clerk) for the burial of other persons. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, or the husband, or wife of such person, or his or her relative, except by the

consent of all persons having an interest in the lot.

(b) Unless otherwise directed in writing and filed with the City Clerk, the lot owner, his devisees, or his heirs, the cemetery will permit the interment of members of his family at the request of any interested person upon proof of eligibility for burial as follows:

(1) The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.

(2) When there is no surviving spouse, the devisees, or heirs of the owners, may, by agreement in writing, determine who among them shall have the of interment or direction for interment, which agreement shall be fired with the City Clerk.

(3) In the event the owner, his devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner, shall have the right to interment in order of their need.

(c) All burial rights in cemetery lots purchased from the City occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the City will be recognized as owners or part owners of lots. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will must be delivered to the City Clerk before the City will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the cemetery lots and devise same to one (1) person.

(d) Lot owners may not resell or transfer their lots or parts of lots except as outlined below:

(1) The Clerk shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the Clerk until a fee set by the Public Works Commission has been paid therefor. Said fee shall go into the general municipal fund.

(2) Reconveyance of lots or parts of lots may be made only by written application therefor upon blanks furnished by the City Clerk. Such application shall be executed by the owner(s) of the lots, or if the owner(s) is deceased, by the legal heirs. The application shall state the section, block and grave(s) number.

(3) No owner of a cemetery lot shall sell, transfer or assign the same or the unused portion thereof to any other person without the City's consent. If the owner of any lot or part of a lot should sell or transfer the same without giving notice to the City, except through probate, of such transaction, such sale or transfer shall be null and void.

SEC. 8-4-7 CARE OF LOTS.

(a) In order to assure reliable means for permanent care, a perpetual care fund is created. Income from this fund will provide partial maintenance costs of the cemetery. All lots sold in municipal cemeteries shall be provided with perpetual care services, the expense to be included in the price of the lot.

(b) Such perpetual care shall be limited to the maintenance of lawn, leaf disposal, filling sunken graves, caring for avenues, alleys, fences, and grounds in general. It is understood that such expenditures shall be made at the discretion of the City.

SEC. 8-4-8 PRIVILEGES AND RESTRICTIONS.

(a) No mound shall be raised upon any grave above the general level of the lot.
(b) No hedges, fences or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, bottles, toys, cans and other such objects may not be placed on lots and, if so placed, will be removed by the City without notice.
(c) All landscaping, care of lots and other work in the cemetery will be done by the City.
(d) The City reserves the right for its workmen and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.
(e) The City, or its employees, assumes no liability for damages to property or of person, or for physical or mental suffering arising out of the performance of its normal operations, or for loss by vandalism or other acts beyond its reasonable control.
(f) The City reserves the right to alter, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

SEC. 8-4-9 RULES FOR VISITORS.

(a) The cemetery will be open to visitors at all times between the hours of 6:00 a.m. to 11:00 p.m. Permission to enter the cemetery at any other time must be obtained from the Cemetery Supervisor.
(b) Children under sixteen (16) years of age will be admitted only when accompanied by parents or guardians.
(c) Persons or picnic parties with refreshments or alcoholic beverages are not permitted within any municipal cemetery.
(d) Dogs will only be allowed in the cemetery when confined in a vehicle.
(e) Firearms will not be allowed in the cemetery except in conjunction with military funerals. At all other times, firearms, bows and arrows, sling shots and other like articles will not be allowed.
(f) Visitors are required to use the walks and drives whenever possible and shall not pick any flowers (either wild or cultivated); injure any shrub, tree or plant; or mar or deface any monument, stone or structure in the cemetery.
(g) No riding of bicycles, motor bikes, motorcycles or other such vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business.
(h) No vehicle shall be driven in a municipal cemetery except on roads designated for that purpose, nor shall such vehicle be driven in a reckless manner.

SEC. 8-4-10 INTERMENTS.

(a) Interments will be made only during daylight hours unless with prior approval of the Cemetery Supervisor.

(b) All underground interments shall be made in a concrete or similar material burial vault which completely encases the casket. The burial vault is intended to support the weight of the earth above the grave including the movement of cemetery machinery. A burial liner which only covers the top and side of the casket is not allowed. (Ord. 2011-08)

(c) All graves shall be dug at no cost to the City but shall be under the direction of the Cemetery Supervisor or his authorized agent.

(d) No burial will be permitted until a Final Disposition of Human Corpse permit has been presented to the Cemetery Supervisor. Furthermore, no grave shall be prepared for burial until an Authorization to Open Grave form has been signed by the legal owner of a lot or his designee.

(e) There will be no responsibility on the part of the City for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.

(f) The interment of two (2) bodies, neither of which are cremated remains, in one (1) grave will not be allowed, except in the case of a parent and infant, twin children, or two (2) children buried at the same time, or in special circumstances with the approval of the Cemetery Supervisor.

(g) The interment of four (4) cremated remains may be allowed in one (1) lot. The minimum container requirement for cremated remains shall be as supplied by a crematorium.

(h) The interment of one body and one (1) or two (2) cremated remains may be allowed in one (1) lot.

(i) Regardless of the number of interments per grave, only two (2) markers will be allowed on a lot, of which one (1) shall be flush with the ground and of a size which meets the approval of the Cemetery Supervisor.

SEC. 8-4-11 MONUMENTS AND MARKERS.

(a) (1) In Zur Ruhe and Immanuel Cemeteries, the parties with interests in lots may maintain one (1) existing monument per platted lot or erect one (1) monument, approved by the Cemetery Supervisor, per platted lot. Owners of areas less than a platted lot may retain or erect a monument if approved by the Cemetery Supervisor.

(2) Grave markers and foundations will be set only by the monument company according to regulations specified by the City. Except as herein otherwise provided, under no conditions will the City construct monument or marker bases or erect monument or markers on bases. The City reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stone work. These requirements will be on file and available from the office of the Cemetery Supervisor. A permit shall be required and

available from the office of the Cemetery Supervisor. (Ord. 99-09)

(b) The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery ground shall be subject to the supervision and control of the Cemetery Supervisor. Unless special arrangements are made with the Cemetery Supervisor, such work shall be conducted between the hours of 8:00 a.m. and 4:00 p.m., Mondays through Fridays, except on national holidays. Heavy trucking will not be permitted within the cemetery when, in the opinion of the Cemetery Supervisor, such work might cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.

(c) The City reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument and/or stone work must be given to the Cemetery Supervisor or his agent and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as possible as directed by the Cemetery Supervisor or his assistant.

(d) Stone work or monumental work, once placed on its foundation, shall not be removed, except by permission of the Cemetery Supervisor.

(e) Temporary markers must be removed or replaced with a permanent marker within one (1) year.

SEC. 8-4-12 VAULTS AND MAUSOLEUMS. (Ord. 95-46)

(a) Construction of vaults and mausoleums is prohibited in Zur Ruhe Cemetery and in all areas of Immanuel Cemetery except areas certain to contain bedrock that prohibits grave excavation.

(b) Construction of vaults, crypts and mausoleums shall be permitted in Immanuel Cemetery in areas certain to contain bedrock that prohibits grave excavation under the following conditions:

(1) Above ground vaults, crypts or mausoleums shall be constructed of a polished, durable-cut hard stone on a one-piece stone slab placed over a concrete slab (see #2). Walls shall be anchored with bronze or otherwise corrosion-resistant hardware. All joints shall be pinned and sealed with epoxy. No concrete, mortar or soft stone shall be used in construction of the vault, crypt or mausoleum (see #2).

(2) The vault, crypt or mausoleum shall be placed on a concrete slab with a concrete footing installed to a depth below the frost line or upon solid bedrock. The foundation and slab shall be of a sufficient size and strength to support the weight of the vault, crypt or mausoleum.

(3) The vault, crypt or mausoleum for one- or two-person interment shall be permitted provided that in the case of a two-person vault, crypt or mausoleum, it shall be centered or placed forward, if necessary, to allow access to other grave sites on a minimum of an eight-grave burial plot. For a one-person vault, crypt or mausoleum, it shall be centered or placed forward, if necessary, to allow access to other grave

sites, on a minimum of a four-grave burial plot. The Building Inspector, or his designee, shall have the authority to site the vault, crypt or mausoleum to allow access to surrounding grave sites.

(4) The two-person vault, crypt or mausoleum shall be no higher than forty-eight (48) inches as measured from the top of the foundation slab. It shall be no longer than nine (9) feet, no wider than eight (8) feet. The one-person vault, crypt or mausoleum shall be no higher than forty-eight (48) inches as measured from the top of the foundation slab. It shall be no longer than nine (9) feet nor wider than four (4) feet.

(5) No other markers, monuments or burials, including cremains, shall be permitted on the four- or eight-grave burial plot site containing the vault, crypt or mausoleum.

(6) The Building Inspector shall approve all vaults, crypts or mausoleums before construction begins. The Building Inspector may, at his discretion, refer the vault, crypt or mausoleum design to the Public Works Commission for their review and approval if the architectural design is not compatible for the site chosen.

SEC. 8-4-13 TREES, SHRUBS AND FLOWERS. (Ord. 97-15)

(a) The planting of trees and shrubs on any lot will not be permitted.

(b) The removal of any trees, shrubs and/or stumps will be done by the City under the direction of the Cemetery Supervisor.

(c) Fresh cut, potted or artificial plants and flowers are permitted on the lot; however, all plantings must be no more than twelve inches (12") from the front of the monument and no glass vases are allowed. If these plants and flowers are not maintained and when they become unsightly or undesirable, they will be removed by the City.

SEC. 8-4-14 MISCELLANEOUS.

(a) It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire Cemetery.

(b) All fees and charges as outlined in the current schedule of fees and charges are payable at the office of the City Treasurer, where receipts will be issued for the amounts paid.

(c) A schedule of the fees and charges, as established by the Public Works Commission, shall be on file in the office of the City Clerk. Such schedule may change from time to time without advance notice to conform with current economic conditions.

(d) The City will take reasonable precautions to protect all private property, lots and/or grave owners' property in the Cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and especially from the acts of thieves, vandals and rioters and from all acts of Providence, including wind, tornadoes, hail, snow, rain and frost, whether the damage be indirect or proximate.

(e) The City Cemetery trust fund shall be managed in accordance with Chapter 881 of the Wisconsin Statutes. (Ord. 97-15)

TITLE 9

Public Utilities

Chapter 1 Water Utility Regulations
Chapter 2 Sewer User Regulations
Chapter 3 Cable Television (Ord. 97-17)
Chapter 4 Storm Water Sewer Districts
Chapter 5 Miscellaneous Utilities Regulations (Ord. 98-25)

CHAPTER 1

Water Utility Regulations

9-1-1 Water Utility; Rules and Regulations
9-1-2 Applications for Service
9-1-3 Connections
9-1-4 Minimum Size Water Main
9-1-5 Cross Connection Control
9-1-6 Vacation of Premises
9-1-7 Maintenance and Repair of Service Pipe
9-1-8 Water to Be Shut Off for Failure to Repair Leaks
9-1-9 Stop Boxes to Be Protected
9-1-10 Water to be Turned on Only by Water Department
9-1-11 Plumbing System to Withstand Pressure
9-1-12 Access to Premises; Inspection of Taps; Wasting Water
9-1-13 Extensions
9-1-14 Use of Water During Emergencies
9-1-15 Bulk Water
9-1-16 Water for Building and Construction Work
9-1-17 Water for Sprinkling Systems and Standpipes
9-1-18 Tampering With Equipment
9-1-19 Damage to Equipment
9-1-20 Meters
9-1-21 Meters to Be Read Monthly or Quarterly; Rates
9-1-22 Delinquent Water Bills
9-1-23 Discontinuance of Water
9-1-24 Interruption of Supply
9-1-25 Surreptitious Use of Water
9-1-26 Failure to Read Meter

9-1-27 Complaint Meter Tests
9-1-28 Fluoridation of City Water
9-1-29 Private Well Abandonment
9-1-30 Filling of Private Pools

SEC. 9-1-1 WATER UTILITY; RULES AND REGULATIONS.

(a) The rules and regulations hereinafter named, together with such others as may hereafter be adopted, shall be a part of the contract with every consumer of water from the water utility of the City, and the application of every consumer shall be considered as his assent to be bound thereby.

(b) Whenever any rule or regulation is violated, the water shall be cut off from the building or place of such violation, even though two (2) or more persons receive water through the same pipe, and shall not be turned on again except by order of the Utility Manager upon payment of established reconnection charges as expenses and such other terms as the Utility Manager may determine, and a satisfactory understanding that no further complaint shall arise.

SEC. 9-1-2 APPLICATIONS FOR SERVICE.

(a) All applications for the introduction of water shall be made to the Utility Manager and/or Director of Public Works by the owner or occupant with the written consent of the owner of the premises, upon application blanks provided for that purpose.

(b) Upon the filing of an application for water and there being no objection, the Utility Manager and/or Director of Public Works shall authorize some person to make such tap and install all necessary fittings and service piping.

(c) Such applications shall be accompanied by the Payment in full for the cost of such tap, which shall include all the work in trenching and tapping and furnishing of necessary fittings and service piping up to the lot line in the making of such tap.

SEC. 9-1-3 CONNECTIONS.

All connections with the mains must be made with brass corporation cocks and copper pipe. All pipe to the service cock must be laid six (6) feet deep, and there shall be a stop cock and water box attached to every service pipe at the lot line on the line to the building, so as to admit the water being shut off. All taps two (2) inches and below made on PVC water mains shall have a double strap saddle.

SEC. 9-1-4 MINIMUM SIZE WATER MAIN.

The minimum size water main on all new construction will be eight (8) inches in all City streets and subdivisions, and variance will be allowed only on an individual basis. Variance may be granted only

upon written application and approval by the Manager of the Light and Water Commission and the Director of Public Works.

SEC. 9-1-5 CROSS CONNECTION CONTROL.

(a) A "cross connection" shall be defined as any physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water from the City of Cedarburg water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(b) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City of Cedarburg may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Cedarburg Light and Water Utility and/or the City Plumbing Inspector and by the Wisconsin Department of Natural Resources in accordance with Section NR 810.15, Wis. Adm. Code.

(c) It shall be the duty of the Cedarburg Light and Water Utility and/or the City Plumbing Inspector to cause inspections to be made of all properties served by the public water system where cross connections with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City of Cedarburg and the Cedarburg Light and Water Utility and as approved by the Wisconsin Department of Natural Resources.

(d) Upon presentation of credentials, the representative of the Cedarburg Light and Water Utility and/or the City Plumbing Inspector shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the City of Cedarburg for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under Sec. 66.122, Wis. Stats. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

(e) The Cedarburg Light and Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this Chapter exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 68, Wis. Stats., except as provided in Subsection (f). Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this Chapter.

(f) If it is determined by the Cedarburg Light and Water Utility and/or the City Plumbing Inspector that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action and a written finding to that effect is filed with the Clerk of the City of Cedarburg and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under Chapter 68, Wis. Stats., within ten (10) days of such emergency discontinuance.

(g) The City of Cedarburg adopts by reference the State Plumbing Code of Wisconsin being Chapter SPS 382, Wis. Adm. Code.

(h) This Section does not supersede the State and City Plumbing Code but is supplementary to them.

SEC. 9-1-6 VACATION OF PREMISES.

When the premises are to be vacated, the Water Department shall be notified in writing at once so that it may remove the meter and shut off the supply at the curb stop. The owner of the premises shall be liable to prosecution for any damage to the property of the Water Department by reason of failure to notify the Water Department of vacancy.

SEC. 9-1-7 MAINTENANCE AND REPAIR OF SERVICE PIPE.

The service pipe from the main to the property line will be maintained and kept in repair at the expense of the Water Department. However, it shall be the duty of the consumer to maintain the service pipe from the property line to the point of use, and the Water Department cannot be responsible for loss of water which has passed through the meter and has been wasted by leakage of defective pipes and fixtures.

SEC. 9-1-8 WATER TO BE SHUT OFF FOR FAILURE TO REPAIR LEAKS.

If a consumer fails to repair a leaky or broken service pipe from the property line to the point of use within such time as may appear reasonable to the Water Department after notification has been served on the consumer by the Water Department, the water will be shut off and will not be turned on again until the repairs have been completed.

SEC. 9-1-9 STOP BOXES TO BE PROTECTED.

The consumer shall protect the stop boxes located in his sidewalk or lawn and shall keep the same free from dirt and other obstructions. The Water Department shall not be liable for failure to locate stop boxes and shut off water in case of a leak on the consumer's premises.

SEC. 9-1-10 WATER TO BE TURNED ON ONLY BY WATER DEPARTMENT.

The water cannot be turned on or off at the stop box for a consumer except by a duly authorized employee of the Water Department. When a plumber has completed a job, he must leave the water turned off.

SEC. 9-1-11 PLUMBING SYSTEM TO WITHSTAND PRESSURE.

The owner of any building connected with the waterworks system may adopt such system of plumbing as he may see fit, but it must stand at least a pressure of two hundred (200) pounds to the square inch and be subject to the inspection by the Water Department and/or City Plumbing Inspector.

SEC. 9-1-12 ACCESS TO PREMISES; INSPECTION OF TAPS; WASTING WATER.

Any officer or authorized employee of the Water Department and/or the City Plumbing Inspector, when necessary, shall have the right of access during reasonable hours to the premises supplied with service for the purpose of inspection or for the enforcement of the Water Department's rules and regulations. The Water Department will make a systematic inspection of all unmetered water taps at least once every twelve (12) months for the purpose of checking waste and unnecessary use of water. If it is found that water is wasted willfully, negligently or through want of repairs and the same is not immediately remedied, the water leading to such premises shall be shut off and not released until such defect in the private or service pipes or other fixtures, as the case may be, has been remedied; in such case, the Manager shall give a notice in writing of such fact, to be mailed to the owner or occupant of the premises, and the owner or occupant shall be allowed twenty-four (24) hours to repair the same before the water will be shut off.

SEC. 9-1-13 EXTENSIONS.

Whenever extensions are issued or new attachments are to be made, permits must be obtained in the usual manner and the tapper must be notified to draw out the old tap and insert the new if necessary.

SEC. 9-1-14 USE OF WATER DURING EMERGENCIES.

The right is reserved by the Common Council or the Utility Manager to suspend the use of fountains, sprinkling of streets, yards, gardens, watering or washing of buildings, cars or other implements, use of water in air conditioners or use of other water not vital to the health and welfare of the consumer. In the event of an emergency, whereby the Manager of the Light and Water Commission determines that the Water Department shall have an inadequate water supply to meet the needs and requirements of the users of said water, an emergency may be declared by proclamation. During the period of such emergency, the Manager may place such restrictions and limitations upon the use of water being furnished by the Water Department as he may deem necessary.

SEC. 9-1-15 BULK WATER.

Persons desiring water for tanks and trucks or other intermittent supply will be charged at regular rates as per the schedule on file with the Public Service Commission.

SEC. 9-1-16 WATER FOR BUILDING AND CONSTRUCTION WORK.

Persons desiring water for building and construction will be charged at regular rates as are the schedule on file with the Public Service Commission.

SEC. 9-1-17 WATER FOR SPRINKLING SYSTEMS AND STANDPIPES.

If any persons being regular patrons of the waterworks system wish to lay large pipes to connect with buildings equipped with automatic overhead fire sprinkling systems or standpipes equipped with hose couplings to fit the City fire hose, to be used only in case of fire, permission will be given to connect the same with the mains at their own expense and, upon application, the Water Department will allow the use of the water, for fire purposes only, with an established monthly sprinkler charge, and for no other purpose without having first obtained permission from the Water Department.

SEC. 9-1-18 TAMPERING WITH EQUIPMENT.

No person, except the members of the Common Council, the Light and Water Commission, or members of the Fire Department, in case of fire or when drilling with the Department, and any such other duly authorized City officials or employees as may be
designated shall open or, in any manner, tamper with any public or private hydrant, plug, draw-cock, hose or other attachment, without at first obtaining a permit and conforming to such conditions as the Manager may impose, nor shall any person authorized to open a hydrant delegate his authority to another or let out the wrenches or keys furnished such person, or allow the same to be taken from any house within the City, except for purposes strictly connected with the Fire Department.

SEC. 9-1-19 DAMAGE TO EQUIPMENT.

No person shall willfully deface, mark or in any way injure or meddle with the fire hydrants, valves or other parts of the waterworks system of the City or attempt to operate them without authority. No person shall place any obstruction in front of or around a hydrant.

SEC. 9-1-20 METERS.

(a) Meters will be furnished, maintained and placed by the Water Department and are not to be disconnected or interfered with by the consumer.
(b) All meters shall be so located that they shall be preserved from obstructions and allow easy

access thereto for reading, inspecting and changing. All piping within the building must be supplied by the consumer. Additional meters are not allowed unless authorized by the Utility Manager (sewer credit meters excluded).

(c) Meters will be installed and repairs due to ordinary wear will be made without cost to the consumer (sewer credit meters excluded). Any damage to a meter resulting from the carelessness of the consumer or failure to protect the same from frost, hot water or steam or other damaging elements shall be paid by the consumer or the owner of the premises.

(d) Meters for residential customers shall be sized in the following manner: a meter with a five-eighths (5/8) inch inside bore for homes requiring a flow of more than ten (10) g.p.m. but less than twenty (20) g.p.m. and a meter with a three-quarters (3/4) inch inside bore for homes requiring a flow of twenty (20) g.p.m. but less than thirty (30) g.p.m.

SEC. 9-1-21 METERS TO BE READ MONTHLY OR QUARTERLY; RATES.

Meters are to be read monthly or quarterly as determined by the Utility Manager, and water bills are to be rendered accordingly and in conformity with the regular schedule of rates in force, and all bills for water rentals are to be rendered against and delivered to the owner of the premises where water is furnished, except where specifically requested by such owner that such bills be delivered to the occupant or tenant, provided, however, that if such occupant or tenant becomes delinquent in the payment of water rentals and the water is shut off from the premises in accordance with the regulations of the Water Department, the owner of such premises shall be liable for such delinquent charges, and the water will not be turned on again until such delinquent charge for water and such other charges as provided for in this Section and relating thereto shall be fully paid and satisfied.

SEC. 9-1-22 DELINQUENT WATER BILLS.

(a) Monthly water bills due and not paid by the due date indicated on the bill shall be subject to a finance charge of one and one-half percent (1-1/2%) of the outstanding balance per month.

(b) Failure to receive a water bill in no way exempts consumers from the provisions of this Chapter.

(c) The Light and Water Commission shall not be responsible for the collection of water bills from renters who are required to pay their own bills.

SEC. 9-1-23 DISCONTINUANCE OF WATER.

Consumers desiring to discontinue the use of water must give notice thereof in writing on or before the monthly billing date, otherwise the minimum monthly charge for the next succeeding month will go into effect.

SEC. 9-1-24 INTERRUPTION OF SUPPLY.

No claim shall be allowed against the City by reason of the breaking of any main pipe, service pipe or cock, or for an interruption of supply, or by reason of breakage of the machinery, or stoppage of necessary repairs.

SEC. 9-1-25 SURREPTITIOUS USE OF WATER.

When the utility has reasonable evidence that a consumer is obtaining his supply of water, in whole or in part, by tampering with or altering the meter or other parts of the utility service connected to his property or equipment, the utility reserves the right to estimate the present use of such water and immediately present a bill for service unmetered as a result of such interference and such bill shall be payable subject to a twenty-four (24) hour disconnection of service. When the Water Department shall have disconnected the consumer for any such reason, the Water Department will reconnect the consumer upon the following conditions:

(a) The consumer will be required to deposit with the utility an amount sufficient to guarantee the payment of the consumer's bills for utility service.

(b) The consumer will be required to pay the utility for any and all damages to its equipment on the consumer's premises due to such stoppage or interference with its metering.

(c) The consumer must further agree to comply with reasonable requirements to protect the utility against further losses.

SEC. 9-1-26 FAILURE TO READ METER.

(a) When the Water Department is unable to read any meter after two (2) successive trials, the fact shall be plainly indicated upon the bill, the estimated charge assessed and the difference adjusted with the consumer when the meter is again read; that is, the succeeding bill will be computed with the gallons in each block of the rate schedule doubled and credit will be given on that bill for the amount of the estimated bill paid the preceding month.

(b) If the meter is damaged or fails to operate for any reason, the Water Department will render a bill for the current period based on an average of the last two (2) quarters, providing there is no particular reason why the use during that period has not been normal. If the last two (2) periods cannot be properly used, the bill shall be estimated by some equitable method.

SEC. 9-1-27 COMPLAINT METER TESTS.

If a consumer demands that a test be made of his meter in addition to the periodic or installation test, he shall pay a test fee of Two Dollars ($2.00) per inch of nominal size or fraction thereof. If the meter is found fast in excess of two percent (2%), the payment for the test will be refunded and the usual adjustment made in the past bill.

SEC. 9-1-28 FLUORIDATION OF CITY WATER.

Upon receiving the consent and approval of the State Board of Health and until further direction of the Common Council, the Water Utility shall introduce approximately one (1) to one and one-half (1-1/2) parts of fluoride to every million parts of water being distributed in the water supply system of the City.

SEC. 9-1-29 PRIVATE WELL PROGRAM. (Ord. 2005-12)

(a) **Purpose.** To prevent unused or improperly constructed wells from serving as a passage for contaminated surface or near-surface waters or other materials to reach the usable ground water.

(b) **Coverage.** All private wells located on any premises which are fed by the public water system of the City shall be properly inspected for cross connections, tested for bacteria, and permitted at the private well owner's expense.

(c) **Inspection.** The cross connection inspection shall consist of a licensed well contractor/plumber inspecting the premises to certify that no physical connection exists between the piping of the public water system and the private well. This inspection shall be done before a permit is issued.

(d) **Testing.** The well and pump shall have a history of producing bacteriologically safe water. Before a permit can be issued, a minimum of one safe sample must be taken from the well.

(e) **Well Operation Permits.** A permit may be granted to a well owner to operate a well for a period not to exceed five (5) years at a cost of $50 if the following requirements are met. (Application shall be made on forms provided by the utility.)

(1) The well and pump installation meet the requirements of Chapter NR 812 Wisconsin Administrative Code, and a well constructor's report is on file with the Department of Natural Resources, or certification of the acceptability of the well has been granted by the Private Water Supply Section of the Department of Natural Resources.

(2) The well has a history of producing safe water, as evidenced by past bacteria tests, and presently produces bacteriologically safe water.

(3) The proposed use of the well can be justified as being necessary by the homeowner in addition to water provided by the public water system.

(4) No physical connection shall exist between the piping of the public water system and the private well.

SEC. 9-1-30 PRIVATE WELL ABANDONMENT. (Ord. 2005-12)

(a) **Purpose.** To prevent unused and/or improperly constructed wells from serving as a passage for contaminated surface or near-surface waters or other materials to reach the usable ground water. These wells must be properly filled and sealed by a licensed well contractor/plumber.

If at anytime during the permit cycle the well has been determined bacteriologically unsafe, the well must be abandoned within 60 days of notification by the Cedarburg Light and Water Utility.

(b) **Methods.** Wells to be abandoned shall be filled according to the procedures outlined in Chapter NR 812, Wis. Adm. Code. The pump and piping must be removed and the well checked for obstructions prior to plugging. Any obstruction or liner must be removed.

(c) **Reports and Inspection.** A well abandonment report must be submitted by the well owner to the Department of Natural Resources on forms provided by that agency (available at the office of the Cedarburg Light & Water Utility). The report shall be submitted immediately upon completion of the filling of the well. A representative of the Utility must inspect the well after it has been filled.

SECTION 9-1-31 FILLINGOF PRIVATE POOLS (Ord. 2005-12)

(a) No permission will be granted by the Utility to use a hydrant for the purpose of filling a private pool until the spring flushing is finished.

(b) The owner shall contact the Utility as to the size of the pool to be filled or the approximate gallons to be used. The Utility and requesting party shall establish a payment schedule.

(c) The owner shall contact the Fire Department and arrange for a fireman to run the hydrant and for the Department to supply the hose and valve.

(d) The fireman shall contact the utility and inform the Utility which hydrant he will use.

(e) A minimum Ten Dollar ($10.00) connection fee shall be payable for the filling of private pools, plus a fee of One Dollar ($1,00) per one thousand (1,000) gallons of water used.

CHAPTER 2

Sewer Use Regulations

9-2-1 Creation
9-2-2 Management
9-2-3 Application
9-2-4 Definitions
9-2-5 Rules and Regulations
9-2-6 Sewer Service Charges
9-2-7 Annual Budget and Method of Payment of Charges
9-2-8 Accounts and Funds
9-2-9 Prohibited Discharges
9-2-10 Accidental Discharges
9-2-11 Pretreatment Facilities
9-2-12 Sand and Grease Trap Installations
9-2-13 Wastewater Measurement and Sampling
9-2-14 Industrial Waste Analysis
9-2-15 Wastewater Discharge Permit System
9-2-16 Admission to Property
9-2-17 Confidentiality of Critical Information
9-2-18 Violations
9-2-19 Residential Equivalent Connection Table and Unmetered Flow Assignments

SEC. 9-2-1 CREATION.

The Common Council of the City of Cedarburg, pursuant to the provisions of Sec. 66.067 of the Wisconsin Statutes, does hereby declare that the Sewerage System of the City of Cedarburg, consisting of the collection system (as hereinafter defined), waste collection and disposal operations, sewerage system and all other appurtenances and equipment used for such purposes, or Wastewater Treatment Facility (as hereinafter defined), shall be designated the Sewerage System Utility. This public utility is not a public service subject to regulation by the Wisconsin Public Service Commission for the purposes defined above.

SEC. 9-2-2 MANAGEMENT.

(a) The operation, management and control of the Sewerage System Utility is vested in the Common Council of the City of Cedarburg as a Sewage Commission under the provisions of Sec. 66.066(1) of the Wisconsin Statutes and is hereinafter referred to as the "Approving

Authority." All records of the Sewerage System Utility shall be kept by the Director of Engineering and Public Works and Superintendent in the City Hall or other officially designated place.

(b) The rules, regulations and rates hereinafter set forth shall be considered part of the regulations applicable to every individual or entity connected to the Sewerage System and all persons discharging wastes to the Sewerage System. Said rules, regulations and rates may be changed from time to time as determined by the Common Council, and the right is reserved to make special rates and contracts in all proper cases.

(c) The Common Council shall cause an annual audit of the books of the Sewerage System Utility and shall make the books and records relating to the Sewerage System Utility available for inspection during regular business hours.

SEC. 9-2-3 APPLICATION.

The application of this Chapter, its rules, regulations and rates, shall apply to all individuals, firms, corporations and institutions residing within the corporate limits of the City of Cedarburg and any person, firm or corporation, by attachment to the Sewerage System or otherwise by contract or agreement coming within the City of Cedarburg sewer service area subsequent to the effective date hereof, and all entities hauling wastes or trucking wastes and discharging to the Sewerage System.

SEC. 9-2-4 DEFINITION OF TERMS. (Ord. 95-12)

(a) The meaning of terms used in this Chapter shall be as follows:

(1) Act shall mean the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) as amended by the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500) and Pub. L. 93-243, or as modified by Chapter 147, Statutes of the State of Wisconsin, or appropriate sections of the Wisconsin Administrative Code adopted pursuant to Chapter 147.

(2) Approving Authority shall mean the Common Council of the City of Cedarburg or its duly authorized deputy, agent or representative.

(3) BOD shall mean the quantity of oxygen expressed in milligrams per liter (mg/l), utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees Centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

(4) Building, Sewer, Lateral or Service Pipe shall mean a sewer which carries only sewage or industrial wastes from the building plumbing to the public sewer.

(5) Category A, Domestic Wastewater shall mean water-borne wastes normally being discharged from the sanitary conveniences of dwellings, apartment houses, hotels, office buildings, factories and institutions, free of industrial wastes and in which the average concentration of suspended solids is established at or below two hundred

twenty-five (225) mg/L, the BOD is established at or below two hundred (200) mg/L, the TKN at or below thirty (30) mg/L, and the total phosphorus at or below ten (10) mg/L.

(6) Category B, Industrial User shall mean any nongovernmental, nonresidential user of a publicly owned sewerage system which discharges more than the equivalent of five thousand (5,000) gallons per day (GPD) of sanitary wastes and those activities as identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions: (1) Division A. Agriculture, Forestry, and Fishing; (2) Division B. Mining; (3) Division D. Manufacturing; (4) Division E. Transportation, Communications, Electric, Gas, and Sanitary Services; (5) Division I. Services. In determining the amount of a user's discharge for purposes of industrial cost recovery, the City may exclude domestic wastes or discharges from sanitary conveniences. After applying the sanitary waste exclusion, discharges in the above divisions that have a volume exceeding five thousand (5,000) GPD or the weight of biochemical oxygen demand (BOD) or Suspended Solids (SS) equivalent to that weight found in five thousand (5,000) GPD of sanitary waste are considered industrial users. Sanitary wastes, for purposes of this calculation of equivalency, are the wastes discharged from residential users. Any non-governmental user of publicly owned wastewater treatment facilities which discharges wastewater to the Wastewater Treatment Facilities which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the water receiving any discharge from the Wastewater Treatment Facilities shall be an industrial user, even if it does not discharge the equivalent of five thousand (5,000) gallons per day of sanitary waste.

(7) Collection System shall mean the system of sewers and appurtenances for the collection, transportation and pumping of domestic wastewater and industrial waste. (Ord. 95-12)

(8) Connection shall mean each physical connection to the collection system or private sewer system which connects to the municipal collection system.

(9) Debt Retirement shall mean all annual principal and interest requirements and obligations of the Approving Authority for the Wastewater Treatment Facilities.

(10) Discharge Monitoring Station shall mean a sampling and metering station required to be installed through a discharge monitoring agreement signed by an industrial user in order to obtain information on a users discharge to the system and to establish sewer user and debt charges.

(11) Flow Proportional Composite Sample shall mean a sample consisting of portions of waste taken in proportion to the volume of flow of said wastes.

(12) Industrial Cost Recovery shall mean recovery by the Approving Authority from the

industrial users of a sewerage system of the amount allowable to the treatment of wastes from such users pursuant to Section 204(b) of the Federal Act.

(13) Industrial Waste shall mean any water-borne solids, liquids or gaseous wastes other than domestic wastewater, resulting from discharging from, flowing from or escaping from any commercial, industrial, manufacturing or food processing operation or process or from the development of any natural resource or any mixture of these with water or domestic wastewater.

(14) Intercepting Sewer shall mean a sewer constructed to receive the dry weather flow of untreated or inadequately treated sewage from one (1) or more existing sanitary sewer system terminals other than from a dwelling or building that presently discharges or formerly discharged flow directly into any waters of the state and convey the flow to a Wastewater Treatment Facility (WWTF) or is to serve in lieu of an existing or proposed Wastewater Treatment Facility.

(15) Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(16) Nitrogen shall mean Total Kjeldahl Nitrogen as determined by procedures set forth in "Standard Methods."

(17) Normal Sewage shall mean sanitary sewage in which BOD, suspended solids, phosphorus or nitrogen concentrations do not exceed normal concentrations of:

a. A five (5) day twenty (20) degree C., BOD of not more than two hundred (200) parts per million;
b. A total suspended solids concentration of not more than two hundred twenty-five (225) parts per million; or
c. Phosphorus not more than ten (10) parts per million.
d. Nitrogen [not more than thirty (30) parts per million].

(18) Operation and Maintenance Cost shall mean the actual sums spent by the City in the operation and maintenance of its Sewerage System consisting of but not limited to each and all of the following purposes:

a. Wages and salaries and employees' related expenses of operating, maintenance, clerical, laboratory and supervisory personnel, together with fringe benefits and premiums paid on such wages and salaries for the State of Wisconsin Worker's Compensation coverage.
b. Electrical power and other utility services.
c. Chemicals, fuel and other operating supplies.
d. Repairs to and maintenance of associated equipment.
e. Premiums for hazard insurance.
f. Premiums for insurance providing coverage against liability for the injury to persons and/or property.
g. Rents and leasing costs.
h. Operation, licensing and maintenance costs for trucks and heavy equipment.
i. Consultant and legal fees.

j. Training and education expenses.

(19) Persons shall mean any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, governmental agency or other entity and agents, servants or employees.

(20) pH shall mean the logarithm [base ten (10)] of the reciprocal of the hydrogen concentration expressed in moles per liter. It shall be determined by one of the procedures outlined in the "Standard Methods."

(21) Phosphorus shall mean the total phosphorus as determined by the procedures set forth in "Standard Methods."

(22) Public Sewer shall mean a sewer or lateral in a public right-of-way or easement abutting properties and is controlled or owned by the public authority.

(23) Replacement Fund shall mean expenditures for obtaining and installing equipment, accessories and appurtenances which are necessary during and beyond the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(24) Residential Equivalency Charge shall mean a charge levied on users for debt retirement, operation and maintenance costs and replacement fund. The charge shall be based on the average gallons of water used by a residential customer as determined by the Water Utility and multiplied by the cost per one thousand (1,000) gallons for operation and maintenance costs, debt and replacement fund.

(25) Residential Equivalent Connection (REC) shall be the wastewater flow and loadings to the system equivalent to that contributed by an average residential family equivalent. An average residential family equivalent shall be calculated yearly by the City based upon the residential water used divided by the total number of residential customers.

(26) Sanitary Sewer shall mean a sewer that conveys domestic wastewater or waste, or a combination of both, and into which storm, surface and ground waters or unpolluted industrial wastewater are not intentionally contributed.

(27) Septate shall mean scum, liquid, sludge or other waste from a septic tank, absorption field, holding tank, vault toilet or privy. This does not include the waste from a grease trap.

(28) Sewerage System shall mean all facilities for collecting, transporting, pumping, treating and disposing of domestic wastewater, industrial wastes and septate. Also may be referred to as sewer system.

(29) Slug shall mean any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and which adversely affects the collection system and/or performance of the Wastewater Treatment Facilities.

(30) Standard Methods shall mean the examination and analytical procedures set forth in the latest edition of "Standard Methods for the Examination of Water and

Wastewater" as prepared, approved and published jointly by the American Public Health Association and the Water Pollution Control Federation.

(31) Storm Sewer shall mean a sewer which carries storm and surface drainage but excludes domestic wastewater and industrial wastes.

(32) Superintendent shall mean the Superintendent of the wastewater treatment and conveyance facilities who shall be in charge of and supervise the operations and functions of the wastewater treatment and conveyance facilities.

(33) Surcharge User shall mean a user of the Sewerage System who discharges wastes which have higher concentrations than domestic wastewater and is assessed an additional charge (surcharge) for the constituents higher in concentration than domestic wastewater.

(34) Total Suspended Solids shall mean solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by a laboratory filtration device. Quantitative determination of total suspended solids shall be made in accordance with procedures set forth in "Standard Methods." Also referred to as suspended solids.

(35) Unpolluted Water shall mean water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharging to the sanitary sewers and wastewater treatment facilities provided.

(36) User shall mean any person discharging domestic wastewater or industrial wastes into the collection system or entity discharging septate or other waste hauled or trucked to the sewerage system.

(37) Use Factors shall mean flow, BOD, total suspended solids, nitrogen, phosphorus and infiltration/inflow or the quantity of these factors as determined by the City by sampling and monitoring the Wastewater Treatment Facility influent and surcharge users and from the Water Utility records.

(38) Waste shall mean any solids, liquid or gaseous material or combination thereof discharged from any residences, business buildings, institutions, industrial establishments and septate haulers into the collection system, storm sewer or septate receiving station.

(39) Wastewater shall mean a combination of the water-carried waste discharged into the collection system from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.

(40) Wastewater Pumping Station shall mean a pumping facility utilized to pump wastewater within the collection system.

(41) Wastewater Treatment Facilities shall mean any City-owned facility, devices and structures used for receiving and treating wastewater from the City collection system.

(42) Water Utility shall mean the Cedarburg Light and Water Utility.

(43) WPDES Permit shall mean a permit to discharge pollutants obtained under the

Wisconsin Pollutant Discharge Elimination System (WPDES) pursuant to Chapter 147 of the Wisconsin Statutes.

SEC. 9-2-5 RULES AND REGULATIONS.

(a) **Declaration of Policy.** The Common Council of the City of Cedarburg finds and declares that the public health, comfort and safety is preserved and enhanced by the provision of the Sewerage System in the promotion of a clean and healthful environment and that the failure to connect to the Sewerage System is contrary to minimum health standards.

(b) **Connection.**

(1) To assure preservation of public health, comfort and safety, the owner of any house, building or property used for human occupancy, employment, recreation or other habitation, situated within the City and adjacent to a public sewer or in a block through which a public sewer extends is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter within twelve (12) months after the public sewer first becomes operational or if an immediate health hazard exists within thirty (30) days upon receipt of notice from the County Health Officer or the City Building Inspector.

(2) If a person fails to comply with the said notice to connect within the given period of time, the City may, at its option:

a. Cause such connection to be made and bill the property owner for such costs. If such costs are not paid within thirty (30) days, such costs shall be assessed as a special tax lien against the property, unless the owner, within thirty (30) days after the completion of the work, files a sworn affidavit with the City Clerk stating that he cannot pay such amount in one (1) sum and asking that it be levied in not to exceed five (5) equal annual installments, and the amount shall be so collected with interest at a rate which is sufficient to recover the City's costs of borrowed funds or interest lost plus one (1) percentage point per annum from the completion of the work, the unpaid balance to be a special tax lien; and

b. Impose a standby charge for the period of time in excess of twelve (12) months that such failure continues after the date the public sewer first becomes operational after ten (10) days' written notice to any owner failing to make a connection to the Sewerage System for an amount equal to one hundred fifty percent (150%) of the Residential Equivalency Charge, payable monthly for the period in which the failure to connect continues. Upon failure to make such payment, said charge shall be levied as a tax against the lot or parcel to which sewerage service was furnished.

(c) **Alternative Disposal Prohibited.**

(1) No person shall construct or maintain any privy, privy vault, septic tank, cesspool or

other facility intended to be used for the disposal of domestic wastewater if a public sewer is available.

(2) No person shall discharge to any natural outlet within the City in any given area under the jurisdiction of the City sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

(d) **Plumbers.** No plumber or other person will be permitted to engage in or work at any plumbing in connection with the Sewerage System without first receiving a license from the State of Wisconsin, Bureau of Plumbing.

(e) **Maintenance of Services.** All sewer services within the limits of the City at the point of connection to the street main and all street mains shall be maintained and repaired by the City without expenses to the property owner, except when they are damaged as a result of negligence on the part of the property owner or occupant, in which case they will be repaired at the expense of the property owner. All building sewers and laterals located in the public right-of-way or easement from the point of connection to the sewer main and all facilities throughout the premises served must be maintained free of defective conditions by and at the expense of the owner or occupant of the property served.

(1) It shall be the duty of the abutting land owner to maintain in a reasonable state of repair all sanitary and storm sewer laterals leading from the property to the main sewer. Where any lateral located within, under or on any street, alley or public way is either out of repair or has caused damage to the surface or substructure of the street in any way, the City shall order the abutting land owner to make the necessary repairs. If the owner refuses to comply with the order, or if the owner cannot be determined or found, the City shall make the repairs, assess the cost against the property abutting the lateral. (Ord. 96-04)

(f) **Users.**

(1) Application for Service.

a. Every person requesting connection to the Sewerage System shall file an application in writing to the City in such form as is prescribed for that purpose. Blanks for such applications will be furnished at the office of the Building Inspector. The application must state fully and truly all the use which will be presently made. If any change in use from that set forth in this application is contemplated, the user must obtain further application and permission from the Building Inspector. If the applicant is not the owner of the premises, the written consent of the owner must accompany the application.

b. The application may be for service to more than one (1) building or more than one (1) unit of service through one (1) service connection; and, in such case, charges shall be made accordingly.

c. If it appears that the service applied for will not provide adequate service for the contemplated use, the Building Inspector may reject the application. If the

Building Inspector approved the application, the Building Inspector shall issue a permit for services as shown on the application.

d. All expenses relating to the connection to the Sewerage System shall be paid by the applicant or owner.

(2) Tap Permits. After sewer connections have been introduced into any building or upon any premises, no plumber shall make any alterations, extensions or attachments, unless the party ordering such tapping or other work shall obtain and exhibit the proper permit for the same from the Building Inspector.

(3) User to Keep in Repair. All users shall keep their own service pipes in good repair and protected from frost, at their own risk and expense, and shall prevent any unnecessary overburdening of the Sewerage System. The user is responsible for their service pipe from the street main through their premises.

(4) User Use Only. No user shall allow other persons to connect to, or permit other uses to be made of, the Sewerage System through his lateral.

(5) User to Permit Inspection. Every user shall permit the City or its duly authorized agent, at all reasonable hours of the day, to enter their premises or building to examine the pipes and fixtures and the manner in which the drains and sewer connections operate; and they must, at all times, frankly and without concealment, answer all questions put to them relative to its use. Should the owner or occupant of the premises refuse voluntary access to the premises, the Building Inspector is authorized to seek a special inspection warrant under Sec. 66.122, Wis. Stats.

(6) Responsibility. No claim shall be made against the City or its agents or employees by reasons of the breaking, clogging, stoppage or freezing of any pipe, nor from any damage arising from repairing mains, making connections or extensions or any other work that may be deemed necessary by the City absent gross negligence of the City, its agents or employees. The City may cut off the service at any time for the purpose of repairs or any other necessary purpose, any permit granted or regulation to the contrary notwithstanding. Whenever it shall become necessary to shut off the sewer service within an area of the City, the City shall, if practicable, give notice to each affected user.

(7) Application for Septate Disposal.

a. Between August 1 and September 1 of each year, every licensed disposer wishing to discharge septate to the Cedarburg Wastewater Treatment Facility shall file a nonrefundable filing fee in the amount of Twenty-five Dollars ($25.00) and an application in writing to the Director of Engineering and Public Works in such a form as is prescribed for that purpose. During the months of July and August, forms of such application will be furnished at the office of the Superintendent. The application must state fully and truly the type, frequency, quantity, quality and location of generated septate to be disposed at the Cedarburg Wastewater Treatment Facility.

b. During the month of September, the Director of Engineering and Public

Works will evaluate the applications and make a determination as to the amount and conditions of septate disposal at the wastewater treatment facility. The City shall approve or reject all applications by October 1 of each year. If the Wastewater Treatment Facility cannot accept all the proposed septate disposal, then consideration shall be given first to those generators of septate that are within the sewer service area.

c. All approvals for septate disposal shall have the conditions that any time the wastewater treatment works has operational problems, maintenance problems or threat of WPDES permit violation that are indirectly or directly related to septate disposal, the City may immediately restrict septate disposal until such time as corrective action or mitigative measures have been taken.

(g) **Excavations.** Excavation requirements in the public right-of-way shall be as specified and required by the authority having jurisdiction over said right-of-way. In all cases, a permit is required.

(h) **Laterals.**

(1) All laterals on private property will be installed in accordance with the State of Wisconsin Administrative Code, as from time to time amended.

(2) The building sewer shall be inspected by the Building Inspector or his designee upon completion of placement of the pipe and before backfilling and tested before and after backfilling.

(i) **Tapping the Mains.**

(1) No persons, except those having special permission from the City or persons in their service and approved by them, will be permitted under any circumstances to tap the public sanitary sewers. The kind and size of the connection to the public sanitary sewers shall be that specified in the permit or order from the City. A minimum of forty-eight (48) hours' notice shall be given to the City prior to tapping any main.

(2) Pipes should always be tapped at the top and not within six (6) inches of the joint, or within twenty-four (24) inches of another lateral connection.

(3) When any building sewer service is to be re-laid and there are two (2) or more buildings on such service, each building shall be disconnected from such service and a new building sewer shall be installed for each building.

(j) **Septate Acceptance Location.**

(1) Septate shall only be discharged to Cedarburg's Wastewater Treatment Facility by City-approved and State of Wisconsin licensed disposers and at locations, times and conditions as specified by the City.

(2) The designated septate receiving location is located at the Wastewater Treatment Facility. All septate shall be discharged at the Wastewater Treatment Facility unless approval is obtained from the Director of Engineering and Public Works for discharge of septate to other locations in the sewer system.

(3) Discharges shall be limited to the normal working hours of the Wastewater Treatment Facility. Written documentation of the discharge must be submitted to the

Superintendent or his designee prior to discharge to the septate receiving station. If septate discharge is allowed at other locations in the sewer system, written documentation must be submitted to the Superintendent within one (1) working day of the discharge to the sewer system. Blanks for documentation of the discharge will be furnished at the Wastewater Treatment Facility and will include the following:

a. Name, address and telephone number of the hauler.
b. License number.
c. Type of septate.
d. Quantity of septate.
e. Estimated quality of septate.
f. Location, date, time and feed rate of discharge to the Sewerage System.
g. Source of septate.
h. Name and address of septate generator.
i. Other information.

SEC. 9-2-6 SEWER SERVICE CHARGES. (Ord. 95-12) (Ord. 2002-21) (Ord. 2003-36) (Ord. 2004-44) (Ord. 2005-43) (Ord. 2006-41) (Ord. 2007-06) (Ord. 2007-31) (Ord. 2008-31)(Ord. 2009-21)(Ord. 2010-24)(2012-04) (Ord. 2012- 29) (Ord. 2013-34)(Ord. 2014-27)(Ord. 2015-28)

(a) **Basis for Sewer Service Charges.** The sewer service charge shall be based on the sewer use charge. If any user of the sewer system procures any part or all of his water from sources other than the Water Utility, the user shall furnish, install and maintain, at his expense, water meters of a type approved by the Water Utility for the purpose of determining the volume of sewage discharged to the sewer system as described in Section 9-2-13. A meter reading charge shall be charged to those users who procure water from other sources than the Water Utility and who install a water meter for determining sewer user charges. At the discretion of the Sewage Commission, a user procuring water from other sources than the Water Utility may be assigned a Residential Equivalent Connection (REC) to be used as a basis of the sewer use charge as determined by Section 9-2-19. If, in the opinion of the Director of Engineering and Public Works, the information in Section 9-2-19 does not accurately reflect the users' wastewater discharge to the sewerage system, then the Director of Engineering and Public Works may assign a REC to the user. Refer to Section 9-2-5(c) for maintenance of service charge. (Ord. 96-04)

(b) **Sewer User Charge.**

(1) a. A sewer user charge is hereby imposed upon all users of the sewer system. The sewer user charge shall have a component for recovering the operation, maintenance, and replacement cost and a portion or all of the debt cost of the sewerage system. On or before September 1 of every year, the Director of Engineering and Public Works shall compute the sewer user charge per one thousand (1,000) gallons of water used. The operation, maintenance, replacement, and debt service portion of the sewer user charge shall be

computed by allocating the proposed net yearly operation, maintenance, and replacement budget to the appropriate use factors. The cost-per-use factor shall be divided by the City in conjunction with the use factor to determine the unit cost ($/1,000 gallons $/#), per use factor. The flow use factor will be determined by the City in conjunction with the Water Utility. The BOD, Total Suspended Solids, Total Kjeldahl Nitrogen, and Phosphorus use factors will be determined from the concentration assigned to domestic wastewater plus surcharge user data. The flow use factors will be determined by the Director of Engineering and Public Works, considering actual data for the previous twelve (12) month period from the Wastewater Treatment Facility and surcharge user data. The residential water consumption of sprinkling as determined by the Water Utility and any water credit meters for any refrigeration, air conditioning system, or industrial cooling water not entering the sewer system shall not be used in computing the sewer use charge. The Common Council is further authorized to adjust the sewer user charge by means of adoption of an ordinance setting sewer rates from time to time as circumstances require to recover the operation, maintenance, and replacement costs and a portion of all of the debt costs of the sewerage system. This authority shall be in addition to the annual revision set forth above.

(b) The sewer user charges and rates set forth in the annual sewer department budget.

(2) Users with domestic wastewater connected to the sewer system who derive all or part of their water discharged to the sewer system from other sources than the Water Utility and who do not have these other water sources metered will be charged for operation, maintenance and replacement costs based upon their assigned number of residential equivalent connections. The flow per residential equivalent connection will be computed by the Water Utility or the Director of Engineering and Public Works on or before September 1 of every year and shall equal the water used by residential customers minus sprinkling credits divided by the number of residential water customers.

(3) The principal and interest debt recovery for the Wastewater Treatment Facility (WWTF) shall be recovered by a special assessment for a fixed portion of the WWTF and on a use basis for the remaining portion of the debt. On or before September 1 of every year, the yearly debt cost for use will be computed by the Director of Engineering and Public Works by subtracting the special assessment payments for the upcoming year from the total debt cost projected for the upcoming year for the WWTF. The debt cost for use will be allocated to the appropriate use factors. The cost per use factor will be divided by the use factor to determine the unit cost ($1,000 gallons, $/#) per use factor. The use factors shall be the same as determined for the recovery operation, maintenance and replacement costs. The flow use factor will be determined by the City in conjunction with the Water Utility. All other use factors

will be determined by the Director of Engineering and Public Works in a similar manner as the use factors for operation and maintenance costs.

(4) Users with domestic wastewater connected to the sewerage system who derive all or part of their water discharged to the Sewerage System from other sources than the Water Utility and who do not have these other water sources metered will be charged for the debt cost for use associated with the WWTF based upon their assigned number of residential equivalent connections as determined by the Director of Engineering and Public Works.

(c) **Sewer Connection Fee**

A connection charge is imposed to fund collection system oversizing associated with new development and all newly annexed lots. This includes all lots created by land division, subdivision or condominium plats. The charge is not applicable to individual existing single vacant lots which are within the City. It does apply to newly annexed individual lots.

(1) The Sewer Connection Fee Schedule is as follows:
$1,318.69 per single-family dwelling
$875.83 per unit for multi-family
$1,318.69 per residential equivalent for commercial, industrial and institutional

(2) The connection fee imposed under this section shall be adjusted annually each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment will be based on the Construction Cost Index (CCI) published in the Engineering News Record. Said percentage shall be calculated on the ENR 20 city average. Periodic adjustments to reflect actual and planned development density corrections may be necessary.

(d) **Rehabilitation and Other Collection System Capital Improvements.** The debt cost associated with the rehabilitating and capital improvements of the collection system may be collected City-wide through a mill tax or user charges. A fund may be collected each year through a City-wide mill tax or user charges for the capital improvement of the collection system. This annual fund shall be reviewed by the City every four (4) years for appropriateness to meet the financial needs. A separate account is to be established for this fund.

(e) **Wastewater Treatment Facility (WWTF) Replacement Fund.** A charge shall be imposed upon the users of the sewer system for the purpose of capital improvements of the WWTF and for purposes of establishing a replacement fund as required by Section NR 128.02(18), Wis. Adm. Code. The WWTF replacement fund will be collected on the same basis as the use factors for the operation and maintenance budget. The City shall review the appropriateness of this fund every two (2) years. A separate account is to be established for this fund.

(f) **Industrial and Commercial Charges for Other Than Domestic Wastewater.**

(1) Charges for wastewater other than domestic wastewater shall be based on flow, BOD, suspended solids, phosphorus, nitrogen and such other constituents which affect the cost of the collection and treatment. All persons discharging wastes into the

Sewerage System are subject to a surcharge, in addition to any other wastewater service charge, if their wastewater has a concentration greater than domestic wastewater concentrations. The volume of flow used for computing waste surcharges shall be the metered water consumption, or the actual volume of waste as determined by a sampling and metering manhole or a discharge monitoring station. The amount of surcharge shall reflect the cost incurred by the City in removing BOD, suspended solids, phosphorus, nitrogen and other pertinent constituents. The surcharge shall be computed on the basis of Model No. 2 contained on page 5270 of the Federal Register, Volume 39, No. 29, February 11, 1974.

Surcharge = [Bc (B) + Sc (S) + Pc (P) + Nc (N)] Vu

Bc = O&M, replacement and debt costs for treatment of a unit of biochemical oxygen demand (BOD)

B = Concentration of BOD from a user above the base level

Vu = Volume contribution from a user per unit of time S_c, S, P_c, P, N_c, N = Same definition as above for the parameters suspended solids, phosphorus and nitrogen.

(g) **Septate Charge.**

(1) Charges for septate discharges shall be based on flow, BOD, suspended solids, phosphorus, nitrogen and such other constituents which affect the cost of the collection and treatment. All persons discharging septate which has concentrations greater than domestic wastewater are subject to a surcharge. The volume of flow used for computing the septate charge will be the volume of septate discharged. The amount of surcharge shall reflect the cost incurred by the City in removing BOD, suspended solids, phosphorus, nitrogen and other pertinent constituents. The surcharge shall be computed in the same manner as described in Section 9-2-5(h).

(2) Unless sampled, the characteristics of septate shall be as follows:

	Residential Septic Tank	Residential Holding Tank
BOD	7,000 mg/l	800 mg/l
TSS	15,000 mg/l	1,800 mg/l
Phosphorus	250 mg/l	24 mg/l
Nitrogen	70 mg/l	45 mg/l

(3) The surcharge shall be based upon these parameters and the volume of septate

discharged unless the septate is sampled. All costs associated with sample collection, storage, analysis and administration shall be paid for by the septate hauler.

(4) The minimum user charge rate for septate shall be the same as that for a residential holding tank using the wastewater characteristics listed above. The septate charge shall include a service charge for maintenance of the septate receiving station and administration of the septate receiving program.

(h) **Special Rates.** It is understood, however, that the approving authority may, at any time hereafter, set special rates for any large commercial service, industrial use, extraterritorial areas, contract users or any other unique user that does not readily fit into other categories of users.

SEC. 9-2-7 ANNUAL BUDGET AND METHOD OF PAYMENT OF CHARGES.

(a) **Budget**. Annually before November 1st, the City shall prepare a budget for the following fiscal year which shall be separated into sections, the first for operation and maintenance and the second for debt service.

(b) **Revenues.** Revenues for the operation and maintenance budget shall include any projected year-end balance (excluding replacement funds), operating fund investment income, contract revenues, permit fees, special rates and sewer user charges.

(c) **Expenditures.** Expenditures for the operation and maintenance budget shall include all costs defined in Section 9-2-4(a)(18), plus any projected year-end deficit.

(d) **Balanced Budget.** The operation and maintenance budget shall balance with the sewer use charge so that projected revenues equal projected expenditures.

(e) **Composition of Revenues.** Revenues for the debt service budget can include any projected year-end balances in the special assessments funds, projected residential equivalency charges, connection charges, sinking fund interest income and property taxes.

(f) **Debt Service Expenditures.** Expenditures for the debt service budget shall include principal, interest, premiums, paying agency fees and other expenses related to debt.

(g) **Coverage of Debt Service Requirements.**

(1) The budget shall provide for the satisfaction of any debt service coverage requirements imposed by bond resolutions or ordinances relating to Sewerage System Revenue Bonds issued by the City, pursuant to Sec. 66.066, Wis. Stats. Unless otherwise provided in the bond resolution or ordinance, the budget shall provide that projected net revenues of the sewerage system (i.e., all revenues derived from operation of the system minus the costs of operation and maintenance of the system) shall be in an amount equal to no less than one hundred twenty-five percent 125%) of the principal and interest due in the fiscal year on all outstanding revenue bonds.

(2) The budget may also include amounts to be deposited into the debt service account(s) for general obligation bonds, notes, or certificates of indebtedness issued by the City to finance costs of the Sewerage System, in order to abate the taxes levied by the City to pay principal and interest on such bonds, notes, or certificates of indebtedness. The

amount included in the budget to provide for payment of such general obligation debt shall equal the amount of the debt service taxes levied pursuant to the resolution authorizing the debt for the fiscal year to which the budget relates, reduced by any amount of such tax which the City intends to carry on the tax rolls in that fiscal year.

(h) **Payment of Charges.** Sewer service charges may be billed monthly and shall be payable at the Water Utility office or at any other officially designated location. Statements for such charges and assessments levied and assessed in accordance with this Chapter shall become due and payable within twenty (20) days from and after the date of the statement. In the event that any such statement or statements are not paid within twenty (20) days of issuance, a charge of not more than one and one-half percent (1-1/2%) per month will be added to the bill. This late payment charge shall be applied to the total unpaid balance for sewer service charges. This charge is applicable to all customers.

(i) **Billing.** The property owner is held responsible for all sewer bills on premises that he owns. All sewer bills and notices of any nature, relative to the sewer service, will be addressed to the owner and/or occupant and delivered to the addressee by first-class mail.

(j) **Failure to Receive Bill No Penalty Exemption.** Every reasonable care will be exercised in the proper delivery of sewer bills. Failure to receive a sewer bill, however, shall not relieve any person of the responsibility for payment of sewer rates within the prescribed periods, nor exempt any person from any penalty imposed for delinquency in the payment thereof.

(k) **Delinquent Bills.** The Water Utility will attempt to collect delinquent sewer bills and, if unsuccessful, the balance will be placed on the tax rolls as a lien on the property pursuant to Sec. 66.60(16), Wis. Stats.

SEC. 9-2-8 ACCOUNTS AND FUNDS.

(a) The operation and maintenance portion of the sewer user charge shall be used for payment of any items defined in Section 9-2-4(a)(18).

(b) The debt service fund shall contain all revenues transferred from special assessments debt, connection charges, property taxes, residential equivalency charges, debt portion of the sewer user charge and other sources intended for debt. This fund shall be used only for the payment of principal and interest and fees directly related to debt payment.

(c) The sewer rehabilitation and other collection capital improvement funds shall be used for the following purposes:

(1) Cost of the replacement of existing sewer mains.
(2) Cost of substitution of larger size for existing mains.
(3) Cost of new primary sewer mains and installation of same in excess of such charge or cost payable by statutory assessment.
(4) Cost of road repair required by such construction.
(5) Cost of contracted engineering service to insure a planned program.
(6) Renewals or expansion of the collection system in excess of Five Thousand Dollars ($5,000.00).

(d) Wastewater Treatment Facility Replacement Fund shall be used for capital improvement related to the Wastewater Treatment Facility and costs defined in Section NR 128.03(18), Wis. Adm. Code.

SEC. 9-2-9 PROHIBITED DISCHARGES.

(a) No person shall discharge or cause to be discharged any storm water, ground water, roof runoff, yard drainage, yard fountain, swimming pool or pond overflow into the collection system. Unpolluted water or waste shall be discharged to only storm sewers or to a natural outlet. Clearwater discharges to the Sewerage System are regulated by the Municipal Code of the City of Cedarburg.

(b) No person shall discharge or cause to be discharged to the collection system either directly or indirectly any of the following-described wastes or wastewater:

(1) Any liquid having a temperature higher than one hundred fifty (150) degrees Fahrenheit [sixty-five (65) degrees Centigrade].

(2) Any wax, grease or oil, plastic or any other substance that will solidify or become discernibly viscous at temperatures between thirty-two (32) degrees to one hundred fifty (150) degrees Fahrenheit [zero (0) degrees to sixty-five (65) degrees Centigrade].

(3) Any solids, liquids or gases which, by themselves, or by interaction with other substances may cause fire, explosion, hazards, create toxic fumes or in any other way be injurious to persons or property involved in the operation or maintenance of the sewer system.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(5) Any garbage that has not been properly comminuted or shredded to such a degree that all particles will be carried freely in suspension in the municipal sewers. [One hundred percent 100% passing one-half (1/2) inch screen, ninety percent (90%) passing one-quarter (1/4) inch screen.]

(6) Any noxious or malodorous substance, whether either singly or by interaction with other substances is capable of causing odors objectionable to persons of ordinary sensitivity.

(7) Any wastes or wastewater having a pH lower than five and one-half (5.5) or higher than nine (9.0) or having any corrosive property capable of causing damage to hazards to the sewerage system.

(8) Any wastes or wastewater of such character and quantity that unusual attention or expense is required to handle them in the sewer system.

(9) Any wastewater or wastes containing a toxic or poisonous substance such as plating or heat-treating wastes in sufficient quantity to injure or interfere with wastewater treatment process, to constitute a hazard to humans or animals, to create any hazard in the sewerage system or which would cause the City Wastewater Treatment Facilities to discharge any of the following pollutants in quantities in excess of the limitations established in the Wisconsin Administrative Code or WPDES Permit: cyanide, hexavalent chromium, trivalent chromium, copper, nickel, cadmium, zinc, phenols, iron and tin.

(10) Any radioactive wastes greater than allowable releases as specified by the current United State Bureau of Standards Handbooks dealing with the handling and release of radioactivity.

(11) Free or emulsified oil and grease exceeding on analysis an average of one hundred (100) mg/l of either or both of combinations of free or emulsified oil and grease.

(12) Any cyanides or cyanogen compounds capable of liberating hydrocyanic gas or acidification in excess of one-half (0.5) mg/l by weight as cyanide in the wastes.

(13) Wastes or wastewater which:

a. Cause unusual concentrations of solids or composition as, for example, in total suspended solids of inert nature (such as Fuller's earth) and/or in total dissolved solids (such as sodium chloride or sodium sulfate).

b. Cause excessive discoloration in the Wastewater Treatment Facilities discharge.

c. Has a total BOD or suspended solids loading in excess of the wastewater discharge permit described in Section 9-2-15.

d. Is discharged without application for a wastewater discharge permit or contractual agreement as required.

e. Cause damage to the collection system or impair the treatment process.

(c) No person shall allow the discharge of slugs of water or wastes to the collection system which may be harmful to the operation of the Sewerage System. Where, in the opinion of the Superintendent, slugging does occur, each person producing such a discharge into the collection system shall construct and maintain at his own expense a storage reservoir of sufficient capacity with flow control equipment to insure an equalized discharge over a twenty-four (24) hour period.

(d) No person shall discharge any waste or wastewater which would cause the wastewater treatment facilities to be in violation of any of the requirements of their WPDES permit.

(e) No person shall connect to and discharge to the collection system, unless there is capacity available in all downstream components of the Sewerage System as determined by the Director of Engineering and Public Works.

SEC. 9-2-10 ACCIDENTAL DISCHARGES.

Any person who accidentally discharges wastes or wastewater prohibited under Section 9-2-9 into a

storm sewer shall immediately report such discharge to the Superintendent.

SEC. 9-2-11 PRETREATMENT FACILITIES.

(a) The Approving Authority may require pretreatment facilities of any person discharging or planning to discharge industrial waste, if the waste or wastewater could:
  (1) Cause damage to the collection system.
  (2) Impair the treatment process.
  (3) Cause the City to incur treatment costs exceeding those of domestic wastewater.
  (4) Have any of the characteristics of the "Prohibited Discharges" described in Section 9-2-9 of this Chapter.
  (5) Cause the Wastewater Treatment Facilities to exceed its total design loading for volume BOD, suspended solids or pollutant.
  (6) Cause a particular industry to exceed its design allocation for volume, BOD, suspended solids or any other pollutant.

(b) Construction, operation and maintenance of pretreatment facilities shall be at the expense of the person discharging the industrial waste.

(c) Plans, specification and any other pertinent information relating to proposed pretreatment facilities shall be submitted for review of the Superintendent and City prior to the start of construction.

(d) In accordance with Chapter NR 114, Wis. Adm. Code, all pretreatment facilities shall be operated by qualified personnel holding certificate of the proper class issued by the Wisconsin Department of Natural Resources.

SEC. 9-2-12 SAND AND GREASE TRAP INSTALLATIONS.

Grease, oil and sand interceptors shall be provided at restaurants, repair garages, gasoline, stations, car washes and other industrial or commercial establishments for the proper handling of liquid wastes containing grease in excessive amounts, oil, flammable wastes, sand and other harmful ingredients. All interceptors shall be constructed in accordance with the Wisconsin Plumbing Code and shall be located as to be readily and easily accessible for any cleaning and inspection. All grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuous, efficient operation at all times.

SEC. 9-2-13 WASTEWATER MEASUREMENT AND SAMPLING.

Wastewater flows to users which do not obtain their water from the Water Utility shall be assigned a residential equivalent connection as determined from Section 9-2-19 unless:

(a) The City requires the installation of a meter to measure the water amount.

(b) Any lot, parcel of land, building or premises discharging domestic wastewater or industrial waste into the collection system, the owner or occupant of such property shall cause to be

installed necessary metering equipment as approved by the Director of Engineering and Public Works to measure the quantity of water pumped or discharged to the collection system. The user charge shall be based on the quantity of water so measured. Whenever the person fails to install such metering equipment, or where it is not practicable to measure the water consumed on any premises by a meter or meters, the Director of Engineering and Public Works shall determine the estimated volume of water discharged into the sewer system.

(c) The Director of Engineering and Public Works may require the installation of devices for metering the volume of waste discharged if those volumes cannot otherwise be determined or if the user discharges over five thousand (5,000) gallons on any day. The metering devices shall be owned and maintained by the property owner or user and may not be removed without consent of the Director of Engineering and Public Works.

SEC. 9-2-14 INDUSTRIAL WASTE ANALYSIS, MEASUREMENT, AND SAMPLING.

(a) **Sampling and Metering Manholes.** All persons discharging industrial wastes into the sewer system shall construct and maintain sampling and metering manholes in suitable and accessible position on public property or easement to facilitate the observation, measurement and sampling of all wastes or wastewater. These manholes shall be located and constructed in a manner approved by the Director of Engineering and Public Works. Plans shall be submitted to the Director of Engineering and Public Works prior to construction.

(b) **Tests.** The City or its designee will monitor flow, collect samples and perform laboratory tests on industrial waste discharges and septate discharges as necessary to verify quantity of flow and/or character and concentration of an industrial waste or septate. The City test results shall be used to determine the applicable surcharge.

(c) **Sampling.** Waste or wastewater discharge may be sampled manually or by the use of mechanical equipment as necessary to obtain a representative twenty-four (24) hour composite sample. Samples shall be taken at intervals to be established by contractual agreement under Section 9-2-15 intervals as determined by the Superintendent or the Director of Engineering and Public Works.

(d) **Testing Laboratory.** Sections NR 101 or NR 202, Wis. Adm. Code, require the submittal of the character and concentration of wastes, waste volume and production information to the District or Wisconsin Department of Natural Resources (DNR); the user shall have the waste character and concentration determined by a DNR-certified testing laboratory. A copy of the test results and DNR reports shall be submitted to the Superintendent and the Director of Engineering and Public Works.

(e) **Testing Standards.** All measurements and test analysis of the characteristics of industrial wastes shall be determined in accordance with "Standard Methods."

SEC. 9-2-15 WASTEWATER DISCHARGE PERMIT SYSTEM.

(a) **Wastewater Discharge Permit.**

(1) A wastewater discharge permit is required under this Section if a person's discharge into the City's Sewerage System has any of the following:

(a) A BOD greater than three hundred fifty (350) mg/L.

(b) A Suspended Solids concentration greater than two hundred fifty (250) mg/L.

(c) A TKN concentration greater than thirty (30) mg/L.

(d) A phosphorus concentration greater than ten (10) mg/L.

(e) A volume of five thousand (5,000) gallons per day or greater is discharged by any industrial user at one (1) or more points of discharge.

(f) Any of the characteristics listed under Section 9-2-9. (Ord. 90-31) (Ord. 95-12)

(2) Any such persons planning to discharge, changing the characteristics of their discharge or whose discharge permit has expired shall make application to the City within sixty (60) days prior to the discharge. All persons discharging at the time of adoption of this ordinance or any amendment thereto that results in those persons being subject to the terms of the ordinance shall make application to the City within sixty (60) days of notification by the City. Failure to make such application or to take such actions as necessary to satisfy the conditions of obtaining and retaining such permit shall make those persons ineligible to continue discharging. A discharge permit will be required for each separate point of discharge into the City's sewer system. No person shall discharge waste or wastewater into the City sewer system without a wastewater discharge permit, if required by the Section.

(b) **Permit Application.** Users seeking a wastewater discharge permit shall file a nonrefundable filing fee in the amount of One Hundred Dollars ($100.00) and complete and file with the City an application on the form prescribed by the City. In support of this application, the user shall submit the following information:

(1) Name, address and standard industrial classification number of applicant.

(2) Average daily volume of wastewater to be discharged.

(3) Wastewater constituents and characteristics as determined by a method approved by the Director of Engineering and Public Works.

(4) Time and duration of discharge.

(5) Average and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.

(7) Description of activities, facilities and plant processes on the premises, including all materials and types of materials which are, or could be, discharged.

(8) Each product produced by type, amount and rate of production.

(9) Number and type of employees and hours of work.

(10) Any other information as may be deemed by the City to be necessary to evaluate the

permit application.

(c) **Permit Conditions.** Wastewater discharge permits shall be expressly subject to all provisions of this Chapter and all other regulations, user charges and fees established by the Approving Authority. The conditions of wastewater discharge permits shall be uniformly enforced by the City in accordance with this Chapter and applicable state and federal regulations. Permit conditions will include the following:

(1) The residential equivalency charge, sewer use charge and schedule for surcharge fees for the wastewater to be discharged to the sewer system.

(2) The average and maximum wastewater constituents and characteristics.

(3) Limits on rate and time of discharge or requirements for flow regulations and equalization.

(4) Requirements for installation of sampling and metering manholes or discharging monitoring stations.

(5) Pretreatment requirements.

(6) Requirements for maintaining plant records relating to wastewater discharges as specified by the Superintendent, and affording the City access thereto.

(7) Average and maximum pollutant concentrations and total daily average and maximum pollutant discharges for all pollutants subject to limitations and prohibitions which are present in the user's wastewater discharge.

(8) All persons required to make application for a wastewater discharge permit shall, before issuance of the permit, enter into a contractual agreement with the City. The contractual agreement shall contain the conditions set forth in the discharge permit, requirements for industrial cost recovery charges and other items deemed necessary by the Approving Authority.

(9) Other conditions as deemed appropriate by the City to insure compliance with this Chapter.

(d) **Duration of Permits.** Fees and Penalties

(1) A permit shall be issued for one (1) year and shall be automatically renewed on a year-to-year basis thereafter, unless the person is notified by the City within sixty (60) days prior to the expiration of the permit or any renewal thereof or unless the discharger has signed a discharge monitoring agreement with the City which specifies a different duration period. After such notification by the City, the permit shall expire on the end of that year. The terms and conditions of the permit shall be subject to modification and change by the City during the life of the permit, if so required because of any ordinances, statutes or rules and regulations of the Approving Authority or any applicable state or federal body. The person shall be informed of any proposed changes in his permit at least sixty (60) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. (Ord. 90-31)

(2) At the time of application for a permit by any person who first becomes subject to the requirements of this ordinance after November 1, 1990, that person shall pay a

$100.00 fee to defray administrative costs occasioned thereby. Such a $100.00 fee shall also be paid by any person whose permit requires modification or change by the City during the life of the permit pursuant to Subsection (d)(1) hereof. Any person who fails to comply with the requirements of this ordinance within sixty (60) days of notice that the ordinance is applicable to said person shall be subject to a $200.00 forfeiture which shall be enforceable citation as provided in this municipal code. Each day that such non-compliance shall be considered a separate violation.
(Ord. 90-31)

(e) **Transfer of a Permit.** Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.

(f) **Revocation of Permit.** Any user who violates any of the conditions of his Permit contractual agreement, or this Chapter, or of applicable state and federal regulations is subject to having his permit revoked.

(g) **Discharge Monitoring Agreement.** The City may require an industry or any high volume or high strength waste discharger to enter into a discharge monitoring agreement if, in the judgment of the Director of Engineering and Public Works, such an agreement is necessary to properly evaluate the users discharge to the Sewerage System and/or to obtain adequate information to properly assess a surcharge. In the absence of a discharge monitoring agreement, the Director of Engineering and Public Works may assign a surcharge to a user which, in the Director of Engineering and Public Work's judgment, is appropriate for the user's discharge. The City may assess a surcharge to a user even though the City does not require the user to enter into a discharge monitoring agreement. A sample of a discharge monitoring agreement is on file with the Director of Engineering and Public Works.

SEC. 9-2-16 ADMISSION TO PROPERTY.

The City shall be permitted to gain access to such properties as may be necessary for the purpose of inspection, observation, measurement, sampling and testing it, in accordance with provisions of this Chapter.

SEC. 9-2-17 CONFIDENTIALITY OF CRITICAL INFORMATION.

When requested by the user furnishing a report or permit application or questionnaire, the portions of the report or other document which might disclose trade secrets or secret processes shall not be made available for use by the City or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

SEC. 9-2-18 VIOLATIONS.

(a) Any person who fails to comply with any of the provisions of this Chapter or with an order of the Approving Authority issued in pursuance of this Chapter or tampers with metering or

sampling shall be liable to the City for any expense, loss or damage occasioned by such violation, including reasonable attorneys' fees and other expenses of litigation and, upon conviction of any violation of this Chapter, shall be fined not less than One Hundred Dollars ($100.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) per violation, plus damages. Each day a condition is allowed to exist which is contrary to all or any part of this Chapter shall constitute a new violation. Change of ownership or occupancy of premises delinquent under the provisions of this Chapter shall not be cause for reducing or eliminating charges due and penalties for violations.

(b) If any user shall discharge a waste or wastewater, including septate that is inhibiting to the sewer system or wastewater treatment facility, said user shall pay a penalty of up to Two Hundred Dollars ($200.00) per violation upon conviction. Each day a violation occurs shall constitute a separate violation. Said penalty shall be added to the monthly or quarterly billing statement if not paid within thirty (30) days of conviction or such other time as set by the court.

(c) In addition to the court proceedings and penalties described in the foregoing sections of this Chapter, whenever a person violates any provision of this Chapter or fails to comply with any order of the Approving Authority, the Approving Authority may order that an action be commenced on behalf of the City in the Circuit Court for Ozaukee County for the purpose of obtaining an injunction restraining the person violating the ordinance or failing to comply the order from making any further discharges into the sewer system of the City.

(d) Any licensed disposer discharging to the Wastewater Treatment Facility or to a public sewer found to be violating a provision of this Chapter or of any conditions of the approval for septate disposal may have their approval immediately revoked. This revocation shall be done in writing and state the reason for revoking the septate disposal approval.

SEC. 9-2-19 RESIDENTIAL EQUIVALENT CONNECTION TABLE AND UNMETERED WASTEWATER FLOW ASSIGNMENTS.

(a) For unmetered users of the sewerage system, the following table shall be used to determine the Residential Equivalent Connection (REC) or estimated gallons of wastewater discharged to the sewerage system, except as provided for in Section 9-2-13:

Residential Users	REC
Condominium	1.0
Single-family home	1.0
Duplex	2.0
Multiple-family [two (2) bedrooms]	1.0/unit
Multiple-family [one (1) bedroom or less]	0.75/unit

(b) For unmetered commercial and industrial users of the sewerage system, their wastewater

flow shall be determined from the following table unless the Director of Engineering and Public Works determines that the information in the tables does not accurately reflect the users' wastewater discharge to the Sewerage System, in which case the Director of Engineering and Public Works will assign a wastewater flow to the user. The REC may be determined by dividing the wastewater flow obtained from the table by the flow of the average residential user:

SIC CODE	DESCRIPTION	GALLONS PER EMPLOYEE HOUR
0742	Veterinary Services for Animal Specialties	20.0
0752	Animal Specialty Services	16.0
0782	Lawn and Garden Services	10.0
1446	Industrial Sand	5.0
1521	General Contractors -- Residential	2.3
1541	General Contractors -- Industrial Buildings and Warehouses	2.3
1611	General Contractors -- Public Works	2.3
1711	Plumbing, Heating and Air Conditioning	2.3
1731	Electrical Work	2.3
1761	Roofing and Sheet Metal Work	2.3
1799	Special Trade Contractors, N.E.C.	2.3
2013	Sausage and Other Prepared Meats	110.0
2065	Candy and Other Confectionery Products	50.0
2087	Flavoring Extracts and Syrups, N.E.C.	75.0
2394	Canvas and Related Products	2.3
2431	Millwork	5.0
2434	Wood Kitchen Cabinets	5.0
2522	Metal Office Furniture	2.3
2721	Periodicals: Publishing and Printing	10.0
2731	Books: Publishing and Printing	10.0
2751	Commercial Printing, Letterpress and Screen	10.0
2752	Commercial Printing, Lithographic	10.0
2789	Bookbinding and Related Work	10.0
2795	Lithographic Platemaking and Related Services	25.0
2819	Industrial Inorganic Chemicals, N.E.C.	10.0
2834	Pharmaceutical Preparations	10.0
2841	Soap and Other Detergents	15.0
2893	Manufacturing of Printing Ink	30.0
2899	Chemicals and Chemical Preparations, N.E.C.	10.0

3079	Miscellaneous Plastics Products	85.0
3111	Leather Tanning and Finishing	345.0
3272	Concrete Products, Except Block and Brick	35.0
3273	Ready-Mixed Concrete	90.0
3293	Gaskets, Packings and Sealing Devices	2.3
3325	Steel Foundries, N.E.C.	115.0
3341	Secondary Smelting and Refining of Nonferrous Metals	2.7
3441	Fabricated Structural Metal	25.0
3442	Metal Doors, Sash, Frames, Molding and Trim	2.3
3444	Sheet Metal Work	40.0
3451	Screw Machine Products	10.0
3462	Iron and Steel Forgings	5.0
3469	Metal Stampings, N.E.C.	5.0
3471	Electroplating, Plating, Polishing, Anodizing, etc.	50.0
3479	Coating, Engraving and Allied Services, N.E.C.	100.0
3495	Wire Springs	2.3
3498	Fabricated Pipe and Fittings	2.3
3499	Fabricated Metal Products, N.E.C.	25.0
3531	Construction Machinery and Equipment	5.0
3544	Spec. Dies and Tools, Die Sets, Jigs and Fixtures, Molds	10.0
3562	Ball and Roller Bearings	5.0
3565	Industrial Patterns	5.0
3569	General Industrial Machinery and Equipment, N.E.C.	4.0
3576	Scales and Balances, Except Laboratory	2.3
3599	Machinery, Except Electrical, N.E.C.	10.0
3613	Switchgear and Switchboard Apparatus	5.0
3632	Household Refrigerators and Home and Farm Freezers	2.3
3694	Electrical Equipment for Internal Combustion Engines	2.3
3714	Motor Vehicle Parts and Accessories	75.0
3999	Manufacturing Industries, N.E.C.	2.3
4141	Local Passenger Transportation Charter Service	2.3
4151	School Buses	2.3
4212	Local Trucking Without Storage	10.0
4213	Trucking, Except Local	2.3

4225	General Warehousing and Storage	2.3
4311	U.S. Postal Service	2.3
4722	Travel Agency	2.3
4811	Communication	2.3
4832	Radio Broadcasting	2.3
5042	Toys and Hobby Goods and Supplies	2.3
5063	Electrical Apparatus and Equipment	2.3
5064	Electrical Appliances	2.3
5072	Hardware -- Wholesale Distribution	2.3
5082	Construction and Mining Machinery and Equipment	2.3
5084	Industrial Machinery and Equipment	2.3
5142	Frozen Foods	10.0
5149	Wholesale Groceries and Related Products, N.E.C.	10.0
5199	Wholesale Non-Durable Goods, N.E.C.	10.0
5211	Lumber and Other Building Materials Dealers	2.3
5231	Paint, Glass, Wallpaper	2.3
5251	Hardware Retail Sales	2.3
5261	Retail Nurseries, Lawn and Garden Supply Stores	10.0
5271	Mobile Home Dealers	2.3
5311	Department Stores	2.3
5331	Variety Stores	2.3
5411	Grocery Stores with Meat and Produce Departments	16.0
5412	Grocery Stores without Meat and Produce Departments	6.0
5441	Candy, Nut and Confectionery Stores	10.0
5462	Retail Bakeries -- Baking and Selling	10.0
5499	Miscellaneous Food Stores	2.3
5511	Motor Vehicle Dealers	5.0
5531	Auto and Home Supply Stores	2.3
5541	Gasoline Service Stations	15.0
5551	Boat Dealers	5.0
5611	Clothing Stores	2.3
5661	Shoe Stores	2.3
5681	Furriers and Fur Shops	5.0
5711	Furniture, Floor Coverings, Appliances	2.3
5812	Eating Places (Restaurants)	20.0
5813	Drinking Places (Taverns)	45.0

5912	Drug Stores and Proprietary Stores	2.3
5921	Liquor Stores	2.3
5931	Used Merchandise Stores	2.3
5941	Sporting Goods Stores and Bicycle Shops	2.3
5942-9	Miscellaneous Stores	2.3
5992	Florists	10.0
5999	All Other Retail Stores	2.3
6022-59	Banks	2.3
6122-63	Savings and Loans	2.3
6311	Insurance Companies	2.3
6411	Insurance Agents	2.3
6512	Operators of Nonresidential Buildings	2.3
6515	Operators of Residential Mobile Home Sites	2.3
6531	Real Estate Agents and Managers	2.3
6553	Cemetery Subdividers and Developers	2.3
6722	Management Investment Offices	2.3
7211	Power Laundries, Family and Commercial	105.0
7212	Cleaning and Laundry Pick-up Stations	2.3
7215	Factory Coin-Op Laundries and Dry Cleaning	910.0
7221	Photographic Studios	2.3
7231	Beauty Shops	16.0
7241	Barber Shops	10.0
7261	Funeral Service and Crematories	15.0
7299	Miscellaneous Services, N.E.C.	2.3
7311	Advertising Agencies, Employment Services	2.3
7332	Blueprinting and Photocopying Services	2.3
7361	Employment Agencies	2.3
7391	Research and Development Laboratories	10.0
7395	Photofinishing Labs	10.0
7512	Passenger Car Rental and Leasing, Without Drivers	10.0
7531	Top and Body Repair Shop	5.0
7534	Tire Retreading and Repair Shops	20.0
7538	General Automotive Repair Shops	5.0
7542	Car Washes	115.0
7622	Radio and Television Repair	2.3
7699	Repair Shops and Related Services, N.E.C.	2.3
7832	Motion Picture Theatres, not Drive-Ins	20.0
7911	Dance Halls, Studios and Schools	20.0
7922	Theatrical Producers	20.0
7933	Bowling Alleys	50.0

7992	Public Golf Courses	45.0
7997	Membership Sports and Recreation Clubs	75.0
7999	Roller Rinks, Gymnasiums, Museums	20.0
8011	Offices of Physicians	10.0
8021	Offices of Dentists	10.0
8031	Offices of Osteopaths	10.0
8041	Offices of Chiropractors	10.0
8051	Skilled Nursing Care Facilities	20.0
8091	Health and Allied Services, N.E.C.	10.0
8111	Attorneys	2.3
8211	Elementary and Secondary Schools	20.0
8221	Colleges, Universities and Professional Schools	25.0
8231	Libraries and Information Centers	20.0
8249	Vocational Schools, N.E.C.	20.0
8421	Arboreta, Botanical and Zoological Gardens	45.0
8621	Professional Membership Organizations	2.3
8641	Civic, Social and Fraternal Associations	15.0
8661	Religious Organizations (hours occupied only)	20.0
8699	Membership Organizations, N.E.C.	2.3
8911	Engineering, Architectural and Surveying Services	2.3
8931	Accountants	2.3
9199	General Government, N.E.C.	2.3
9221	Police Protection	2.3
9224	Fire Protection	2.3
9451	Administration of Veterans' Affairs	2.3
9999	All Offices,N.E.C.	2.3

NOTE: Parsonages should be regarded as single-family residences.

CHAPTER 3

Cable Television (Ord. No. 97-17)

9-3-1	Purpose of Chapter
9-3-2	Short Title
9-3-3	Definitions
9-3-4	Grant of Franchise
9-3-5	Application
9-3-6	Franchise Renewal
9-3-7	Revocation
9-3-8	Procedures on Revocation or Termination
9-3-9	Other Remedies
9-3-10	Purchase of System by City
9-3-11	Transfer of Ownership/Control
9-3-12	Franchise Area
9-3-13	Extension of Service
9-3-14	Acceptance and Effective Date of Franchise
9-3-15	Rate Regulation
9-3-16	Rate Regulation Procedures
9-3-17	Protection of Individual Rights
9-3-18	Acceptance Fee
9-3-19	Franchise Fee
9-3-20	Customer Service Standards
9-3-21	Technical Standards
9-3-22	Construction Standards
9-3-23	Construction and Installation
9-3-24	Proof of Compliance
9-3-25	Complaint Procedures
9-3-26	Complaint File, Service Request Log and Outage Log
9-3-27	Authority for Use of Streets
9-3-28	Conditions on Use of Streets
9-3-29	Services
9-3-30	Subscriber Privacy
9-3-31	Notices and Billing
9-3-32	Quality of Service
9-3-33	Open Books and Records
9-3-34	Reports and Records
9-3-35	Performance and Construction Bonds
9-3-36	Security Fund
9-3-37	Work Performed by Others

9-3-38 Indemnity
9-3-39 Insurance
9-3-40 Waiver of Charges
9-3-41 Protection of Non-Subscribers
9-3-42 Grantee Rules
9-3-43 Unauthorized Reception or Use of Cable Services
9-3-44 General

SEC. 9-3-1 PURPOSE OF CHAPTER.

The purpose of this Chapter is to authorize the City of Cedarburg to grant a non-exclusive franchise to one or more Grantees to install, maintain, and operate within the City a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted on a coaxial or fiber optic network including data transmission and closed circuit television programs, provided that the Grantee conforms to the conditions, limitations, and requirements of this Chapter.

SEC. 9-3-2 SHORT TITLE.

This Chapter shall be known and may be cited as the "Cedarburg Cable Television Franchise Ordinance of 1997."

SEC. 9-3-3 DEFINITIONS.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

(a) **Basic Service.** Any service tier which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station), any public, educational, and governmental programming required by the franchise, and any additional video programming signals or service added to the tier by the Grantee.

(b) **Cable Act.** Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 151, et seq., and all other provisions of the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, and the Telecommunications Act of 1996, Pub. L. No. 104-104.

(c) **Cable Operator.** Any person or group of persons who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system or who otherwise controls or is responsible for, through any arrangement, the

management and operation of such a cable system.

(d) **Cable Service.** The one-way transmission to subscribers of video programming, or other programming service; and, subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(e) **Cable Television System, Cable System, or System.** Any facility owned by a cable operator consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include: (i) a facility that services only to retransmit the television signals of one or more television broadcast stations; (ii) a facility that serves subscribers without using any public right-of-way; (iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (iv) an open video system that complies with Section 653 of the Cable Act, including any amendments thereto; or (v) any facilities of any electric utility used solely for operating its electric utility systems.

(f) **Channel.** A portion of the electromagnetic frequency spectrum, or any other means of transmission (including, without limitation, optical fibers or any other means now available or that may become available), which is capable of carrying a video signal, an audio signal, a voice signal, or a data signal or any other electronic signal.

(g) **City.** The City of Cedarburg, Wisconsin or any duly appointed designee thereof, including, but not limited to, the City Council.

(h) **City Council.** The present governing body of the City or any successors to the legislative power of said body or any duly appointed designee thereof.

(i) **Control.** The power or authority to direct or cause the direction of the management and policies of the Grantee.

(j) **Converter.** An electronic device that will shift any television channel(s) from one to another within the UHF or VHF frequency spectrum.

(k) **Cost-of-Service Showing.** A rate filing in which the Grantee seeks to justify a rate above the FCC's reasonable rate standard.

(l) **Dwelling Unit.** A building or that part of a building used as a home or residence.

(m) **Extended Basic Service.** Any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than: (i) video programming carried on the basic service tier; (ii) video programming offered on a pay-per-channel or pay-per-program basis; or (iii) a combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service consists of commonly-identified video programming and is not bundled with any regulated tier of service.

(n) **FCC.** The Federal Communications Commission, its designee, or any successor thereto.

(o) **Franchise.** An initial authorization, or renewal thereof issued by the City, as franchising authority, to a Grantee to construct or operate a cable system.

(p) **Franchise Agreement.** A contractual agreement entered into between the City and any Grantee hereunder which is enforceable by the City and said Grantee and which sets forth the rights and obligations between the City and said Grantee in connection with the franchise.

(q) **Franchise Fee.** Any tax, fee, or assessment the City imposes on the Grantee solely because of the Grantee's status as such. The term "franchise fee" does not include: (i) any tax, fee, or assessment of general applicability (including any such tax for or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against the Grantee); (ii) capital costs which are required by the franchise to be incurred by Grantee for educational or governmental access facilities; (iii) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or (iv) any fee imposed under Title 17, United States Code.

(r) **Grantee.** A person to whom a franchise under this Chapter is granted and the lawful successors or assigns of such person.

(s) **Gross Revenues.** Any and all revenues derived directly or indirectly by a Grantee, its affiliates, subsidiaries, parents, or any person in which the Grantee has a financial interest from or in connection with the operation of the cable system pursuant to this Chapter. Further, annual gross revenues includes compensation in whatever form, derived from all cable services, cable operations, and cable-related activities within the franchise area including, but not limited to, (i) revenues from subscriber rates, pay television, premium channels, service tiers, service clusters, institutional networks, on-air advertising, installations, reconnections, or similar fees; (ii) rebates or commissions received from travel, home shopping or similar services, or commercial access; and (iii) any, and all, compensation from all ancillary cable services, cable operations, and cable-related activities within the franchise area.

(t) **Normal Business Hours.** Those hours during which similar businesses in the City are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and some weekend hours.

(u) **Normal Operating Conditions.** Those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(v) **Person.** Any natural person or any association, firm, partnership, joint stock company, limited liability company, joint venture, corporation, or other legally recognized entity, private or public, whether for-profit or not-for-profit.

(w) **Public, Educational, or Governmental Access Facilities.** Channel capacity designated for

public, educational, or governmental use and the facilities and equipment for the use of such channel capacity.

(x) **Service Tier.** A category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

(y) **Street.** The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, or any public right-of-way, now or hereafter existing as such within the City.

(z) **Subscriber.** Any person legally receiving any service provided by a Grantee pursuant to this Chapter.

(aa) **Video Programming.** Programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

SEC. 9-3-4 GRANT OF FRANCHISE.

(a) **Grant.** In the event the City shall grant to a Grantee or renew a nonexclusive, revocable franchise to construct, operate, maintain and reconstruct a cable system within the franchise area, said franchise shall constitute both a right and an obligation to provide the service of a cable system as required by this Chapter and by the terms of the Franchise Agreement.

(b) **Franchise Required.** Subject to federal and state law, no cable operator shall be allowed to occupy or use the streets within the incorporated limits of the City without a franchise granted in accordance with the provisions of this Chapter.

(c) **Franchise Nonexclusive.** Any franchise granted under this Chapter shall be revocable and nonexclusive. The City reserves the right to grant a similar franchise to any person at any time.

(d) **Revisions.** Any franchise granted under this Chapter is hereby made subject to any revisions of this Chapter and the general ordinances of the City, provided that such revisions do not materially and adversely alter the Grantee's obligations or impair the Grantee's rights set out in any Franchise Agreement.

(e) **Term.** The term of any new or renewal franchise granted under this Chapter shall be established in the Franchise Agreement; provided, however, that in no event shall any franchise granted under this Chapter exceed the term of fifteen (15) years.

(f) **Mortgage or Pledge of System.** Nothing in this Chapter shall be deemed to prohibit a Grantee from mortgaging or pledging of its system or any part thereof. However, any such mortgage or pledge shall be subject to and subordinate to the right of the City under this Chapter, any Franchise Agreement or applicable laws.

(g) **Previous Rights Abandoned.** The franchise shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled or exercisable by the Grantee or any successor pertaining to the construction, operation, maintenance or reconstruction of a cable system in the City. The acceptance of the franchise shall operate, as between the Grantee and the City, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the City. All construction, operation,

maintenance and reconstruction by the Grantee of any cable system in the City shall be under this Chapter and the Franchise Agreement and not under any other right, privilege, power, immunity or authority.

(h) **Subject to Other Regulatory Agencies Rules and Regulations.** The Grantee shall at all times during the life of the franchise be subject to all lawful exercise of the police power by the City and other duly authorized regulatory state and federal bodies and shall comply with any and all codes which the City has adopted or shall adopt applying to the public generally and to other Grantees.

(I) **Pole Use Agreements Required.** The franchise shall not relieve the Grantee of any obligation involved in obtaining pole- or conduit-use agreements from the gas, electric and telephone companies, or others maintaining poles or conduits in the streets of the City, whenever the Grantee finds it necessary to make use of such poles or conduits.

(j) **No Right of Property.** Anything contained herein to the contrary notwithstanding, the franchise shall not impart to the Grantee any right of property in or on City-owned property.

(k) **Use of Grantee's Facilities.** The City shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of the Grantee, any wires and fixtures desired by the City to the extent that such installation and maintenance does not interfere with existing and future operations of the Grantee.

(l) **Franchise Binding.** Anything contained herein to the contrary notwithstanding, all provisions of this Chapter shall be binding upon the Grantee, its successors, lessees or assignees.

SEC. 9-3-5 APPLICATION.

(a) **Application.** All applicants for a franchise under this Chapter shall prepare and file a written application with the City in such form as the City shall designate.

(b) **Franchise Renewal Applicants.** All applicants seeking to renew a franchise under this Chapter shall seek such renewal in accordance with the Cable Act.

(c) **Review of Application.** Upon receipt of an application under this Chapter, the City shall review the same and make the application available for public inspection at such places as the City shall designate. A decision shall be made on the application by the City after evaluation thereof. The City may grant one (1) or more franchises, or may decline to grant any franchise.

SEC. 9-3-6 FRANCHISE RENEWAL.

(a) **Renewal Request.** The City shall determine whether to renew a franchise granted under this Chapter in the event that the Grantee files a written request for such a renewal. The Grantee shall submit such a request at least thirty (30) -- but no sooner than thirty-six (36) -- months, before the expiration of the franchise. At the time of such request, the City may revise this Chapter, reevaluate the needs of the community for cable service, and review the

performance of the Grantee. The City shall conduct any proceedings necessary to consider the renewal request.

(b) **Renewal Criteria Where Cable Act Applies.** To the extent applicable, the Cable Act shall govern the procedures and standards for renewal of any franchise awarded pursuant to this Chapter. Accordingly, the City shall renew or extend a franchise unless it finds that:

(1) The Grantee has not substantially complied with the material terms of this Chapter, the Franchise Agreement, or with applicable law, or its officers have been convicted of a felony;

(2) The quality of the Grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been unreasonable in light of community needs;

(3) The Grantee lacks the legal, technical, or financial ability to provide the services, facilities, and equipment it proposes to provide;

(4) The service, facilities, and equipment the Grantee proposes to provide are unreasonable in light of the community need for and cost of such services, facilities, and equipment; or

(5) The proposals contained in the renewal application are otherwise unreasonable.

(c) **Renewal Where Cable Act Does Not Apply.** To the extent that the Cable Act is not applicable, the City in its sole discretion and judgment shall have the right to grant, deny or conditionally grant renewal of a franchise, provided that the City shall not unreasonably refuse to renew the franchise or unreasonably condition the renewal. The conditions the City may place on its approval shall include, but are not limited to: remedy of historical or existing violations of the franchise or ordinance; payment of all fees and penalties owed by the Grantee at the time of the renewal; acceptance of any updated ordinance; and acceptance of any updated Franchise Agreement.

SEC. 9-3-7 REVOCATION.

(a) **City's Right to Revoke and Grounds Therefore.** In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel any franchise granted under this Chapter, in the event that one or more of the following occur, each of which shall be deemed a material breach of the franchise:

(1) The Grantee violates any material provision of this franchise or its Franchise Agreement with the City; or

(2) The Grantee violates any state or federal law applicable to the Grantee's operation within the City; or

(3) The Grantee practices any fraud or deceit upon the City or a subscriber; or

(4) The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged

as bankrupt; or

(5) The Grantee ceases to provide service over the cable system for a period exceeding fourteen (14) days for any reason within the Grantee's control or abandons the management and/or operation of the system; or

(6) The Grantee materially misrepresents a fact in the application for or negotiation of, or renegotiation of, or renewal of, its franchise.

(b) **Notice and Opportunity to Cure Prior to Revocation.** In the event that the City determines that the Grantee has committed a material breach of the franchise, the City may make a written demand on the Grantee that the Grantee cure such breach and inform the Grantee that continued breach may be cause for revocation. If the breach is not cured to the satisfaction of the City within thirty (30) days following such demand, the City may revoke the Grantee's franchise and terminate the Franchise Agreement pursuant to the revocation procedures set out in Section 8.

(c) **Notice and Opportunity for Hearing.** The City shall not revoke any franchise without giving the Grantee reasonable notice and opportunity for a public hearing before the City Council.

(d) **Revocation Resolution.** In the event that the City determines to revoke a Grantee's franchise under this Section, the City shall, by resolution, declare that the Grantee's franchise is terminated and any security fund and bonds forfeited and shall undertake the revocation procedures set out in Section 8.

SEC. 9-3-8 PROCEDURES ON REVOCATION OR TERMINATION.

(a) **Removal of Facilities/Continued Operation.** In the event that a Grantee's franchise is revoked, expires, or is otherwise terminated, the City may order the Grantee to remove its facilities from the franchise area within ninety (90) days of the date of such order, or the City may require the Grantee to continue operating its cable system for a period not to exceed twenty-four (24) months as indicated in Subsection (d) below.

(b) **Restoration of Property.** In removing its facilities from the franchise area, the Grantee shall refill, at its own expense, any excavation it makes and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its facilities without affecting the electrical or telephone cables, wires, or attachments. The Grantee's insurance, indemnity obligations, performance bond(s) and security fund(s) required by this Chapter and by the Franchise Agreement shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this Section.

(c) **Restoration by City, Reimbursement of Costs.** If the Grantee fails to complete any work required by Subsections (a) and/or (b) above, or any other work required by the City within thirty (30) days after receipt of written notice, and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City for the cost thereof within thirty (30) days after receipt of an itemized list of such costs, or the City may recover

such costs through the security fund or bonds provided by Grantee. The City shall be permitted to seek legal and equitable relief to enforce the provisions of this Section.

(d) **Extended Operation.** Subject to federal, state and local law, upon either the expiration or revocation of a franchise, the City may require the Grantee to continue to operate the cable system for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor in interest, continue to operate the cable system under the terms and conditions of this Chapter and the Franchise Agreement and to provide the regular cable service and any of the other services that may be provided at that time.

SEC. 9-3-9 OTHER REMEDIES.

(a) **Lesser Remedies.** Nothing shall prohibit the City from invoking lesser remedies than revocation for violations of the provisions of this Chapter or the Franchise Agreement, including imposing monetary damages as set out in Subsection (c) below.

(b) **Notice and Opportunity to Cure Prior to Imposition of Monetary Damages.** In the event that the City determines that the Grantee has failed to perform any material obligation under this Chapter or the Franchise Agreement, the City may make a written demand on the Grantee that the Grantee cure such breach and inform the Grantee that continued breach may be cause for the imposition of monetary damages. If the breach is not cured to the satisfaction of the City within thirty (30) days following such demand, the City may impose monetary damages on the Grantee as set out in Subsection (c) with an aggregate maximum penalty of ten thousand dollars ($10,000).

(c) **Monetary Damages.** If after notice to the Grantee and opportunity for hearing, the City determines that the Grantee has failed to perform any material obligation under this Chapter or the Franchise Agreement, or fails to do so in a timely manner, the City may at its option, and in its sole discretion assess monetary damages against the Grantee as provided in this Subsection (c). This provision for assessment of damages is intended to be separate and apart from the City's right to enforce the provisions of the construction and performance bonds provided for in this Chapter and is intended to be in addition to any other remedies. This provision is intended to provide compensation to the City for actual damages.

(1) For failure to substantially complete Cable System upgrade in accordance with this Ordinance and the Franchise Agreement unless the City approves the delay, or unless such delay was unavoidable under Section 44(f), the amount shall be five hundred dollars ($500) per day.

(2) For failure to obtain a permit where construction, reconstruction, or relocation of the Cable System or its components within the rights-of-way of the City is undertaken, the amount shall be fifty dollars ($50) per day.

(3) For failure to comply with construction, operation, or maintenance standards, the amount shall be one hundred dollars ($100) per day.

(4) For failure to provide customer services as stated in Section 20 of this Ordinance, the

amount shall be one hundred dollars ($100 per day.

(5) For failure to test, analyze, and report on the performance of the Cable System following a request by the City, the amount shall be one hundred dollars ($100) per day.

(6) For failure to provide data, documents, reports, or information, or to cooperate with the City during a performance review of the Cable System or during a Franchise Fee audit or agreed upon procedures evaluation, the amount shall be fifty dollars ($50) per day.

(7) For failure to submit timely reports as required under this Ordinance or the Franchise Agreement, the amount shall be fifty dollars ($50) per day until such reports are received by the City.

(8) For failure to comply with the material provisions of this Ordinance for which an amount is not otherwise specifically provided for pursuant to this Section, the amount shall be one hundred dollars ($100) per day.

SEC. 9-3-10 PURCHASE OF SYSTEM BY CITY.

(a) **Purchase of System by City on Revocation.** If the City revokes the franchise for cause, the Grantee shall first offer the system for sale to the City at an equitable price under the following procedures:

(1) If the determination of an equitable price cannot be negotiated or determined by the City and the Grantee, the price shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the City shall each choose an appraiser, and the appraisers chosen shall choose a third appraiser and the price determined by such appraisers shall be considered the equitable price at which the system will be offered to the City. The determination of the price of the system shall be decreased by the amount of any and all damages sustained by the City in connection with revocation, including without limitation, payment made by the City to another person or entity to operate the system for a temporary period after revocation. The cost of the appraisal procedure shall be shared equally by the City and the Grantee.

(2) The City shall have ninety (90) days commencing on the day the equitable price of the system is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the City does not exercise its option to purchase, and the system is not sold to another operator who has obtained a franchise from the City, the Grantee, upon request by the City, shall promptly remove all its facilities from the franchise area. While transfer of the system and franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public.

(b) **Purchase of System by City on Nonrenewal.** If the City determines not to renew a Grantee's franchise, the Grantee shall first offer the system for sale to the City at fair market

value, determined on the basis of the system valued as a going concern but with no value allocated to the franchise itself. The following procedures shall be followed:

(1) If the determination of fair market value cannot be negotiated or determined, the value shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the City shall each choose an appraiser and the appraisers chosen shall choose a third appraiser and the valuation determined by such appraisers shall be considered the fair market value at which the system will be offered to the City. The determination of the value of the system shall be decreased by the amount of any damages sustained by the City in connection with nonrenewal, including without limitation, payment made by the City to another person or entity to operate the system for a temporary period after nonrenewal. The cost of the appraisal procedure shall be shared equally by the City and the Grantee.

(2) The City shall have ninety (90) days commencing on the day the fair market value of the system is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the City does not exercise its option to purchase, and the system is not sold to another operator who has obtained a franchise from the City, the Grantee, upon request by the City, shall promptly remove all its facilities. While transfer of the system and franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public.

SEC. 9-3-11 TRANSFER OF OWNERSHIP OR CONTROL.

(a) **Transfer of Franchise.** Any franchise granted under this Chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of by any method, including, but not limited to, forced or voluntary sale, merger, or consolidation, either in whole or in part, without the prior written consent of the City, and then only under such reasonable conditions as the City may establish. Such consent as required by the City, shall be given or denied no later than one hundred twenty (120) days following any request, and shall not be unreasonably withheld. Prior consent shall not be required when transferring the franchise between wholly-owned subsidiaries of the same entity.

(b) **Notice to City on 20% Change of Ownership or Control.** A Grantee shall promptly notify the City in writing of any proposed change in, or transfer of, control of the Grantee. For the purpose of this Subsection, a change in, or transfer of, control shall occur on the acquisition or transfer by any person of twenty percent (20%) or more of the beneficial ownership interest in the Grantee.

(c) **Consent of City Required on 51% Change of Ownership or Control.** In the event that any person or group of persons acquires or transfers fifty one percent (51%) or more of the beneficial ownership interest in the Grantee, Grantee's franchise shall be subject to cancellation unless and until the City shall have consented in writing to the acquisition or transfer. The City shall give or deny consent no later than one hundred twenty (120) days

after receiving written notice of the acquisition or transfer. The City's consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City in any such inquiry.

(d) **Grantee's Responsibility.** In seeking the City's consent to any change in ownership or control, the Grantee shall have the responsibility to do the following:

(1) To show, to the City's satisfaction, whether the proposed purchaser, transferee, or assignee (the "proposed transferee"), which in the case of a corporation, shall include all directors and all persons having a legal or equitable interest fifty-one percent (51%) or more of the voting stock: (1) has ever been convicted of a felony or is presently under an indictment, investigation or complaint charging a felony; (2) has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction; or (3) has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system.

(2) To establish, to the City's satisfaction, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the Grantee was required to submit in its franchise application, and such other data as the City may request, where the same shall be audited, certified and qualified by a certified public accountant.

(3) To establish, to the City's satisfaction, that the legal, financial and technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

(e) **Effect of City's Consent to Transfer.** The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of the rights of the City in and to the streets, and any transfer shall by its terms, be expressly subject to the terms and conditions of any franchise. The Grantee shall not be released from its obligations under this Chapter and the Franchise Agreement without the express written consent of the City.

(f) **Transfer Document to be Filed with City.** A Grantee, upon transfer, shall within sixty (60) days thereafter file with the City a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee.

(g) **City's Right to Purchase System.** The City shall be entitled to a right of first refusal of any written offer to purchase the Grantee's system, which offer the Grantee has accepted subject to the City's rights under this Chapter. The price to be paid by the City shall be the price of such offer on the same terms and conditions as such offer. The City shall notify the Grantee of its decision to purchase within ninety (90) days of the City's receipt from the Grantee of a copy of the offer.

SEC. 9-3-12 FRANCHISE AREA.

A Grantee's franchise area shall be the territorial limits of the City of Cedarburg as they may exist now and in the future.

SEC. 9-3-13 EXTENSION OF SERVICE.

(a) **Mandatory Extension of Service.** The Grantee shall, at its expense, extend its system to serve new customers within the franchise area pursuant to the following requirements:

(1) The Grantee shall extend and make cable television service available to any households or areas existing or added to the franchise territory during the term of the franchise. This service shall be extended within one (1) year wherever density reaches twenty (20) dwelling units per strand mile.

(2) Without regard to density of dwelling units, the Grantee shall extend and make cable television service available to any dwelling unit in all unserved, developing areas within three hundred (300) feet of existing cable plant.

(b) **Non-Mandatory Extension of Service.** In areas not meeting the requirements for mandatory extension of service under Subsection (a), the Grantee shall provide to any potential subscriber desiring service an estimate of the cost to extend service to the potential subscriber. The Grantee shall extend service upon request of the potential subscriber. The Grantee shall cooperate with the potential subscriber in reaching a cost-sharing agreement, which shall provide that the Grantee will pay one hundred percent (100%) of the cost of the first three hundred (300) feet of the extension and that the Grantee will pay sixty percent (60%) and the potential subscriber forty percent (40%) of the cost of the next three hundred (300) feet of the extension, up to a maximum of six hundred (600) feet. For that part of an extension that is longer than six hundred (600) feet, the Grantee may charge the potential subscriber for the Grantee's actual cost of that portion of the extension. Within one (1) year, any amount paid by a subscriber for an extension under this subsection shall be refundable to that subscriber in the event the area subsequently meets the requirements for mandatory extension under Subsection (a). In no event, shall the amount of the refund exceed the amount paid by the subscriber for the extension.

(c) **New Subdivisions.**

(1) To expedite the process of extending the cable system into a new subdivision, the City will forward to the Grantee an approved engineering plan of each project. Subject to the density requirements set out above in Subsection (a)(i), the Grantee shall commence the design and construction process upon receipt of the plan.

(2) In a new subdivision where utility and cable facilities are to be placed underground, the City shall give the Grantee at least thirty (30) days advance written notice of the date on which trenching will be available for the Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the Grantee's expense. The Grantee shall provide specifications as needed for trenching and shall place its facilities in the trenches on the date specified in the notice. Costs of trenching and

easements required to bring cable service to the new subdivision shall be non-discriminatory and shall be paid by the Grantee. As used herein, "trenching" shall include all means of installation of conduit, whether by excavation, plowing, trenching or directional boring.

(d) **Special Agreements.** Nothing in this Chapter shall be construed to prevent the Grantee from serving areas not covered under this Section upon agreement with developers, property owners, or residents, provided that five (5) percent of the gross revenues derived from such service within the franchise area are returned to the City as required under Section 19 of this Chapter.

SEC. 9-3-14 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

(a) **Effective Date.** Any franchise awarded under this Chapter shall take effect thirty (30) days after the effective date of the Franchise Agreement between the City and the Grantee provided that the Grantee has accepted the franchise pursuant to Subsection 14(b).

(b) **Acceptance.** To accept a franchise granted under this Chapter, a Grantee must file any required bonds, funds and proof of insurance, as well as written notice of acceptance, with the City Administrator.

(c) **Written Notice of Acceptance.** The Grantee's written notice of acceptance shall include a certification that the Grantee agrees to the following:

(1) **Grantee to Have No Recourse.** The Grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this Chapter or its regulation or from the City's exercise of its authority to grant additional franchises.

(2) **Acceptance of Power and Authority of City.** The Grantee expressly acknowledges that in accepting the franchise it has relied upon its own investigation and understanding of the power and authority of the City to grant this franchise.

(3) **Inducements Not Offered.** The Grantee acknowledges by acceptance of the franchise that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of this franchise that is not included in this Chapter.

(4) **Grantee Accepts Terms of Franchise.** The Grantee acknowledges by the acceptance of the franchise that it has carefully read its terms and conditions and it is willing to and does accept all the obligations of such terms and conditions and further agrees that it will not set up as against the City the claim that any provision of this Chapter as adopted, is unreasonable, arbitrary, invalid or void, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

SEC. 9-3-15 RATE REGULATION.

(a) **City Reserves Right of Rate Regulation.** Except as otherwise provided in Subsection (b), below, the Grantee shall establish rates for its services which shall be applied on a nondiscriminatory basis in the franchise area. Pursuant to federal law, the City reserves the right to assume regulation of rates paid by cable subscribers; such rate regulation shall be performed by the City Council in accordance with FCC Rules and Regulations "Part 76, Subpart N." As specified by the FCC's Rules (Part 76, Subpart N), such rate regulation shall cover basic service rates and customer premises installations and equipment rates (including charges for, but not be limited to, converter boxes, remote control units, connections for additional television receivers and other cable home wiring). The City reserves the right to further regulate rates pursuant to any additional powers granted it by either the FCC or federal or state law.

(b) **Service Disconnection.** A subscriber shall have the right to have its service disconnected without charge, except for actual costs incurred by the Grantee or other charges that are allowable under FCC regulations, which shall include the removal of any equipment owned by the Grantee from the subscriber's residence. Such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following written notice to the Grantee of same. No Grantee shall enter into any agreement with a subscriber which imposes any charge following disconnection of service, except for reconnection and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new customers. This Section shall not prevent a Grantee from refusing service to any person because of the Grantee's prior accounts with that person which remain due and owing.

SEC. 9-3-16 RATE REGULATION PROCEDURES.

(a) **Notice of Certification.** In the event that the City assumes rate regulatory powers, the City shall notify the Grantee of the City's FCC Certification. Upon receipt of such notification by the Grantee, basic service rate regulation shall become effective.

(b) **Initial Rate Filing.** Within thirty (30) days of the receipt of the City's notice of certification, the Grantee shall file for review by the City the Grantee's rates for basic service, installation and equipment and supporting documentation on the appropriate FCC forms.

(c) **Subsequent Rate Filings.** Once the Grantee's initial rates for basic service, installation, and equipment have been established, based on the City's review of the Grantee's initial rate filing, the Grantee shall not file to change such rates more often than allowed under applicable federal law. The Grantee shall file all requests to change rates for basic service, installation, and equipment using the appropriate FCC forms and give written notice of such filing to all subscribers at least thirty (30) days before the Grantee desires the change to take effect. The notice shall state the precise amount of any rate change and briefly explain the reasons for the rate change. The Grantee shall not increase its rates for basic service, installation and equipment without the approval of the City Council.

(d) **Review of Initial and Subsequent Rate Filings.**

(1) **Expedited Determination.** If the City Council is able to determine expeditiously

that the rates proposed in an initial or subsequent rate filing are reasonable as determined under FCC regulations, the City Council shall: (1) afford interested persons an opportunity to express their views on the proposed rates; and (2) adopt a resolution approving the proposed rates within thirty (30) days from the date the Grantee submitted its rate filing to the City. If the City Council takes no action within thirty (30) days from the date the Grantee submitted its rate filing to the City, the proposed rates will go into effect.

(2) **Extended Review Period.** If the City Council is unable to determine within thirty (30) days from the date the Grantee submitted its rate filing to the City whether the proposed rates are reasonable, as determined under FCC regulations based on the material submitted by the Grantee, the City Council shall, by resolution, invoke the following additional periods of time, as applicable, to make a final determination: (1) ninety (90) days if the City Council needs more time to ensure that the proposed rates are reasonable; and (2) one hundred fifty (150) days if the Grantee has submitted a cost-of-service showing.

(3) **Rate Increase Tolled.** A proposed rate increase is tolled during the extended review period.

(4) **Delayed Determination.** If the City Council has not made a decision within the additional ninety- (90) or one hundred fifty- (150) day period, the City Council shall issue a brief written order at the end of the period requesting the Grantee to keep an accurate account of all amounts received by reason of any proposed rate increase and on whose behalf the amounts are paid. The Grantee may put the proposed rates into effect, subject to subsequent refund if the City Council later issues a written order disapproving any portion of the proposed rates.

(5) **Public Hearing.** During the extended review period, and before taking action on the proposed rates, the City Council shall hold at least one (1) public hearing at which interested persons may express their views and record objections. Said public hearing shall be announced by written notice published in a newspaper of general circulation at least ten (10) days before the date of hearing. An interested person who wishes to make an objection to the proposed rates may request the City to record the objection during the public hearing or may submit the objection in writing anytime before the rate order is issued. In order for an objection to be made part of the record, the objector must provide the City with the objector's name and address.

(6) **Notice and Opportunity to Comment.** The City Council shall not disapprove any portion of the proposed rates without giving the Grantee notice and an opportunity to comment.

(7) **Refunds.** As specified in the FCC regulations, the City Council may order the Grantee to refund to subscribers that portion of previously paid rates which have been found to be unreasonable. Before ordering the Grantee to refund previously paid rates to subscribers, the City Council shall give the Grantee notice and opportunity to comment. The method for paying any refund and the interest rate thereon shall be in

accordance with FCC regulations.

(8) **Written Decision and Public Notice.** The City Council's decision concerning a requested rate increase shall be by written decision. If the rate increase proposed by the Grantee is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the written decision shall state the reasons for the decision and the City Council shall give public notice of its decision. Public notice will be given by advertisement once in the official newspaper of the City of Cedarburg.

(e) **Proprietary Information.** To aid in the evaluation of the Grantee's proposed rates, the City Council may require the production of proprietary information, and in such cases will apply procedures for maintaining the confidentiality of such information which are consistent with applicable federal and state law.

(f) **Appeal.** The City Council's decision concerning rates for basic service, installation, and equipment, may be appealed to the FCC in accordance with applicable federal regulations.

SEC. 9-3-17 PROTECTION OF INDIVIDUAL RIGHTS.

(a) **Discriminatory Practices Prohibited.**

(1) A Grantee shall not refuse cable television service or otherwise discriminate against any person or organization who requests such service on the basis of race, color, religion, national origin, creed or sex. A Grantee shall not make or grant any unreasonable preference or advantage, nor subject any person to any prejudice or disadvantage, as to rates, charges, service facilities, rules, regulations or in any other respect. The Grantee shall comply at all times with the Cable Act and all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this Chapter by reference.

(2) This Section shall not be deemed to prohibit promotional rates for service introductions or temporary promotional discounts. This Section does not preclude a Grantee from offering special services or rates to senior citizens, or services to commercial subscribers at rates different from those charged residential subscribers, which shall include, but not be limited to, charges for installation on a time and material basis. The Grantee may also enter into separate contracts with multiple dwelling unit buildings and may charge discounted rates for services based upon single point billing or other contractual considerations.

(b) **Fairness and Equal Access.** A Grantee's system shall be operated in a manner consistent with the principles of fairness and equal access to its facilities, equipment, channels, studios and other services for all citizens, businesses, public agencies or other entities having a legitimate use for the system and no one shall be arbitrarily excluded from its use. Allocation of use of such facilities shall be made according to the rules or decisions of regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a

dispute between conflicting users or potential users, the matter shall be submitted for resolution by the City.

(c) **Equal Employment.** A Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state and local laws and regulations in effect on the date of the franchise grant, and as amended from time to time.

(d) **Discontinuation of Service.** If a subscriber fails to pay any proper fee or charge for any service provided by the Grantee, the Grantee may discontinue said service, provided that the unpaid bill is at least forty-five (45) days past due and the subscriber has been given at least ten (10) business days prior notice of the intention to discontinue service. If the Grantee receives payment of all outstanding fees and charges, including any late charges, before any service has been discontinued, then the Grantee shall not discontinue said service. After any service has been discontinued, upon request of the subscriber accompanied by payment in full of all fees or charges due the Grantee and the payment of an appropriate reconnection charge, if any, the Grantee shall promptly reinstate said service. Subscribers shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service. The subscriber shall not be charged any fee for the cancellation or downgrading of cable service, except in accordance with applicable FCC regulations.

(e) **Rights of Residents.**

(1) An owner or operator of an apartment building, condominium, nursing home, mobile home park, or any other rental facility may not interfere with or charge a fee for the installation of cable system facilities for the use of a lessee of said property or premises, except that such owner or operator may require: (1) installation to conform to reasonable conditions necessary to protect the safety, appearance and functioning of the premises; (2) the Grantee, occupant, or tenant to pay for the installation, operation, or removal of such facilities; and (3) the Grantee, occupant, or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.

(2) It shall be unlawful for the Grantee to compensate or offer to compensate any person, or for any person to demand or receive compensation from the Grantee, for the placement upon the premises of such person of Grantee's facilities necessary to connect such person's premises to the distribution lines of Grantee to provide cable service to said premises.

(3) Except where there is a bulk rate agreement between a landlord and the Grantee, a landlord may not discriminate in the amount of rent charged to tenants or occupants who receive cable service and those who do not.

SEC. 9-3-18 ACCEPTANCE FEE.

Upon the grant of a new franchise, the Grantee shall reimburse the City for all reasonable costs -- including but not limited to attorney and consultant fees -- incurred by the City relating to the grant of the new franchise.

SEC. 9-3-19 FRANCHISE FEE.

(a) **Franchise Fee.** A Grantee shall pay to the City a franchise fee in the amount designated in the Franchise Agreement. Such franchise fee shall not be less than five percent (5%) of the Grantee's gross revenues, or such other maximum amount as allowed by law. In the event that a change in either state or federal law would allow the City to increase the franchise fee above five percent (5%) of the Grantee's gross revenues, the Grantee shall not be liable for such increase until the City shall give Grantee written notice of its desire to increase the franchise fee, provided that the Grantee shall have notified the City in writing of such change in the law before the change in the law took effect. The franchise fee payment shall be in addition to any other payment owed to the City by the Grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes.

(b) **Payment Schedule.** The franchise fee shall be paid quarterly, as follows: On May 15, August 15 and November 15 of each calendar year, Grantee shall pay to the City an amount equal to five percent (5%) of the annual gross revenues for the preceding calendar year, as reflected in the certified audited statement provided pursuant to Subsection 19(c), below (or any independent audited statement obtained by the City pursuant to Subsection 19(c)). On February 15 of each year, Grantee shall pay to the City an amount calculated by subtracting: (1) the sum of the quarterly franchise fee payments made on the immediately preceding May 15, August 15 and November 15 from: (2) five percent (5%) of the annual gross revenues for the immediately preceding calendar year, as reflected in the certified audited statement provided with such payment, pursuant to Subsection 19(c), below.

(c) **Financial Statement to be Provided by Grantee.** With each February 15 franchise fee payment, Grantee shall furnish to the City an audited statement certified by an independent Certified Public Accountant, reflecting the total amount of the gross revenues and all payments, deductions and computations for the preceding calendar year, including a statement identifying in detail the sources and actual amounts of gross revenues received by Grantee during such year. The City shall have the right to conduct an independent audit of the Grantee’s records, and if such audit indicates a franchise fee underpayment of five percent (5%) or more, the Grantee shall assume all reasonable costs of such audit.

(d) **Interest on Delinquent Payments.** If any payment is not made as required, interest on the amount due shall accrue from the date of the required submittal at an annual rate of twelve percent (12%). The Grantee shall pay an additional compensation to the City if the payment is late by forty-five (45) days or more. Such additional compensation shall be equal to an additional six percent (6%) per annum in order to defray those additional expenses and costs incurred by the City by reason of the delinquent payment.

(e) **Acceptance by the City.** No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a franchise fee under this Chapter or for the performance of any other obligation of the Grantee.

(f) **Alternative Fee Basis.** In the event the franchise fee payment established under this Chapter is ruled unconstitutional or unenforceable, the City may impose and collect an equivalent charge on any legally permissible basis, provided such charge does not exceed the previously allowed limit on franchise fee payments.

SEC. 9-3-20 CUSTOMER SERVICE STANDARDS

(a) **Communications to Subscribers.** Grantee shall provide at the time of installation, at least annually, when there is a change to information provided subscribers, and upon request by a subscriber, information concerning the following:
   (1) Products and services offered;
   (2) Prices for programming services and conditions of subscription to programming and other services;
   (3) Installation and service maintenance policies;
   (4) Instructions on how to use the cable service;
   (5) Channel positions of programming carried on the system;
   (6) Billing and complaint procedures, including the address and telephone number of the City.

(b) **Notification of Changes in Rates, Programming, or Channel Positions.** Grantee shall notify subscribers of any increase in rates, changes in programming services or channel positions as soon as possible. Notice must be given to the City at a minimum of forty-five days in advance and to subscribers at a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify the City and subscribers thirty (30) days in advance of any significant changes in the other information required in Section (a) above.

(c) **Customer Service Facilities.**
   (1) The Grantee shall maintain a customer service facility within the boundaries of the City with the capacity to accept payments, adjust bills, respond to repair, installation, or other service calls, distribute or receive converter boxes, remote control units, or other related equipment, and receive complaints.
   (2) Said customer service facility shall be open to the general public during normal business hours.
   (3) Grantee may, at its option, provide subscribers with bill payment facilities through retail, financial, or other commercial institutions located within the boundaries of the City. Grantee may, at its option, provide secured collection boxes for receipt of bill payments.

(d) **Fairness and Accessibility to Subscribers and the Public.** Grantee's customers services shall be operated in a manner consistent with the principles of fairness and equal accessibility of its facilities and other services to all citizens, businesses, public agencies, or other entities having a legitimate use for the Cable System and Grantee's facilities; and no one shall be arbitrarily excluded from their use; allocation of use of said facilities shall be made according

to the rules or decisions of regulatory agencies affecting the same, and where such rules are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted for resolution by the Regulatory Board.

(e) **Telephone Service.**

(1) Grantee shall maintain a local or toll free, telephone access line which is available to subscribers twenty-four (24) hours per day, seven (7) days per week. Said telephone service shall be staffed by trained customer service representatives who shall be available to respond to customer telephone inquiries during Grantee's hours of business operation.

(2) After the hours of Grantee's business operation, the telephone access line shall be answered either by, at Grantee's option, a service or automated response system. With the exception of requests for restoring cable service in the event of an outage, inquiries received after Grantee's hours of business operation shall be forwarded and responded to by a customer service representative on the next business day.

(3) Grantee shall, under normal operating conditions, answer telephones staffed by customer service representatives, or through a service or automated response system, within thirty (30) seconds, including wait time, when the connection is made. If the call needs to be transferred, transfer time shall not exceed ninety (90) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a monthly basis. Grantee shall follow the definition for normal operating conditions as established by the FCC under Code of Federal Regulations Title 47, Section 76.309 (c)(4)(ii).

(4) The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply, or except as required under Subsection 20(l)(ii), below.

(5) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time as measured on a monthly basis.

(6) Incoming telephone calls from subscribers to the Grantee shall not exceed an abandonment rate of five percent (5%) as measured on a quarterly basis.

(f) **Service and Repair Calls.**

(1) Grantee shall establish a maintenance service capable of identifying, locating, and correcting service malfunctions in an expeditious manner. Said service shall be available on a twenty-four (24) hour basis, seven (7) days per week to restore service of the Cable System to subscribers in the event of significant deficiencies or failure of the Cable System.

(2) Grantee shall provide to subscribers a listed local or toll-free telephone number for service and repair calls.

(3) Excluding conditions beyond the control of the Grantee (as defined in Section 44(f)), Grantee shall begin working on complaints, requests, and interruptions to cable service promptly, and in no event shall the response time for calls received

subsequent to 12:00 p.m. exceed twenty-four (24) hours. The Grantee shall begin action to correct other service problems within four (4) hours if received by 12:00 p.m. or not later than the next business day after notification of service problems if the call is received after 12:00 p.m.

(4) The Grantee shall immediately initiate corrective action for any outage affecting three (3) or more subscribers who receive services from the same trunk or feeder line. Restoration of the Cable System for a condition of outage shall be completed as promptly as is feasibly possible, but in no situation longer than twenty-four (24) hours after notice without the express authorization of the City.

(5) An outage affecting three (3) or more subscribers in a multi-family dwelling served from the same Cable System tap shall be corrected in the same manner as stated above.

(6) For each repair, service, installation and installation-related activity call, the Grantee shall establish either a specific time for an appointment with the customer, or specify at maximum, the following time blocks for appointments as follows:

a. a four (4) hour time block within one (1) year from the effective date of the Franchise Agreement;

b. a three (3) hour time block within two (2) years from the effective date of the Franchise Agreement; and

c. a two (2) hour time block within three (3) years from the effective date of the Franchise Agreement and thereafter for the duration of the Franchise Agreement.

The Grantee may, at its discretion, schedule service calls and other installation, or installation-related activities outside of its usual hours of operations for the express convenience of the customer.

(7) Grantee, or its agents of designees, shall not cancel an appointment with a customer after the close of business on the business day prior to the appointment.

(8) Upon completion of the service call, installation or installation-related activity, the customer shall receive a report of the service call. Grantee may send this report by United States mail within fourteen (14) days of the service date if the customer is not present at the time of the service call.

(9) A representative of the Grantee shall contact a customer in the event that a service repair technician or other representative of the Grantee is running late for an appointment and will be unable to keep the scheduled appointment time. Grantee or his representative shall reschedule the appointment, as necessary, at a time which is convenient for the customer.

(10) The standards promulgated in (i)-(ix) shall be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.

(g) **Credits for Missed Appointments.** The Grantee shall issue a credit equal to one day of service if the Grantee's technician is unable to make a scheduled appointment or is unable to complete a scheduled service call due to a late arrival. This Section shall not limit or prohibit

Grantee from providing other credits or refunds for missed service appointments in excess of those described above as a part of its corporate policy or participation in a promotional activity which pertains to the provision of on-time service appointments.

(h) **Identification of Customer Service Representatives and Technicians.**

(1) Upon telephone contact by a customer, customer service representatives of the Grantee shall identify themselves by name. Technicians representing the Grantee or his subcontractors shall wear a company identification badge prominently displayed on the outermost clothing of the technician or subcontractor.

(2) Technicians of the Grantee and his subcontractors shall identify vehicles used for technical service with the name of the Grantee or subcontractor of the Grantee. Vehicles belonging to the subcontractor shall also be identified with the Grantee=s name. The type of identification need not be of a permanent nature.

(i) **Billing Practices.**

(1) The Grantee shall send subscribers a monthly statement indicating a date for payment due.

(2) The Grantee shall send bills that are clear, concise, and understandable. Such bills must be fully itemized, with itemization including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(3) All statements shall clearly indicate a date showing when the bill was sent and shall clearly indicate a telephone number for billing inquiries and adjustments.

(4) All statements shall clearly denote the dates of services for which the subscriber is being billed.

(5) The Grantee shall issue the subscriber a credit for the loss of four (4) continuous hours of service. Credits shall be applied to the subscriber's monthly bill. Loss of service shall include, but not be limited to, loss of cable audio or video service from the cable to the subscriber's television set, converter box failure or failure of similar devices which provide cable service to the subscriber's television set. Credit adjustments shall be made no later than one (1) billing cycle following the determination that a credit is warranted.

(6) The Grantee shall issue the subscriber a refund, if any is due, upon termination of cable service and return of rental equipment for the reception of cable signals. The Grantee shall refund the subscriber in the form of a refund check. Refund checks shall be issued promptly but no later than either the customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or the return of the equipment supplied by the Grantee if service is terminated.

(7) Past due billing statements or past due notices shall be delivered in the same manner and method as the subscriber billing statement. The Grantee may, at its discretion, send past due notices more frequently to the subscriber than the regular subscriber statement.

(8) The Grantee shall be prohibited from engaging in negative option billing as so

defined in Section 623 (f) of the Cable Consumer Protection and Competition Act of 1992 (47 CFR 543).

(j) **Equipment and Service Deposits.**

(1) The Grantee may assess a reasonable deposit for the acquisition of cable service by a subscriber, and for the rental of converter box, remote control, and related equipment necessary for the reception or interdiction of cable service to the subscriber's television set. Grantee shall receive no deposit, advance payment, or penalty from any subscriber or potential subscriber for services other than those which are specified herein.

(2) Upon the termination of cable service by the subscriber and return of converter boxes, remote control units, and related equipment in reasonable condition, deposits for said service and equipment shall be returned to the subscriber at the time when the equipment supplied by the Grantee is returned.

(3) If the subscriber has placed a deposit for cable services and related equipment in an amount exceeding one hundred dollars ($100), the Grantee shall place the deposit in an interest-bearing account and refund the deposit and interest upon termination of cable service and return of the equipment in reasonable operating condition.

(4) Deposits for installation of service shall be returned to the subscriber within thirty (30) days, or cancellation of service.

(5) Grantee shall refund to any subscriber of less than thirty (30) days an amount equal to the installation and connection charge paid by such subscriber in accordance with the then existing schedule of charges due to:

a. Grantee's failure to render service to such subscriber of a type and quality provided for herein;

b. If service to a subscriber is terminated by the Grantee without good cause; or

c. If the Grantee ceases to operate the Cable System authorized herein for any reason except for termination or expiration of the Franchise.

Under the terms of this Section, the Grantee shall be required to refund the monthly charge on a prorated basis for interruption of service.

(k) **Subscriber Complaint Procedure.**

(1) Upon receipt by the Grantee of a complaint by phone or in writing, the Grantee shall document said complaint and, where necessary, investigate or reply to the subscriber's complaint within twenty-four (24) hours of receipt of said complaint.

(2) If the Grantee's response to the complaint is not satisfactory to the complainant, the complainant shall be referred to the Grantee's appropriate Cable System management personnel for further assistance. Grantee's management shall make a good faith effort to reach resolution of the complaint in a manner satisfactory to the complainant within forty-eight (48) hours of referral of said complaint. If Grantee's Cable System management personnel cannot resolve the complaint to the satisfaction of the complainant, Grantee shall provide the name address and telephone number of appropriate management staff at the next level of operations, to include area,

regional, or national offices.

(3) Grantee shall respond in writing to written subscriber complaints within fourteen (14) calendar days of receipt of said complaint. The Grantee shall make a good faith effort to resolve such complaints within a reasonable period of time, such period of time not to exceed forty-five (45) calendar days after receipt of such correspondence. Complaints which have not been satisfactorily resolved may be brought to the attention of the City by a citizen, subscriber, or by the Grantee upon expiration of the forty-five (45) day period.

(l) **Installation of Service.**

(1) Standard installations will be performed within five (5) business days after an order has been placed. Standard installations shall be those that are located up to one hundred twenty-five (125) feet from the existing Cable System.

(2) Where the Grantee has received a request for a non-standard installation, which shall include but not be limited to, those installations which are located more than one hundred twenty-five (125) feet from the existing distribution system, or an installation that does not meet general specifications of a standard installation as a result of the requirements of the subscriber, the Grantee shall provide said non-standard installation within seventy-five (75) calendar days of the receipt of the request provided that the Grantee has applied for and received all necessary permits, approvals, and/or licenses prior to the scheduled date of installation.

(3) Where installation is to take place in a single-family or multi-family housing unit subdivision, commercial building, or condominium association building or common area, the Grantee shall be required to receive approval of construction plans for wiring of subscriber drop cable and rights of entry onto the premises prior to the start of installation work. In the event that the Grantee must use an easement for transmission of cable service to a subscriber on property owned by a condominium association, Grantee shall secure said easement in accordance with all applicable local and state laws and regulations.

(4) Temporary subscriber drops shall be buried within ninety (90) days of the date of installation unless the Grantee receives permission from the City to postpone burial.

(m) **Service Disconnection.**

(1) A subscriber shall have the ability to disconnect his service at any time at no charge. The Grantee shall disconnect the subscriber's service within forty-eight (48) hours of notification to the Grantee of the request for disconnection.

(2) A subscriber shall not be disconnected if the status of his account is in dispute, and notice is given by the subscriber to the Grantee in writing that the status of the account is in dispute, and the Grantee and the subscriber are working to resolve the amount in dispute. If no resolution is reached within sixty (60) days, Grantee may disconnect the subscriber.

(n) **Authority to Investigate Subscriber Complaints.**

(1) The City shall have the authority to investigate complaints tendered by subscribers

upon notification to the City either by telephone or in writing. The City shall keep a documented record of all complaints. Complaints received by the City shall be forwarded to the Grantee. Upon completion of investigation of a subscriber complaint, the City shall have the authority to order the Grantee to correct any error, deficiency, or violation of the Franchise Agreement or this Ordinance found in the course of such investigation. The City shall have the authority to require the Grantee to develop procedures for resolution of complaints as a condition of the Franchise Agreement, and to require the Grantee to review and amend such procedures from time to time as necessary.

(2) When there have been similar complaints made or where there exists other evidence which, in the judgment of the City which casts doubt on the reliability or quality of the service, the City shall have the right and authority to compel the Grantee to test, analyze and report on the performance of the system. Such test or tests shall be made at the expense of the Grantee, and the reports of such test or test shall be delivered to the City no later than thirty (30) days after the City formally notifies the Grantee. Such reports shall include the following information: The system component tested, the equipment used and procedures employed in said testing; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the specialist shall be recorded and provided to the City upon request. Said tests and analyses shall be supervised by a registered, professional engineer, not on the permanent staff of the Grantee, and selected jointly by the City and the Grantee. The engineer shall sign all records on special test and forward to the City such records with a report interpreting the result of the tests and recommending actions to be taken by the City. The City's right under this provision shall be limited to the requiring of tests, analyses and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard service.

(o) **Promotional Materials.** Grantee shall file with the City a copy of all local, regional, statewide, or national promotions which it offers to subscribers not later than the date of mailing to subscribers.

SEC. 9-3-21 TECHNICAL STANDARDS.

(a) **Standards.** The Grantee's system shall be constructed and operated so as to meet those technical and performance standards set out in the Franchise Agreement and as required by the FCC's rules and regulations relating to cable television systems and found in 47 C.F.R. § 76.601 to 76.618, as amended, from time to time.

(b) **Tests and Compliance Procedures.** Within sixty (60) days after the effective date of the Franchise Agreement, the Grantee shall, upon the City's request, submit a detailed test plan

describing the methods and schedules for testing its system on an ongoing basis to determine compliance with this Chapter and the Franchise Agreement. The test plan shall be subject to the approval of the City, which approval shall not be unreasonably withheld. The tests for basic cable service shall be performed at intervals of no greater than twelve (12) months. The tests may be witnessed by representatives of the City, and the Grantee shall submit written test reports to the City. If more than ten percent (10%) of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated. Grantee's failure to take corrective measures within thirty (30) days after the initial tests are performed may be considered a breach of the franchise.

(c) **Additional Testing.** At any time after commencement of service to subscribers, the City may require the Grantee to perform additional tests, full or partial repeat tests, or tests involving service to a specific subscriber. Such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance with the technical standards established in this Chapter or the Franchise Agreement.

(d) **Costs of Tests.** The costs of all tests required in Subsections (b) and (c) above, and retesting as necessary, shall be paid by the Grantee and may be passed through to subscribers.

SEC. 9-3-22 CONSTRUCTION STANDARDS.

(a) **Compliance with Safety Codes.** All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all state and local codes where applicable.

(b) **Compliance with Electrical Codes.** All installation of electronic equipment shall be of a permanent nature, durable, installed and maintained in accordance with the applicable sections of the then-current edition of the National Electric Safety Code and all state and local codes where applicable.

(c) **Compliance with Aviation Requirements.** Antennas and their supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aeronautical Administration and all other applicable federal, state, or local laws, codes and regulations governing the erection and operation of supporting structures or television towers.

SEC. 9-3-23 CONSTRUCTION AND INSTALLATION.

(a) **Approval of Proposed Construction.**

(1) The Grantee shall first obtain the City's approval prior to commencing construction on the streets, alleys, public grounds or places of the City. Applications for approval of construction shall be in a form provided by the City.

(2) The right of construction, including easements, is not implied except on locations

where the City has the authority to grant such rights and easements and then only in conformity with the provisions of this Chapter. All other rights of construction, including easements, shall be the responsibility of the Grantee.

(b) **Excavation Permits.** The Grantee shall not open or disturb the surface of any street, sidewalk, driveway, or public place for any purpose without first having obtained all necessary permits.

(c) **Use of Existing Poles or Conduits.** Nothing in this Chapter shall authorize the Grantee to erect and maintain in the City, new poles where existing poles are servicing the area. The Grantee shall seek and obtain permission from the City before erecting any new poles, underground conduit or appurtenances where none exist at the time the Grantee seeks to install or expand its system.

(d) **Method of Installation.**

(1) All wires, cables, amplifiers and other property of the Grantee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations.

(2) All installations shall be underground in those areas of the City where public utilities providing telephone and electric service are underground at the time of installation.

(3) In areas where telephone or electric utility facilities are aboveground, the Grantee shall place its facilities underground without additional cost to the City or to the residents of the City (other than as may be reflected in rates charged to subscribers) at such time as such telephone and electric facilities are required to be placed underground by the City or are placed underground. The City shall give Grantee at least six (6) months prior notice of any construction to place telephone or electric facilities underground.

SEC. 9-3-24 PROOF OF COMPLIANCE.

Upon reasonable notice by the City, the Grantee shall demonstrate compliance with any or all of the standards and requirements imposed by this Chapter. The Grantee shall provide sufficiently detailed information to permit the City to readily verify the extent of compliance.

SEC. 9-3-25 COMPLAINT PROCEDURES.

(a) **Complaints to Grantee.** A Grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the City. The procedures shall prescribe the manner in which a subscriber may submit a complaint, either orally or in writing, to the Grantee. At the conclusion of the Grantee's investigation of a subscriber complaint, but in no event more than ten (10) days after receiving the complaint, Grantee shall notify the subscriber of the results of the investigation and its proposed action or

resolution, if any. The Grantee shall also notify the subscriber of the subscriber's right to file a complaint with the City in the event the subscriber is dissatisfied with the Grantee's decision. The City appoints the City Administrator as its agent to receive inquiries or complaints about the Grantee's operations.

(b) **Complaints to the City.** A subscriber who is dissatisfied with the Grantee's proposed decision shall be entitled to have the complaint reviewed by the City. The subscriber shall initiate the review by filing a complaint, together with the Grantee's decision, if any, with the City, and by the City notifying the Grantee of the filing. The subscriber shall make such filing and notification within twenty (20) days of receipt of the Grantee's decision or, if no Grantee decision has been provided, within thirty (30) days after filing the original complaint with Grantee. The City may extend these time limits for reasonable cause.

(c) **Review by the City.** The City shall determine, upon a review of a subscriber's complaint and the Grantee's decision, if any, whether further action is warranted. In the event the City does not initiate further proceedings within fifteen (15) days of the filing of the complaint, the Grantee's proposed action or resolution shall be final. If the City decides to initiate further investigation, the City shall require the Grantee and the subscriber to submit, within ten (10) days of notice thereof, a statement of the facts and arguments in support of their respective positions. The City shall issue a written decision within fifteen (15) days of receipt of the statements or, if a hearing is requested, within fifteen (15) days of the conclusion of the hearing, setting forth the basis of the decision.

(d) **Remedies for Violations.** The City may, as a part of a subscriber complaint decision issued by the City under the provisions of this Chapter, impose monetary damages on the Grantee. Damages may be imposed only if the City finds that the Grantee has arbitrarily refused or failed without reasonable justification to comply with the provisions of this Section.

SEC. 9-3-26 COMPLAINT FILE, SERVICE REQUEST LOG, AND OUTAGE LOG.

(a) **Complaint File.** A Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the cable system, including a subscriber complaint report log. A Grantee shall establish a procedure to remedy complaints quickly and reasonably to the satisfaction of the City. A Grantee shall keep the subscriber complaint report log and complete records of its actions in response to all complaints for a period of three (3) years. The Grantee shall send a copy of its subscriber complaint report log to the City monthly upon request. Other related records shall be made available to the City upon request during regular business hours with reasonable notice.

(b) **Service Request Log and Summary.** The Grantee shall maintain a log and summary of all subscriber service requests, identifying the number and nature of the requests and their disposition for a period of three (3) years. A copy of such log and summaries shall be made available to the City upon request.

(c) **Outage Log and Summary.** A Grantee shall maintain a log and summary of all major service outages for a period of three (3) years. For the purposes of this Subsection, a "major

service outage" shall mean any interruption of sound or picture on one (1) or more channels of a duration of at least twenty-four (24) hours to at least two (2) subscribers. A copy of such log and summaries shall be made available to the City upon request.

SEC. 9-3-27 AUTHORITY FOR USE OF STREETS.

(a) **Use of Streets.** For the purpose of constructing, operating and maintaining a cable system in the City, a Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Grantee's system, provided that the Grantee applies for and obtains all applicable permits and otherwise complies with this Chapter and all other City codes and ordinances.

(b) **Filing of Plans with the City.** Prior to construction, reconstruction, upgrade, rebuild or any other major modification or change of the Grantee's system, other than routine repairs, the Grantee shall, in each case, file its plans for such work with the City and shall not commence any such work until it receives written approval of its plans from the City. The City shall not unreasonably withhold its approval. Upon the City's request, the Grantee shall provide written progress reports to the City until the work is completed.

(c) **Non-Interference/Notice.** The Grantee shall construct, maintain, and operate its system so as not to interfere with other uses of the streets. The Grantee shall individually notify all residents directly affected by the proposed work at least five (5) business days prior to the commencement of such work.

SEC. 9-3-28 CONDITIONS ON USE OF STREETS.

(a) **Facilities Not to be Hazardous or Interfere.**

(1) All wires, conduits, cables and other property and facilities of the Grantee shall be so located, constructed, installed and maintained as not to endanger any person or unnecessarily interfere with the usual and customary trade, traffic and travel upon the streets and public places of the City.

(2) The Grantee shall keep and maintain all its property in good condition, order and repair. The City reserves the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the Grantee.

(3) The Grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records when requested by the City.

(4) The Grantee shall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners, or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other

fixtures placed in a street shall be placed in the right-of-way between the roadway and the property, as specified by the City.

(b) **Restoration and Reimbursement.**

(1) In the event of disturbance of any street or private property by the Grantee, it shall, at its own expense and in a manner approved by the City and the owner, replace and restore such street or private property in as good a condition as before the work causing such disturbance was done.

(2) If the Grantee fails to perform such replacement or restoration, the City or the owner shall have the right to do so at the sole expense of the Grantee. The Grantee shall make payment to the City or owner for such replacement or restoration immediately upon demand. All requests for replacement or restoring of such streets or private property as may have been disturbed must be in writing to the Grantee.

(c) **Emergency Removal of Facilities.** If, at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgment of the City to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense.

(d) **Changes Required by Public Improvements.** The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the Grantee when required by the City by reason of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, City-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.

(e) **Requests for Removal or Change.** The Grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal, raising or lowering the wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given notice not less than nine (9) business days prior to any move contemplated to arrange for temporary wire changes.

(f) **Authority to Trim Trees.** The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. All trimming is to be done under the supervision and direction of the City after the explicit, prior written notification and approval of the City and at the expense of the Grantee.

SEC. 9-3-29 SERVICES.

(a) **Services Provided.** The Grantee shall provide, as a minimum, the initial services listed in the Franchise Agreement. The Grantee shall not reduce such services without prior notification to and approval by the City.

(b) **Basic Cable Service.** Basic cable service, which shall include any service tier which

includes the retransmission of local television signals, shall be provided to all subscribers at the established monthly subscription rates.

(c) **Public Educational and Government (PEG) Access Channel.** Upon request by the City, the Grantee shall provide at least four (4) channels for use by the City for PEG purposes.

(d) **Cable Channel for Commercial Use.** The Grantee shall designate channel capacity for commercial use as required by the Cable Act and applicable law.

SEC. 9-3-30 SUBSCRIBER PRIVACY.

(a) **Use of Data From Subscribers.** A Grantee, the City or any other person shall not initiate or use any form, procedure or device for procuring information or data from cable subscribers' terminals by use of the cable system, without prior written authorization from each subscriber so affected.

(b) **Subscriber Data.** The City, the Grantee or any person shall not, without prior written valid authorization from each subscriber so affected, provide any data identifying or designating subscribers. Any data so authorized will be made available to the authorizing subscriber in understandable fashion.

(c) **Subscriber Agreements.** Any agreement or contract such as is necessary for (a) and (b) above shall not be part of any other contract or agreement and shall not be a condition of subscribing to the system.

(d) The provisions of this Section shall not apply to any monitoring for cable system integrity or to verify billing accuracy.

SEC. 9-3-31 NOTICES AND BILLING.

(a) **Operating Policies.** The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: (i) products and services offered; (ii) prices and options for programming services and conditions of subscription to programming and other services; (iii) installation and service maintenance policies; (iv) instructions on how to use the cable services; (v) channel positions of programming carried on the cable system; (vi) the procedures for billing and making inquiries or complaints (including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed) and also furnish information concerning the City office responsible for administration of the franchise including the name and telephone number of the office; (vii) if applicable, and permitted, the rules and regulations for using any facilities, including a studio or mobile van of the Grantee; (viii) the method of securing a voluntary disconnection in a manner consistent with the specific policy set forth in this ordinance; and (ix) the extent of the credit/refund policy in a manner consistent with the specific policy set forth in this ordinance. The written information shall also include a description of the Grantee's business hours, legal holidays and procedures for responding to inquiries after normal business hours.

The written information shall contain no print smaller than eight (8) point type, and any exclusions, limitations, or caveats shall be clearly indicated as such in the notice. The Grantee shall provide all subscribers and the City with written notice no less than thirty (30) days prior to any proposed change in any of the areas listed in this Subsection.

(b) **Rates, Programming Service, and Channel Position.** The Grantee shall provide subscribers with written notice of any changes in rates, programming services, or channel position at least thirty (30) days prior to implementing such change(s) and shall provide the City with written notice of any such changes at least forty-five (45) days prior to implementing such change(s). Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. Notices to subscribers shall inform them of their right to file complaints about changes in cable programming service tier rates and services, shall state that the subscriber may file the complaint within ninety (90) days of the effective date of the rate change, and shall provide the address and telephone number of the City Administrator. Notwithstanding any other provision of this Chapter, the Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment or charge of any kind imposed by the City or any Federal or State agency on the transaction between the Grantee and the subscriber.

(c) **Billing.** Bills shall be clear, concise, understandable and shall include the Grantee's toll free or collect telephone number for subscriber use. Bills shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Grantee shall respond to a written complaint from a subscriber within thirty (30) days. Refund checks will be issued promptly, and no later than either (i) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or (ii) the return of the equipment supplied by the Grantee if service is terminated. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(d) **Copies to the City.** Copies of all notices provided to subscribers shall be filed concurrently with the City.

SEC. 9-3-32 QUALITY OF SERVICE.

The overall quality of service provided by a Grantee to subscribers may be subject to evaluation by the City, at least annually. In addition, the City may evaluate the quality of service at any time, based on subscriber complaints received by the Grantee, and the City, and the Grantee's response to those complaints. Upon determining that service quality is inadequate, the City may order the Grantee to cure the inadequacies. The Grantee shall commence corrective action within thirty (30)

days after receipt of written notice such order. Failure to do so shall be deemed to be a material breach of the franchise and subject to the remedies prescribed in this Chapter. The City may use the performance bond and/or security fund provided for in this Chapter to remedy any such franchise breach.

SEC. 9-3-33 OPEN BOOKS AND RECORDS.

The City shall have the right to inspect, upon twenty-four (24) hours written notice, at any time during normal business hours at the Grantee's regional office all books, records, maps, plans, financial statements, all logs required under this Chapter, performance test results, record of requests for service and other like materials of the Grantee relating to the operation of the franchise. If any such books or records are not kept in the regional office, and if the City shall determine that an examination of such records is necessary or appropriate to the performance of any of City's duties, then the Grantee shall make such records available locally on ten (10) business days notice. When requested by the Grantee and to the extent allowed by law, the City shall treat as confidential proprietary information or trade secrets obtained by the City during such inspection; the City shall make such information available only to those persons who must have access to the information to perform their duties on behalf of the City.

SEC. 9-3-34 REPORTS AND RECORDS.

(a) **Annual Submissions to the City.** The Grantee shall submit to the City with each February 15 franchise fee payment a written annual report which shall include the following information:
   (1) A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or discontinued during the reporting year, and the number of subscribers for each class of service;
   (2) A gross revenues statement by revenue category.

(b) **Submissions to the City on Request.** Upon the City's request, the Grantee shall submit to the City a written report which shall include the following information:
   (1) A list of Grantee's officers, members of its board of directors, and other principals of Grantee;
   (2) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in the Grantee and its parent, subsidiary and affiliated corporations and other entities, if any, unless the parent is a public corporation whose annual reports are publicly available;
   (3) A statement of projected construction, if any, for the next two (2) years; and
   (4) Accurate copies of maps and/or plats of the location and character of all existing and proposed installations of the Grantee over, upon or under the streets of the City.

(c) **Other Submissions.** Copies of all petitions, applications and communications submitted by the Grantee to the FCC, Securities and Exchange Commission or any other federal or state

regulatory commission or agency having jurisdiction in respect to any matter affecting cable operation within the franchise area shall also be submitted simultaneously to the City.

(d) **Records to be Kept on File.** All records required by this Section shall be kept on file by the Grantee for the applicable periods under federal and state law.

SEC. 9-3-35 PERFORMANCE AND CONSTRUCTION BONDS.

(a) **Performance Bond.** At the time a new franchise is granted, the Grantee shall furnish and file with the City a performance and payment bond, or a performance and payment bond together with such other security as is approved by the City. The bond shall be in the amount of $10,000 and shall run to the City, who may be entitled to damages as a result of any occurrence in the operation of or termination of the cable system operated under this Chapter and the Franchise Agreement. The bond shall be conditioned upon the faithful performance of the Grantee of all terms and conditions of the franchise granted under this Chapter. The rights reserved to the City with respect to the bond or other security are in addition to all other rights the City may have under this Chapter or any other law.

(b) **Construction Bond.** Prior to undertaking any construction work costing $50,000 or more relating to the franchise granted under this Chapter, the Grantee shall file with the City a construction bond in the amount specified in the Franchise Agreement in favor of the City and any other person who may claim damages as a result of the breach of any duty by the Grantee assured by said bond. Such construction bond shall be in the form approved by the City and issued by a company approved by the City. In no event shall the amount of such construction bond be construed to limit the liability of the Grantee for damages. The City may waive this requirement or permit consolidation of the construction bond with the performance bond specified above in Subsection (a).

SEC. 9-3-36 SECURITY FUND.

Within thirty (30) days after the effective date of the franchise, the Grantee may be required to deposit to the City and maintain on deposit through the term of this franchise, the sum specified in the Franchise Agreement, as security for the Grantee's faithful performance of all of its obligations under this Chapter and the Franchise Agreement and for the payment by the Grantee of any claims, liens, taxes and fees due to the City which arise by reason of the construction, operation, or maintenance of the Grantee's system. Any interest earned on this deposit shall be calculated annually based upon the interest rate available to the City from the Wisconsin Local Government Investment Pool and shall be paid to the Grantee. Any amount drawn from this account to satisfy penalties under Section 9 shall be replenished within thirty (30) days.

SEC. 9-3-37 WORK PERFORMED BY OTHERS.

The Grantee shall give prior notice to the City specifying the names and addresses of any entity,

other than the Grantee, that, within one (1) calendar year, will perform services valued at $10,000 or more relating to the franchise, provided, however, that all provisions of the franchise remain the responsibility of the Grantee. All provisions of any franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the franchise. Nothing in this Section shall be construed as allowing the transfer of any rights or responsibilities of the Grantee without written approval of the City.

SEC. 9-3-38 INDEMNITY.

(a) **Extent of Indemnity.** The Grantee shall, by acceptance of any franchise granted, indemnify, defend and hold harmless the City, its officers, boards, commissions, agents, and employees from any and all claims, suits, judgments, for damages or other relief, costs and attorneys fees in any way existing out of or through or alleged to arise out of or through: (1) the act of the City in granting the franchise; (2) the acts or omissions of Grantee, its servants, employees, or agents including, but not limited to, any failure or refusal by Grantee, its servants, employees or agents to comply with any obligation or duty imposed on Grantee by this Chapter or the Franchise Agreement; or (3) the exercise of any right or privilege granted or permitted by this Chapter or the Franchise Agreement. Such indemnification shall include, but not be limited to, all claims arising in tort, contract, infringements of copyright, violations of statutes, ordinances or regulations or otherwise.

(b) **Notification of Claims.** The City shall notify the Grantee within ten (10) business days after the presentation of any claim or demand, either by suit or otherwise, made against the City.

(c) Defense of Claims. In the event any claims shall arise, the City or any other indemnified party shall tender the defense thereof to the Grantee. Defense of any such claim shall be by counsel reasonably acceptable to the City or other indemnified party. Provided, however, that the City or other indemnified party in its sole discretion may participate in the defense of such claims at Grantee's sole expense, and in such event, such participation shall not relieve the Grantee from its duty to defend against liability or to pay any judgment entered against such party. Grantee shall not agree to any settlement of claims without the City's approval.

(d) **City's Negligence.** The Grantee shall not be required to indemnify the City for negligence or willful misconduct on the part of the City's officials, boards, commissions, agents or employees.

SEC. 9-3-39 INSURANCE.

(a) **Liability Insurance.** The Grantee shall maintain throughout the term of the franchise, and any extensions thereto, the insurance policies described below, which shall be written on an occurrence basis. Such policies shall name as an additional insured the City, its officers, boards, commissions, agents and employees, shall be primary to any insurance carried by the City, and shall be obtained from a company or companies approved by the City and in a form satisfactory to the City. Such policies shall be as follows:

(1) Comprehensive General Liability Insurance. General Comprehensive Liability Insurance containing the following coverages: Premises/Operations; Products/Completed Operations; Broad Form Property Damage; Contractual Liability; Coverage for Explosion, Collapse and Underground Hazards; and Pollution Control Liability. The policy shall include limits of not less than $1,000,000 for bodily injury (including death) and property damage for each occurrence of not less than $2,000,000 in the aggregate.

(2) Worker's Compensation. Worker's Compensation Insurance in compliance with Section 102.31 of the Wisconsin Statutes and in compliance with the laws of each state having jurisdiction over each employee.

(3) Comprehensive Automobile Liability. Comprehensive Automobile Liability including owned, non-owned, and hired vehicles with limits of not less than $1,000,000 for bodily injury (including death) and $1,000,000 for property damage for each occurrence.

(4) Umbrella Liability. Umbrella Liability with limits of not less than $8,000,000, which shall carry the following endorsement:

> It is hereby understood and agreed that despite anything to the contrary where underlying insurance, as described herein, provides greater protection or indemnity to the insured than the terms and conditions of this policy, this insurance shall pay on behalf of the insured the same terms, conditions and coverages which apply to the basic underlying insurance. Where no such broader underlying insurance exists, this policy shall pay on behalf of the insured upon terms and conditions and limitations of the carrier's umbrella excess policy.

(b) **Notice of Cancellation or Reduction of Coverage.** The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the Grantee under the terms of this Chapter and the Franchise Agreement and shall contain the following endorsement:

> It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City Administrator by registered mail of two (2) copies of a written notice of such intent to cancel or reduce the coverage.

(c) **Evidence of Insurance Filed with City Administrator.** All policies of insurance or certified copies thereof (together with all required endorsements) and written evidence of

payment of required premiums, shall be filed and maintained with the City Administrator during the term of the franchise or any renewal thereof.

(d) **City's Right to Revise Insurance Requirements.** The City reserves the right to revise the insurance requirements stated in this Chapter at any time during the term of any franchise granted under this Chapter.

(e) **No Waiver of Performance Bond.** Neither the provisions of this Chapter nor any insurance accepted by the City pursuant hereto, nor any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under this franchise or for damages, either to the full amount of the bond or otherwise.

SEC. 9-3-40 WAIVER OF CHARGES.

During the term of a franchise and upon request by the City, the Grantee shall provide free basic and extended basic service to any and all City buildings used for municipal purposes and to all public and parochial schools within the franchise area and within three hundred (300) feet of existing cable plant. The Grantee may charge for usual installation costs. The City may extend service within each building so served as long as such extensions are in compliance with applicable FCC rules and regulations or may request that the Grantee provide such extensions at the Grantee's cost for labor and materials. Premium channels shall be available to the City at their retail cost.

SEC. 9-3-41 PROTECTION OF NON-SUBSCRIBERS.

A Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the Grantee's service.

SEC. 9-3-42 GRANTEE RULES.

A Grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under the franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict with the provisions of this Chapter, the Franchise Agreement or state or federal law.

SEC. 9-3-43 UNAUTHORIZED RECEPTION OR USE OF CABLE SERVICES.

(a) **No Unauthorized Use.** It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a Grantee's cable system within the franchise area for the purpose of enabling receiving any television signal, radio signal, picture, program or sound, without payment to

the Grantee.

(b) **No Tampering.** It shall be unlawful for any person, without the Grantee's consent, to willfully tamper with, remove or injure any cables, wires or equipment used by a Grantee for distribution of television signals, radio signals, picture, programs or sound.

(c) **Penalties.** Any person violating or failing to comply with the provision of this Section shall be subject to a forfeiture for each day of violation or failure to comply, not to exceed three hundred dollars ($300).

SEC. 9-3-44 GENERAL.

(a) **Compliance with Laws, Rules, And Regulations.** In the event any valid law, rule or regulation of any governing authority or agency having jurisdiction, including but not limited to the FCC, contravenes the provisions of this Chapter subsequent to its adoption, the provisions hereof shall be superseded by any such valid law, rule or regulation to the extent that the provisions hereof are in conflict and contrary to any such law, rule or regulation.

(b) **Conflicting Ordinances Repealed.** All ordinances or parts of ordinances in conflict with this Chapter are hereby repealed to the extent of any such conflict.

(c) **Severability.** Should any word, phrase, clause, sentence, paragraph, or portion of this Chapter or a franchise be declared to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of this Chapter and the franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the City Council hereby expressly states and declares that it would nonetheless have passed this Chapter and granted the franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said Chapter or franchise were invalid.

(d) **Waiver or Exemption.** The City reserves the right to waive provisions of this Chapter or exempt a Grantee from meeting provisions of this Chapter, if the City determines that such waiver or exemption is in the public interest.

(e) **Nonenforcement.** Subject to the provisions of the Cable Act, a Grantee shall not be relieved of any obligation to comply with any of the provisions of this Chapter, the Franchise Agreement, or any rule, regulation, requirement or directive promulgated by the City by reason of any failure of the City or its officers, agents or employees to enforce prompt compliance nor shall such be considered a waiver thereof.

(f) **Force Majeure.** Except as otherwise provided in this Ordinance or the Franchise Agreement, whenever a period of time is provided for, either for the City or the Grantee to do or perform any act or obligation, neither party shall be liable for any delays due to war, riot, insurrection, rebellion, strike, lockout, unavoidable casualty or damage to personnel, materials, or equipment, fire, flood, storm, earthquake, tornado, orders of a court of competent jurisdiction, any act of God, failure of a utility provider to provide pole attachments on reasonable terms or conditions therefor, or any cause beyond the control of said party. In such event, said time period shall be extended for the amount of time said party is so delayed. An act or omission shall not be deemed to be beyond a Grantee's control if

committed, omitted, or caused by a corporation or other business entity which holds a controlling interest in the Grantee, whether directly or indirectly. In the case of a vendor caused equipment delay, the burden of proof will be on the Grantee to show that the delay was solely the fault of the vendor and that the vendor was an established equipment provider at the time the order was placed. Further, the failure of a Grantee to obtain financing, or to pay any money due from it to any person, including the City, for whatever reason, shall not be an act or omission which is beyond the control of the Grantee.

CHAPTER 4

Storm Water Sewer Districts

9-4-1 Storm Water Sewer Districts
9-4-2 Districts Not to Be Dissolved
9-4-3 Method of Assessment

SEC. 9-4-1 STORM WATER SEWER DISTRICTS.

The following storm water districts shall be established:

(a) **Storm Water Sewer District No. 1.** This district shall comprise all of that portion of the City that on February 23, 1956, was served by a storm water sewer.

(b) **Storm Water Sewer District No. 2.** This district shall comprise all that portion of the City lying east of the Wisconsin Electric Power Co. right-of-way and north of the present City limits, which is a line 100 feet south and parallel to the south line of the northeast 1/4 of Section 34 and west of South Washington Avenue to a point 100 feet north of the north line of Zeunert Blvd. and contains all of Arthur Buchs Subdivision No. 2, all of Southern Plateau Subdivision, all of K. F. Moldenhauer Subdivision, all of Northern Plateau Subdivision No. 3, Lots 6 through 12 of Block 2, of Northern Plateau Subdivision No. 2, and Lot 4 of Block 2 of Northern Plateau Subdivision.

(c) **Storm Water Sewer District No. 3.** This district shall comprise all that portion of the City described as follows: Commencing at a point which is 125.0 feet south and 141.0 feet east of the N.E. corner of the S.W. 1/4 of Section 27; thence west on a line which is 158.0 feet south and parallel to the center line of West Bridge Street to the west line of the east 1/2 of the S. W. 1/4 of Section 27; thence south on said west line 1025.0 feet to a point; thence east on a line which is 1183 feet south and parallel to the center line of West Bridge Street (also the south property line of Cloverdale Drive extended) to a point 250.0 feet east of the east line of the S.W. 1/4 of Section 27; (also the east line of North 6th Avenue); thence south on a line parallel and 250.0 feet distant from said east section line to the north property line of Center Street extended; thence east on the north property line of Center Street extended to a point 80' east of the east line of the S.W. 1/4 of Section 27; thence north on a line which is 80.0 feet east and parallel to said east section line to the north property line of Cloverdale Drive; thence east on the north property line of Cloverdale Drive 61.0 feet to a point; thence north on a line which is 141.0 feet east and parallel to said east line of the S.W. 1/4 of Section 27, to the place of beginning being the N.E. corner of Lot 2, Block 2 of Darkow Subdivision.

(d) **Storm Water Sewer District No. 4.** This district shall comprise all of the West 1/2 of the Northeast 1/4 of Section 34, Township 10 North, Range 21 East in the City of Cedarburg, Ozaukee County, Wisconsin, lying West of the East line of the Wisconsin

Electric Power Co. right of way, except that portion Lying South of the Southerly E. W. Line of said Northeast 1/4.

(e) **Storm Water Sewer District No. 5.** This district shall comprise all of Lots one through 10 of Victoria Spring Heights Subdivision.

(f) **Storm Water Sewer District No. 6.** This district shall comprise all of that portion of the City of Cedarburg described as follows: That part of the S.W. 1/4 and S.E. 1/4 of Section 35, Township 10 North, Range 21 East in the City of Cedarburg, Ozaukee County, Wisconsin: Commencing at the N.E. corner of said S.W. 1/4 of Section 35; thence S. 89E 11' W. along a line 392.11 feet to a point; thence S. 3E 11' W. along a line 233.14 feet to the center line of Hamilton Road and the point of beginning of lands to be described; thence S. 50E 18' E. along said center line 63.31 feet to a point; thence N. 39E 42' E. along a line 200.00 feet to a point; thence S. 50E 18' E. along a line to the Westerly bank of Cedar Creek; thence Southerly along said bank to the center line of Green Bay Road; thence Southeasterly along said center line 60.0 feet to the intersection of Hamilton Road; thence Southerly along the center line of the Green Bay Road 255.0 feet to a point; thence S. 87E 15' W. along a line 535.0 feet to a point; thence S. 7E 15' 24" W. along a line 283.70 feet to a point; thence S. 12E 33' 49" W. along a line 420.75 feet to a point; thence South along a line to a point 330.00 feet North of the South line of said Section 35; thence N. 89E 58' 50" W. along a parallel and 330.00 feet distant from said South line of Section 35 to a point on the East property line of McKinley Boulevard; thence Northerly along said East property line 131.20 feet to a point; thence No. 89E 58' 50" W. along a line 80.00 feet to the West property line of McKinley Boulevard; thence S. 56E 30' W. along a line 175.0 feet to a point; thence No. 89E 58' 50" W. along a line to a point on the Westerly property line of Somerset Avenue; thence S. 9E 22' W. along said Westerly property line 150.00 feet to a point; thence No. 89E 58' 50" W. along a line 600.00 feet to a point on the Easterly right of way line of the C.St. P. & P. R.R.; thence N. 9E 22' E. along said Easterly right of way line 2,296.60 feet to a point; thence S. 72E 52' E. along a line 605.57 feet to a point; thence S. 9E 22' W. along a line 391.0 feet to the south property line of Taft Street; thence S. 72E 47' 30" E. along a line 356.00 feet to a point on the Easterly property line of Van Buren Drive; thence N. 17E 12' 30" E. along said Easterly property line 40.00 feet to a point; thence N. 72E 47' 30" W. along a line 138.68 feet to the S. E. corner of Quarry Height Subdivision, a recorded subdivision in the City of Cedarburg; thence N. 16E 45' E. along the Easterly line of said subdivision 109.90 feet to a point; thence N. 42E 19' 30" E. along the Northeasterly line of said subdivision 195.27 feet to a point; thence N. 60E 26' 48" E. along a line 527.14 feet to a point in the center line of Hamilton Road; thence S. 50E 18" E. along a line 17.67 feet to the point of beginning.

SEC. 9-4-2 DISTRICTS NOT TO BE DISSOLVED.

The Storm Water Sewer Districts herein, or hereinafter created, shall not be hereafter dissolved, nor shall the owners or parcels of land affected by the districts herein created be taxed or assessed for the construction, extension or major repair of storm water sewer outside of their respective district, unless any and all assessments paid under and pursuant to this Section shall be made available and repaid to the owners of the parcels so assessed.

SEC. 9-4-3 METHOD OF ASSESSMENT.

Whenever the Common Council shall deem it necessary or expedient to construct, extend, make major repairs to surface or storm water sewers in any district, it shall follow the special assessment procedures established by the Wisconsin Statutes and this Code of Ordinances.

CHAPTER 5 (Ord. 98-25)

Miscellaneous Utilities Regulations

9-5-1 Incorporation of Public Service Commission Regulations
9-5-2 Assessment for Delinquent Utility Bills
9-5-3 Limitations on Sewer and Water Connections Outside Municipal Boundaries

SEC. 9-5-1 INCORPORATION OF PUBLIC SERVICE COMMISSION REGULATIONS.

The regulations of the Public Service Commission pertaining to the regulation of electric and water utilities, as amended from time to time, are hereby incorporated by reference. In the event of a conflict between such regulations and the terms of this Title, the regulation of the Public Service Commission shall be deemed to control.

SEC. 9-5-2 COLLECTION OF ARREARAGES FOR DELINQUENT UTILITY SERVICES.

(a) **Collection Procedures.** It is the intent of this ordinance that the Cedarburg Light and Water Commission, operated by the City of Cedarburg, Wisconsin, shall be authorized to collect for arrearages for utility service provided by it, together with any penalty assessed or added thereon, by use of the procedures set forth in Section 66.0809(3) of the Wisconsin Statutes. By this ordinance, the City of Cedarburg, Wisconsin, hereby authorizes use of the Section 66.0809(3) procedures and directs that such use shall be in accordance with the requirements of Section 66.0809(3).

(b) **Dispute Procedures.**

(1) Explanation of Charges. The owner or occupant receiving notice under the provisions of Section 66.0809(3) of the Wisconsin Statutes shall have a right to an explanation of any amounts claimed due in such notice. Such amounts may be disputed at the office of the Cedarburg Light and Water Commission during regular office hours within five (5) days of the date of such notice.

(2) Hearing. If the matter of the amounts claimed due in the notice provided under Section 66.0809(3) of the Wisconsin Statutes is not satisfactorily resolved within the five (5) days provided for in Subsection (b)(1), the property owner shall be entitled to a hearing at a meeting of the Cedarburg Light and Water Commission before such amounts are levied as a tax.

Written notice of the date, time and location of said meeting shall be served on the owner at least three (3) days before said meeting in the same manner as the notice described in Section 66.0809(3) of the Wisconsin Statutes.

(d) **Lien.** If not paid within the period stated in the notice, such arrears shall become a lien as

provided in Sec. 66.0809(3), Wis. Stats., as of the date of the notice of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property. Such arrears shall not be payable in installments once they have become a lien. All proceedings related to the collection, return and sale of property for delinquent real estate taxes shall apply.

(e) **Termination of Service.** In addition to any and all other penalties and procedures, the subject premises to which the services have been provided will be subject to termination of service pursuant to the regulations established by the Public Service Commission.

SEC. 9-5-3 LIMITATION ON SEWER AND WATER CONNECTIONS OUTSIDE MUNICIPAL BOUNDARIES

(a) **City Policy Against Providing Sewer and Water Outside of Municipal Boundaries.** The City's long-standing policy is to provide City services, such as sewer and water, only to City residents and to require those property owners outside the City to annex to the City in order to access City services. The City Council may make exceptions to this policy on a case-by-case basis as set forth in this ordinance.

(b) **Limitation on Obligation to Serve Outside Municipal Boundaries.** This ordinance shall limit the City's provision of sewer and/or water service outside the City's municipal boundaries. The City shall have no obligation to serve any property outside the corporate limits of the City with sewer and/or water except as provided in this ordinance. This ordinance shall constitute a limitation on the City's obligation to provide sewer and water service outside its municipal boundaries as allowed under Wis. Stat. § 66.0813(3).

(c) **Existing Sewer Service Outside of Municipal Boundaries.** The City shall continue to provide sewer service to properties located outside the municipal boundaries of the City if those properties are receiving sewer service on the effective date of this ordinance. This includes the Carlson Tool property and the Ice Center properties pursuant to the following Agreements:

1. Carlson Tool property pursuant to an Agreement dated May 23, 1995;
2. The Ice Center properties pursuant to an Agreement between the Ozaukee Youth Hockey Organization, Inc. and the City of Cedarburg dated October 11, 2011, and
3. Both Carlson and the Ice Center properties pursuant to an Intergovernmental Agreement between the City of Mequon, County of Ozaukee and the City of Cedarburg, dated May 23, 1995, as amended on July 15, 1998 and as amended by the Second Amendment to the Intergovernmental Agreement signed by the City of Mequon on October 11, 2011 and by the City of Cedarburg on October 24, 2011.

The City's obligation to provide sewer service outside the City's municipal boundaries shall not extend beyond those properties provided service under this subsection.

(d) **Existing Water Service Outside of Municipal Boundaries.** The City shall continue to provide water service to properties located outside the municipal boundaries of the City if those properties are receiving water service on the effective date of this ordinance. This includes:

1. Carlson Tool property pursuant to an Agreement dated May 23, 1995;
2. The Ice Center properties pursuant to an Agreement between the Ozaukee Youth Hockey Organization, Inc. and the City of Cedarburg dated October 11, 2011, and
3. Both Carlson and the Ice Center properties pursuant to an Intergovernmental Agreement between the City of Mequon, County of Ozaukee and the City of Cedarburg, dated May 23, 1995, as amended on July 15, 1998 and as amended by the Second Amendment to the Intergovernmental Agreement signed by the City of Mequon on October 11, 2011 and by the City of Cedarburg on October 24, 2011.
4. Twenty- three specific homes and businesses affected by contamination and provided water connections and service pursuant to the Administrative Order V-W-92-C-161(properties listed on attachment "A" to Order V-W-92-C-161 "Marvin Prochnow Landfill Eligible Residents & Businesses), signed July 13, 1992. The connections required by the Administrative Order were completed effective August 7, 1992 per the EPA Final Pollution Report. No additional service connection or enlargement of the water connections to these homes and businesses is required by the Administrative Order.

The City's obligation to provide water service outside the City's municipal boundaries shall not extend beyond those properties provided service under this subsection.

(e) **Provision of Service Outside of Municipal Boundaries Discretionary.** The Common Council may, by appropriate motion, authorize connections to the City's sewer and/or water systems for any property located outside of the City's municipal boundaries on a case-by-case basis. Requests for connection to the City's sewer and water systems must meet the terms of the City's extraterritorial plat review and any applicable water service agreement between the City and an adjacent town, or between the City and a property owner. The property owner shall be primarily liable for the costs and fees of any main extension and lateral work for sewer and/or water connections.

(f) **Prohibition on Unauthorized Connections.** Every person, including each officer and employee of the City, is prohibited from connecting or aiding and abetting the connection of any sewer or water lateral servicing any property situated outside of the City's municipal boundaries with any existing or hereinafter to be constructed water or sewer main belonging to the City water and sewer systems unless such connection has been authorized by the City Council.

TITLE 10

Motor Vehicles and Traffic

Chapter 1 Traffic and Parking
Chapter 2 Bicycles
Chapter 3 Snowmobiles
Chapter 4 All-Terrain Vehicles, Utility Terrain Vehicles, and Off-Road Motor Vehicle Operation
Chapter 5 Abandoned and Junked Vehicles
Chapter 6 Neighborhood Electric Vehicles (NEVs) and Golf Carts

CHAPTER 1

Traffic and Parking

Article A General Provisions

10-1-1 State Traffic Laws Adopted
10-1-2 State Administrative Code Provisions Adopted
10-1-3 Official Traffic Signs and Control Devices; Prohibited Signs, Signals and Markers
10-1-4 Registration Record of Vehicle as Evidence
10-1-5 Accident Reports
10-1-6 Blue Warning Lights on Police Vehicles
10-1-7 through
10-1-9 Reserved for Future Use

Article B Controlled Intersections: Street Traffic Regulations

10-1-10 Operators to Obey Traffic Control Devices
10-1-11 Speed Limits
10-1-12 Through Streets and Snow Emergency Routes Designated
10-1-13 One-Way Streets
10-1-14 Heavy Traffic Routes
10-1-15 Controlled Intersections Designated
10-1-16 Yield to Traffic; Signs
10-1-17 Right Turns, Left Turns and U Turns Prohibited at Certain Locations
10-1-18 and
10-1-19 Reserved for Future Use

Article C Parking Regulations

10-1-20 Restrictions on Parking; Posted Limitations
10-1-21 Parking Restrictions During Street Maintenance
10-1-22 Stopping or Parking Prohibited in Certain Specified Places
10-1-23 Parking Reserved for Vehicles of Disabled
10-1-24 Parking Vehicles With Motor Running
10-1-25 Unattended Motorized Machinery
10-1-26 Angle Parking
10-1-27 Parking Prohibited Zones
10-1-28 Parking Regulated Zones
10-1-29 Miscellaneous Restricted Parking Hours on Certain Streets
10-1-30 Parking of Recreational Vehicles on City Streets
10-1-31 Parking Restrictions for Non-Automobiles
10-1-32 Long-Term Parking
10-1-33 Winter Parking; Snow Emergencies
10-1-34 Loading Zone Parking Restrictions
10-1-35 Municipal Parking Lots
10-1-36 Parking of Vehicles Over 12,000 Pounds or 16 Feet Restricted
10-1-37 Traffic and Parking Regulations on School District Grounds
10-1-38 Unlawful Removal of Parking Citations
10-1-39 Operation of Motor Vehicles in Public Parking Lots
10-1-40 Removal of Illegally Parked Vehicles
10-1-41 Inoperable, Wrecked or Discarded Vehicles
10-1-42 through
10-1-49 Reserved for Future Use

Article D Miscellaneous Provisions

10-1-50 Disturbance of the Peace With a Motor Vehicle
10-1-51 Railroad Regulations
10-1-52 Pedestrian Regulations
10-1-53 Motor Vehicles on Pedestrian Ways and Overpasses
10-1-54 School Crossing Guards
10-1-55 Driving Over Curbing or Safety Islands Prohibited
10-1-56 Miscellaneous Lane and Turn Controls
10-1-57 Barriers Across Streets for Play Purposes
10-1-58 and
10-1-59 Reserved for Future Use

Article E Enforcement and Penalties

10-1-60 Penalties
10-1-61 Enforcement

ARTICLE A

General Provisions

SEC. 10-1-1 STATE TRAFFIC LAWS ADOPTED.

(a) **State Traffic Forfeiture Laws Adopted.** Except as otherwise specifically provided in this Code, the statutory provisions in Chapters 340 to 348 of the Wisconsin Statutes, describing and defining regulations with respect to vehicles and traffic, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment or exclusively state charges, are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be or prohibited by any regulation incorporated herein by reference is required or prohibited by this Chapter. Any future amendments, revisions or modifications of the statutory regulations in Chapters 340 to 348 incorporated herein are intended to be made part of this Chapter in order to secure to the extent legally practicable uniform statewide regulation of vehicle traffic on the highways, streets and alleys of the State of Wisconsin. Any person who shall, within the City of Cedarburg, Wisconsin, violate any provisions of any Statute incorporated herein by reference shall be deemed guilty of an offense under this Section.

(b) **Other State Laws Adopted.** There are also hereby adopted by reference the following sections of the Wisconsin Statutes, but the prosecution of such offenses under this Chapter shall be as provided in Chapters 340 to 348 of the Wisconsin Statutes and the penalty for violation thereof shall be limited to a forfeiture as hereinafter provided in this Chapter:

346.935 Drinking in Motor Vehicle on Highway
941.01 Negligent Operation of Vehicle Off Highway
941.03 Highway Obstruction
943.11 Entry into Locked Vehicle
943.23 Operating Motor Vehicles Without Owners Consent

(c) **Statutes Specifically Incorporated by Reference.** Whenever this Chapter incorporates by reference specific sections of the Wisconsin Statutes, such references shall mean the Wisconsin Statutes of 1985-86 as from time to time amended, repealed or modified by the Wisconsin Legislature.

(d) **General References.** General references in this Chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

SEC. 10-1-2 STATE ADMINISTRATIVE CODE PROVISIONS ADOPTED.

(a) **Administrative Regulations Adopted.** The following administrative rules and regulations adopted by the Secretary of the Wisconsin Department of Transportation and published in the

Wisconsin Administrative Code, exclusive of any provisions therein relating to the penalties to be imposed, are hereby adopted by reference and made part of this Chapter as if fully set forth herein.

Wis. Adm. Code	Trans 146 Vehicle Registration and Fuel Trip Permits [Penalties of Wis. Stats. Sec. 341.04 apply]
Wis. Adm. Code	Trans 302 Vehicle Marking
Wis. Adm. Code	Trans 305 Standards for Vehicle Equipment
Wis. Adm. Code	Trans 326 and 328 General Transportation Requirements
Wis. Adm. Code	Trans 300 Transportation of School Children
Wis. Adm. Code	Wis. Stat. 347.485 Protective Headgear For Use On Type 1 Motorcycles
Wis. Adm. Code	Trans 304 Slow Moving Vehicle Emblem (Ord. 98-24)

(b) **Non-Compliance Prohibited.** No person shall operate or allow to be operated on any highway, street or alley within the City a vehicle that is not in conformity with the requirements of Subsection (a) or the provisions of Section 110.075 and Chapter 347, Wis. Stats., incorporated by reference in Section 10-1-1 of this Chapter.

(c) **Owner's Liability.** Any owner of a vehicle not equipped as required by this Section who knowingly causes or permits such vehicle to be operated on a highway in violation of this Section is guilty of the violation the same as if he or she had operated the vehicle. The provisions of Section 347.04, Wis. Stats., relating to nonapplicability of demerit points shall apply to owners convicted of a violation of this Section.

(d) **Safety Checks.**

(1) Operators to Submit to Inspection. When directed to do so by any law enforcement officer, the operator of any motor vehicle shall stop and submit such vehicle to an inspection and such tests as are necessary to determine whether the vehicle meets the requirements of this Section or that the vehicle's equipment is in proper adjustment or repair. No person, when operating a motor vehicle, shall fail to stop and submit such vehicle to inspection when directed to do so by any law enforcement officer as herein provided.

(2) Authority of Officer. Any law enforcement officer of the City is hereby empowered whenever he or she shall have reason to believe that any provision of this Section is being violated to order the operator of the vehicle to stop and to submit such vehicle to an inspection with respect to brakes, lights, turn signals, steering, horns and warning devices, glass, mirrors, exhaust systems, windshield wipers, tires and other items of equipment.

(3) Vehicle to be Removed From Highway. Whenever, after inspection as provided by this Section, a law enforcement officer determines that a vehicle is unsafe for operation, he or she may order it removed from the highway and not operated, except for purposes of removal and repair until the vehicle has been repaired as directed in a

repair order. Repair orders may be in the form prescribed by the secretary of the Department of Transportation under Section 110.075(5), Wis. Stats., and shall require the vehicle owner or operator to cause the repairs to be made and return evidence of compliance with the repair order to the department of the officer within the time specified in the order.

(e) **Penalty.** Penalty for violation of any provision of this Section, including the provisions of the Wisconsin Administrative Code, incorporated herein by reference, shall be as provided in Subsection (c) of this Section, together with the costs of prosecution and applicable penalty assessment.

SEC. 10-1-3 OFFICIAL TRAFFIC SIGNS AND CONTROL DEVICES; SIGNS, SIGNALS AND MARKERS.

(a) **Duty of City Engineer to Erect and Install Uniform Traffic Control Devices.** Whenever traffic regulations created by this Chapter, including a State of Wisconsin traffic regulation adopted by reference in Section 10-1-1, require the erection of traffic control devices for enforcement, the City Engineer, with the cooperation of the Police Department, shall procure, erect and maintain uniform traffic control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever State law grants discretion to local authorities in erecting or placement of a uniform traffic control device, devices shall be erected in such locations and in such a manner as, in the judgment of the City Engineer or his designee, will carry out the purposes of this Chapter and give adequate warning to users of the streets and highways of the City of Cedarburg.

(b) **Code Numbers to be Affixed to Official Traffic Control Devices.** The City Engineer or his designee shall cause to be placed on each official traffic control sign a guide board, mile post, signal or marker erected under Subsection (a), a code number assigned by the Wisconsin Department of Transportation, and shall also place or direct the placing of code numbers on all existing official traffic control devices as required by the laws of the State of Wisconsin.

(c) **Prohibited Signs and Markers in Highways.** No person other than an officer authorized by this Chapter to erect and maintain official traffic control devices or his or her designee shall place within the limits of any street or highway maintained by the City any sign, signal, marker, mark or monument unless permission is first obtained from the City Engineer or, where applicable, the State Highway Commission. Any sign, signal, marker, mark or monument placed or maintained in violation of this Subsection shall be subject to removal as provided in Subsection (d).

(d) **Removal of Unofficial Signs, Markers, Signals and Traffic Control Devices.** The City Engineer or his designee may remove any sign, signal, marking or other device which is placed, maintained or displayed in violation of this Chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marking or device shall be

reported by the City Engineer or his designee to the Public Works Commission for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.
State Law Reference: Sections 346.41 and 349.09, Wis. Stats.

SEC. 10-1-4 REGISTRATION RECORD OF VEHICLE AS EVIDENCE.

When any vehicle is found upon a street or highway in violation of any provision of this Chapter regulating the stopping, standing or parking of vehicles and the identity of the operator cannot be determined, the owner, as shown by the ownership registration of the vehicle supplied by the Wisconsin Department of Transportation, or a comparable authority of any other state, shall be deemed to have committed the violation for purposes of enforcement of this Chapter and specifically Section 10-1-1 and shall be subject to the applicable forfeiture penalty; provided the defenses defined and described in Section 346.485(5)(b), Wis. Stats., shall be a defense for an owner charged with such violation.

SEC. 10-1-5 ACCIDENT REPORTS.

The operator of every vehicle involved in an accident shall immediately after such accident file with the Police Department a copy of the report required by Section 346.70 of the Wisconsin Statutes, if any. If the operator is unable to make such report, any occupant of the vehicle at the time of the accident capable of making such report shall have the duty to comply with this Section. Such reports shall be subject to the provisions and limitations of Sections 346.70(4)(f) and 346.73 of the Wisconsin Statutes.

SEC. 10-1-6 BLUE WARNING LIGHTS ON POLICE VEHICLES.

(a) Pursuant to Sections 346.03(3), 346.94(14), 346.95(3) and 347.25(1), (1m)(a) and (b) and (4), Wis. Stats., a marked police vehicle under Section 340.01(3)(a), Wis. Stats., shall be equipped with a blue light and a red light which flash, oscillate or rotate.

(b) If the vehicle is so equipped, the lights shall be illuminated when the operator of the police vehicle is exercising the privileges granted under Sec. 346.03, Wis. Stats. The blue light shall be mounted on the passenger side of the vehicle and the red light shall be mounted on the driver side of the vehicle. The lights shall be designed and mounted so as to be plainly visible and understandable from a distance of five hundred (500) feet during normal sunlight and during hours of darkness. No operator of a police vehicle may use the warning lights except when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, when responding to but not upon returning from a fire alarm or when necessarily parked on a highway in a position which is likely to be hazardous to traffic using the highway.

SEC. 10-1-7 THROUGH SEC. 10-1-9 RESERVED FOR FUTURE USE.

ARTICLE B

Controlled Intersections; Street Traffic Regulations

SEC. 10-1-10 OPERATORS TO OBEY TRAFFIC CONTROL DEVICES.

Every operator of a vehicle approaching an intersection at which an Official Traffic Control Device is erected in accordance with this Chapter shall obey the direction of such Official Traffic Control Device as required by the Wisconsin Statutes incorporated by reference in Section 10-1-1 of this Chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by Section 346.46, Wis. Stats. Operators approaching intersections at which a yield sign has been installed shall yield the right-of-way to other vehicles as required by Section 346.18(6), Wis. Stats.

SEC. 10-1-11 SPEED LIMITS.

(a) **State Speed Limits Adopted.** The provisions of Sections 346.57, 346.58 and 346.59, Wis. Stats., relating to the maximum and minimum speed of vehicles are hereby adopted as part of this Section as if fully set forth herein, except as specified by this Section pursuant to Section 349.11(3)(c), Wis. Stats., where the Common Council has determined that the statutory speed limits are unreasonable, unsafe and imprudent and has modified such limits.

(b) **Speed Limits Modified.** The speed limits are modified as hereinafter set forth in this Subsection upon the following streets or portions thereof between the limits designated:

(1) The maximum permissible speed on Sheboygan Road shall be twenty-five (25) miles per hour.

(2) The maximum permissible speed on Washington Avenue from Lincoln Boulevard south to Pioneer Road shall be thirty (30) miles per hour.

(3) The maximum permissible speed on Washington Avenue from Pioneer Road south to the City limits shall be thirty-five (35) miles per hour.

(4) The maximum permissible speed on Washington Avenue from a point 0.10 of a mile north of its intersection with Cambridge Avenue north to the City limits shall be thirty-five (35) miles per hour.

(5) The maximum permissible speed on Western Road from Washington Avenue to the westerly city limits shall be twenty-five (25) miles per hour. (Ord. 93-23)

(6) The maximum permissible speed on Pioneer Road west of Washington Avenue (Hwy 57) to the westerly city limits shall be thirty-five (35) miles per hour. (Ord. 95-07)

(7) The maximum permissible speed limit on Evergreen Blvd. from Washington Avenue to a distance of one hundred eighty (180) feet south of the south curb line of Fair Street, on both sides of Evergreen Blvd. shall be fifteen (15) miles per hour within, contiguous to or adjacent to a public park or recreation area, when children are going to or from or are playing within such area. (Ord. 96-17)

(8) The maximum permissible speed on Keup Road from the north city limits to the intersection with Columbia Road shall be thirty (30) miles per hours. (Ord. 2003-22)

(9) The maximum permissible speed on Sherman Road from Wauwatosa Road to one-half mile west of Wauwatosa Road shall be forty-five (45) miles per hour. (Ord. 2004-42)

(10) The maximum permissible speed on Bridge Road west of Wauwatosa Road to the City limits shall be thirty-five (35) miles per hour. (Ord. 2008-05)

State Law Reference: Sec. 349.11(3)(c), Wis. Stats.

SEC. 10-1-12 THROUGH STREETS AND SNOW EMERGENCY ROUTES DESIGNATED.

In the interest of public safety and pursuant to Section 349.07, Wis. Stats., the following streets or portions thereof set forth in this Section are declared to be through highways and snow emergency routes, and traffic signs or signals giving notice thereof shall be erected by the City Engineer in accordance with Section 10-1-3:

(a) Washington Avenue from the south limits of the City of Cedarburg to the center of East Columbia Road and Washington Avenue.

(b) Columbia Road from the center of Columbia Road and Washington Avenue to the east limits of the City of Cedarburg.

(c) Washington Avenue from the center of Columbia Road and Washington Avenue to the north limits of the City of Cedarburg.

State Law Reference: Sec. 349.07, Wis. Stats.

Cross Reference: Section 10-1-33.

SEC. 10-1-13 ONE-WAY STREETS.

(a) **Designation of Permanent One-Way Streets.** Pursuant to Sec. 349.10, Wis. Stats., the following streets are heretofore declared to be one-way streets, and no person shall operate any vehicle thereon except in the indicated directions:

(1) Upon Hamilton Road in a southeasterly direction between Washington Avenue and Hilgen Avenue during the period of time from one-half (1/2) hour before to one-half (1/2) hour after Masses and other religious services are conducted at St. Francis Borgia Catholic Church.

(2) Upon Center Street from Washington Avenue to Hanover Avenue, vehicular traffic shall move only in a westerly direction.

(3) Upon Elm Street from Washington Avenue to St. John Avenue, vehicular traffic shall move only in a westerly direction.

(b) **Special Event One-Way Streets.** The Chief of Police or his designee is hereby authorized to designate certain streets as one (1) way streets during special events that are deemed likely

to result in traffic congestion, effective from the time signage is in place for special events until the signage is removed. (Ord. 93-25) (Ord. 97-13) (Ord. 99-15) (Ord. 2002-24)
State Law Reference: Sec. 349.10, Wis. Stats.

SEC. 10-1-14 HEAVY TRAFFIC ROUTES. (Ord. 94-07) (Ord. 2003-37)

(a) **Definition.** For purposes of this Section, heavy traffic shall be defined as:
(1) All vehicles not operating completely on pneumatic tires; and
(2) All vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a gross weight of more than fifteen thousand (15,000) pounds.

(b) **Prohibited Routes.** Heavy traffic is prohibited from using any City street or highway except Pioneer Road (County Highway "C") and Wauwatosa Road (State Highway 181). This Section shall not act to prohibit heavy traffic from using a City street or highway for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence which has an entrance on such street or highway. Furthermore, this Section will not act to prohibit heavy traffic from using any City streets over which are routed state trunk highways. When being driven to the site of any construction, repair or maintenance of electric, gas or water service, vehicles owned and operated by a public utility will be exempt from the provisions of this Section.

(c) **Administration.** The Chief of Police shall administer this Section. Administration shall include:
(1) Construction equipment.
a. The Chief of Police or City Engineer may grant temporary permits to allow heavy construction equipment to use City streets or highways. These permits may be granted only when use of a route is necessary for the equipment to reach a construction site. No permit may be issued unless the person or corporation owning the equipment agrees to reimburse and hold the City harmless for any damage done to the City street by the equipment and/or any personal injury or property damage caused in part or in whole by the street damage.
b. City-owned or operated equipment is specifically excluded from the provisions of this Section.

(d) **Liability.** Any operator, corporation, owner or agent whose heavy traffic vehicle damages any City streets or highways in violating this Section shall be liable and required to pay the City the cost of repair or replacement of the damaged street or highway.

(e) **Special and Seasonal Weight Limitations.** The Chief of Police shall have the authority to impose special or seasonal weight limits on any highway, bridge or culvert maintained by the City to prevent injury to the roadway or for the safety of the users of such bridge or culvert and shall be responsible for erecting Uniform Traffic Control Devices giving notice thereof in accordance with the proving of Section 10-1-3.

(f) **Heavy Traffic Routes Designated.** All streets and alleys within the City are designated as local streets subject to the 15,000 pound gross vehicle weight limitation, except the following highways or parts thereof within the jurisdiction of the City are hereby designated heavy traffic routes and are excepted from the local weight limitations:
(1) Pioneer Road (County Highway "C").
(2) Wauwatosa Road (State Hwy. 181)

(g) **Restriction on Bus Traffic.** No bus shall be operated on Riveredge Drive.

State Law Reference: Sec. 349.17, Wis. Stats.

SEC. 10-1-15 CONTROLLED INTERSECTIONS DESIGNATED.

(a) **Complete Stops Required.** It shall be unlawful for any person driving or operating any motor vehicle or other vehicle to drive or cause the same to be driven into an intersection designated and declared by this Section to be a stop zone listed heretofore as requiring one-way stops, two-way stops, three-way stops, four-way stops or signalized intersections, without first coming to a full and complete stop.

(b) **Stop Signs.** Motor vehicles shall come to a complete stop pursuant to stop signs erected at the following intersections and railroad tracks:
(1) Chatham Street at Wauwatosa Road (westbound).
~~(2) Chatham Street at Poplar Street (eastbound.)~~ (Ord. 2007-01)
(3) Hampton Street at Poplar Street.
(4) Poplar Street at Washington Avenue (east).
(5) Harrison Street at Washington Avenue (east).
(6) Evergreen Boulevard at Washington Avenue (east).
(7) Evergreen Court at Evergreen Boulevard (east).
(8) Hickory Street at Harrison Avenue.
(9) Hickory Street at Pine Street.
(10) Oak Street at Harrison Avenue.
(11) Oak Street at Pine Street.
(12) Linden Street at Harrison Avenue.
(13) Linden Street at Pine Street.
(14) Tower Avenue at Chestnut Street.
(15) Chestnut Street at Spruce Avenue.
(16) Tower Avenue at Bridge Road (south).
(17) Locust Avenue at Bridge Road (south).
(18) Walnut Street at Harrison Avenue (west).
(19) Walnut Street at Evergreen Boulevard.
(20) Monroe Avenue at Bridge Road (south).
(21) Fair Street at Evergreen Boulevard (west).

(22) Fair Street at Madison Avenue (east).
(23) Pine Street at Evergreen Boulevard.
(24) Franklin Avenue at Bridge Road (south).
(25) Madison Avenue at Bridge Road.
(26) Elm Street at St. John Avenue.
(27) St. John Avenue at Bridge Road.
(28) Susan Lane at Washington Avenue (west).
(29) Cambridge Avenue at Susan Lane (north).
(30) Cambridge Avenue at Washington Avenue (west).
(31) Crescent Drive at Sheboygan Road (east).
(32) Oxford Drive at Sheboygan Road (west).
(33) Dorchester Drive at Sheboygan Road (west).
(34) Glenwood Drive at Arbor Drive (south).
(35) Arbor Drive at Willowbrooke Drive.
(36) Willowbrooke Drive at Sheboygan Road (east).
(37) Thornapple Lane at Keup Road (west).
(38) Covington Square at Keup Road (east).
(39) Windsor Drive at Georgetown Drive (south).
(40) Bywater Lane at Cedar Ridge Drive.
(41) Georgetown Drive at Cedar Ridge Drive (west).
(42) Georgetown Drive at Keup Road (east).
(43) Cedar Ridge Drive at Bridge Road (south).
(44) Keup Road at Columbia Road (south).
(45) Appletree Lane at Highland Drive.
(46) Victoria Court at Evergreen Boulevard (west).
(47) Victoria Court at Madison Avenue (east).
(48) Center Street at Evergreen Boulevard (west).
(49) St. John Avenue at Cleveland Street.
(50) Hanover Avenue at Cleveland Street (north).
(51) St. John Avenue at Center Street.
(52) Juniper Lane at Western Road (south).
(53) Webster Avenue at Western Road (south).
(54) Margie Lane at Western Road (south).
(55) Evergreen Boulevard at Western Road. (Ord. 90-11)
(56) Madison Avenue at Western Road.
(57) St. John Avenue at Western Road (south).
(58) Hanover Avenue at Western Road (south).
(59) Western Road at Washington Avenue (east).
(60) Mill Street at Washington Avenue.
(61) Grant Avenue at Madison Avenue (north).
(62) Kennedy Avenue at Grant Avenue (north).

(63) Westlawn Avenue at Jackson Street.
(64) Madison Avenue at Jackson Street.
(65) Hillcrest Avenue at Jackson Street.
(66) Hillcrest Avenue at Lincoln Boulevard (south).
(67) Madison Avenue at Lincoln Avenue (south).
(68) Hanover Avenue at Lincoln Boulevard (south).
(69) Alyce Street at Washington Avenue (east).
(70) Fairfield Street at Washington Avenue (east).
(71) Zeunert Street at Washington Avenue (west).
(72) Zeunert Street at Cardinal Avenue (east).
(73) Concord Street at Washington Avenue (west).
(74) Layton Street at Washington Avenue (east).
(75) Taunton Avenue at Pioneer Road (north).
(76) Cardinal Avenue at Pioneer Road (south).
(77) Cardinal Avenue at Lincoln Boulevard (north).
(78) Johnson Avenue at Lincoln Boulevard (south).
(79) Hilbert Avenue at Lincoln Boulevard (south).
(80) Wurthmann Avenue at Hilbert Avenue.
(81) Johnson Avenue at Hamilton Road (north).
~~(82) Hilbert Avenue at Hamilton Road~~ (deleted per Ord. 91-09)
(83) Jackson Street at Washington Avenue.
(84) Hilgen Avenue at Hamilton Avenue.
(85) Hamilton Road at Washington Avenue (west).
(86) Spring Street at Washington Avenue (west).
(87) Park Lane at Hamilton Road (south).
(88) Van Buren Drive at Hamilton Road (north).
(89) Taft Street at McKinley Boulevard (west).
(90) Woodmere Court at McKinley Boulevard (south).
(91) Garfield Street at McKinley Boulevard (west).
(92) Garfield Court at Garfield Street (north).
(93) Filmore Avenue at Hamilton Road (north).
(94) Wirth Street at McKinley Boulevard (east).
(95) McKinley Boulevard at Pioneer Road (south).
(96) Somerset Avenue at Pioneer Road (south).
(97) Doerr Way at Pioneer Road (north).
(98) Polk Street at Pierce Avenue (south).
(99) Lenox Place at Spring Street (north).
(100) Spring Court at Spring Street (south).
(101) Spring Street at Railroad Crossing.
(102) Highland Drive at Portland Road.
(103) Hilbert Avenue at Portland Road.

(104) Struck Lane at Portland Road (south).
(105) Sunnyside Lane at Highland Drive (east).
(106) Edgewater Drive at Highland Drive (east).
(107) Mill Street at Portland Road (north).
(108) Portland Road at Columbia Road (north).
(109) Mequon Avenue at Columbia Road (south).
(110) Tyler Street at Mequon Avenue.
(111) Jefferson Street at Columbia Road (south).
(112) Columbia Court at Columbia Road (south).
(113) Cedar Court (west) at Columbia Road (north).
(114) Cedar Court (east) at Columbia Road (north).
(115) Jefferson Street at Bridge Road.
(116) Mequon Avenue at Bridge Road.
(117) Riveredge Drive at Bridge Road.
(118) Bridge Road at Washington Avenue.
(119) Bridge Road at Columbia/Highland.
(120) Washington Avenue at Columbia Road.
(121) Washington Avenue at Lincoln Boulevard.
(122) Washington Avenue at Pioneer Road.
(123) Sheboygan Road at Washington Avenue.
(124) Turner Street at Washington Avenue.
(125) Turner Street at Hanover Avenue.
(126) Wurthmann Avenue at Washington Avenue.
(127) Evergreen Boulevard at Western Road (north).
(128) Fieldcrest Street at Lexington Street (east).
(129) Grant Avenue at Wilson Street (south).
(130) Windwood Court at Evergreen Boulevard.
(131) Cottonwood Court at Evergreen Boulevard (west).
~~(132) Wilson Street at Evergreen Boulevard.~~ (deleted per Ord. 95-22)
(133) Palmetto Avenue at Wilson Street (north).
(134) Buchanan Street at Evergreen Boulevard.
(135) Greenway Terrace at Evergreen Boulevard (east).
(136) Churchill Street at Poplar Avenue (west). (Ord. 90-40)
(137) Churchill Street at Harrison Avenue (east). (Ord. 90-40)
(138) Coventry Street at Poplar Avenue (west). (Ord. 90-40)
(139) Coventry Street at Harrison Avenue (east). (Ord. 90-40)
(140) Coventry Court at Harrison Avenue (west). (Ord. 90-40)
(141) Kingston Court at Harrison Avenue (east). (Ord. 90-40)
(142) Hampton Avenue at Harrison Avenue (south). (Ord. 90-40)
(143) Hampton Court at Harrison Avenue (north). (Ord. 90-40)
(144) Poplar Avenue at Pine Street (south). (Ord. 90-40)

(145) Landmark Drive at Hamilton Road (southwest). (Ord. 91-04)
(146) Berkshire Street, for westbound traffic at Washington Avenue (Ord. 92-25)
(147) Kensington Avenue, for southbound traffic at Susan Lane (Ord. 92-25)
(148) Dayton Street, for eastbound traffic at Kensington Avenue (Ord. 92-25)
(149) Leicester Avenue, for northbound traffic at Berkshire Street (Ord. 92-25)
(150) Cider Mill Court, for southbound traffic at Western Road (Ord. 92-25)
(151) Evergreen Blvd. at Pioneer Road (south) (Ord. 92-56)
(152) Alyce Street at Evergreen Blvd. (west) (Ord. 92-56)
(153) Partridge Court at Evergreen Blvd. (Ord. 92-56)
(154) Pheasant Court at Evergreen Blvd. (Ord. 92-56)
(155) Evergreen Blvd. at Lincoln Blvd. (north) (Ord. 92-56)
(156) Lincoln Blvd. (westbound) at Madison Avenue. (Ord. 95-06)
(157) Lincoln Blvd. (eastbound) at Madison Avenue. (Ord. 95-06)
(158) Wilson Avenue (eastbound) at Madison Avenue. (Ord. 95-06)
(159) Franklin Avenue at Pine Street (north). (Ord. 95-11)
(160) Franklin Avenue at Pine Street (south). (Ord. 95-11)
~~(161) Public Street at McKinley Blvd~~. (deleted by Ord. 2004-13)
(162) Susan Lane at Sheboygan Road (east). (Ord 96-32)
(163) Evergreen Blvd. at Lincoln Blvd. (south). (Ord. 96-39)
(164) Cedar Pointe Avenue at Lincoln Blvd. (south). (Ord. 96-39)
(165) Cedar Pointe Avenue at Lincoln Blvd. (north). (Ord. 96-39)
(166) Lincoln Blvd. at Wauwatosa Road (west). (Ord. 96-39)
(167) Greystone Drive at Western Road (north). (Ord. 2000-19)
(168) Greystone Drive at West Pointe Court. (Ord. 2000-19)
(169) West Pointe Court at Greystone Drive (east). (Ord. 2000-19)
(170) Greystone Drive at West Pointe Street (north). (Ord. 2000-19)
(171) West Pointe Street at Greystone Drive (west). (Ord. 2000-19)
(172) Windwood Drive at Greystone Drive (west). (Ord. 2002-05)
(173) Fox Pointe Avenue at Windwood Drive (Ord. 2003-15)
(174) Cedar Pointe Avenue at Windwood Drive (Ord. 2003-15)
(175) Mulberry Avenue at Windwood Drive (Ord. 2003-15)
(176) Locust Avenue at Cleveland Street (south). (Ord. 2005-02)
(177) Highland Drive at Spring Street (south). (Ord. 2007-01)
(178) Fox Pointe Avenue at Wilson Street (Ord. 2010-06)
(179) Cedar Pointe Avenue at Wilson Street (Ord. 2010-06)
(180) Covington Square East at Keup Road (Ord. 2010-07)
(181) Henry Court at Sheboygan Road (Ord. 2014-03)
(182) Prairie View Road at Wauwatosa Road (Ord. 2014-03)
(183) Ridgeway Lane at Western Road (Ord. 2014-03)

(c) **Three-Way Stops Authorized.**

(1) Keup Road and Alpine Drive (Ord. 2003-21)

(d) **Four-Way Stops Authorized.**

(1) Harrison Avenue at Pine Street.
(2) Harrison Avenue at Bridge Road.
(3) Evergreen Boulevard at Bridge Road.
(4) Evergreen Boulevard at Cleveland Street.
(5) Madison Avenue at Cleveland Street.
(6) Madison Avenue at Center Street.
(7) Hanover Avenue at Center Street.
(8) Spring Street at Hilbert Avenue.

(9) Crescent Drive at Glenwood Drive.
(10) Windsor Drive at Derby Lane.
(11) Hilbert Avenue at Hamilton Road. (Ord. 91-09)
(12) Evergreen Blvd. at Wilson Street. (Ord. 95-22)
(13) Harrison Avenue and Cleveland Street. (Ord. 2002-17)

(e) **Temporary Stop Signs at School Crosswalks.** Motor vehicles shall come to a complete stop when temporary stop signs are displayed at the following school crosswalks during such hours as deemed necessary by school authorities for the safety of children crossing at said locations:

(1) Harrison Avenue at crosswalk fronting Parkview School.

SEC 10-1-16 YIELD TO TRAFFIC; SIGNS.

(a) **Operator to Yield Right-of-Way.** The Common Council hereby authorizes the use of Yield Right-of-Way signs within the City. The operator of vehicle, when approaching any intersection at which has been installed a Yield Right-of-Way sign, shall yield the right-of-way to other vehicles which have entered the intersection from an intersecting street, or which are approaching so closely on the intersecting street as to constitute a hazard of collision, and, if necessary, shall reduce speed or stop in order to so yield. The following are authorized yield sign intersections.

(b) **Yield Signs Authorized.**

(1) Spring Street at Park Lane.
~~(2) Highland Drive at Spring Street.~~ (Ord. 2007-01)
(3) Sunnyside Drive at Edgewater Lane.
(4) Eton Court at Georgetown Drive.
(5) Jackson Street at Kennedy Avenue.
(6) Madison Avenue at Western Road.
(7) Kennedy Avenue at Wilson Avenue. (Ord. 93-27)
(8) Westlawn Avenue at Wilson Avenue. (Ord. 93-27)
(9) Holly Lane at Susan Lane (north) (Ord. 96-32)
(10) Holly Lane at Susan Lane (south) (Ord. 96-32)
(11) Glenwood Drive at Susan Lane (north) (Ord. 96-32)

(12) Glenwood Drive at Susan Lane (south) (Ord. 96-32)
~~(13) Fox Pointe Avenue at Wilson Street (Ord. 98-14)~~ (Ord. 2010-06)
~~(14) Cedar Pointe Avenue at Wilson Street (Ord. 98-14)~~ (Ord. 2010-06)
(15) Mulberry Avenue at Wilson Street (Ord. 98-14)
(16) Tyler Street at Jefferson Avenue (Ord. 99-11)
(17) Buchanan Street at Cedar Pointe Avenue (for east and westbound traffic) (Ord. 2000-03)
(18) Wilson Street at Mulberry Avenue (for westbound traffic) (Ord. 2000-03)
(19) West Pointe Street at Greystone Drive (north). (Ord. 2000-19)
(20) West Pointe Court at Greystone Drive (south). (Ord. 2000-19)
(21) West Pointe Street at Mulberry Avenue (east). (Ord. 2000-19)
(22) Lexington Street at Cambridge Avenue (for westbound traffic) (Ord. 2004-32)
(23) Aspen Street at Cambridge Avenue (for westbound traffic) (Ord. 2004-32)
(24) Fieldcrest Street at Cambridge Avenue (for westbound traffic) (Ord. 2004-32)
(25) Montgomery Avenue at the intersection with Chatham Street (Ord. 2008-01)
(26) Lancaster Court at Covington Square East (Ord. 2010-07)
(27) Wilshire Drive at Park Lane (Ord. 2010-15)
(28) Parkland Road at Ridgeway Lane (Ord. 2014-03)
(29) Parkland Road at Prairie View Road (Ord. 2014-03)
(30) Ridgeway Lane at Prairie View Road (Ord. 2014-03)
(31) Prairie View Court at Prairie View Road (Ord. 2014-03)
(32) East Bound Parkland Road at Ridgeway Lane (Ord. 2015-19)

SEC. 10-1-17 RIGHT TURNS, LEFT TURNS AND U TURNS PROHIBITED AT CERTAIN LOCATIONS.

(a) **Left Turns Prohibited.** There shall be no left turn at the following intersections:
(1) Eastbound traffic on Columbia Road, at its intersection with Bridge Road.
(2) Westbound traffic exiting the driveway located two hundred twenty-five (225) feet south of the southeast corner of Washington Avenue and Lincoln Boulevard onto Washington Avenue.

(b) **Right Turns Prohibited.** It shall be unlawful for an operator of any vehicle to make a right turn from:
(1) Eastbound traffic on Bridge Road, at its intersection with Columbia Road.

(c) **Right Turn Prohibited on Red.** There shall be no right turn on red at the following intersections:
~~(1) Northbound traffic on Washington turning right onto Columbia Road.~~ (Ord. 2006-03)
(2) Eastbound traffic on Lincoln Boulevard turning right onto Washington Avenue when pedestrians are present. (Ord. 91-11)
(3) Westbound traffic on Lincoln Boulevard turning right onto Washington Avenue when pedestrians are present. (Ord. 93-28)
(4) Highland Drive turning right onto Columbia Road when pedestrians are present. (Ord. 2000-08; 2006-03)

(5) Columbia Road turning right onto Bridge Road when pedestrians are present. (Ord. 2000-08; 2006-03)
(6) Columbia Road turning right onto Highland Drive when pedestrians are present. (Ord. 2000-08; 2006-03)
(7) Columbia Road turning right onto Washington Avenue when pedestrians are present. (Ord. 2000-34)
(8) Washington Avenue turning right onto Columbia Road when pedestrians are present. (Ord. 2000-34)
(9) Eastbound traffic on Western Road turning right onto Washington Avenue when pedestrians are present. (Ord. 2004-12)

(d) **U-Turns Prohibited.** U-turns shall be prohibited at the following specified locations:
(1) Evergreen Boulevard and Bridge Road.
(2) Evergreen Boulevard and Victoria Court.
(3) Evergreen Boulevard and Center Street.
(4) Washington Avenue and Hamilton Road.
(5) Washington Avenue and Spring Street.
(6) Washington Avenue and Mill Street.
(7) Washington Avenue and Center Street.
(8) Washington Avenue and Turner Street.
(9) Washington Avenue and Cleveland Street.
(10) Washington Avenue and Sheboygan Road.
(11) Washington Avenue and Elm Street.

SEC. 10-1-18 AND SEC. 10-1-19 RESERVED FOR FUTURE USE.

(Legal Holidays - Wis. Stat. 895.20)

ARTICLE C

Parking Regulations

SEC. 10-1-20 RESTRICTIONS ON PARKING; POSTED LIMITATIONS.

(a) **Posted Limitations.**

(1) The Common Council may designate certain streets or portions of streets as no parking or no stopping or standing zones or as zones for parking by physically handicapped persons and may limit the hours in which the restrictions apply. The City shall mark, by appropriate signs, each zone so designated in accordance with the provisions of Sec. 349.13, Wis. Stats.

(2) Except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except physicians on emergency calls or as permitted by state law or elsewhere by this Code of Ordinances.

(3) The Chief of Police is hereby granted the authority, within the reasonable exercise of police power to prohibit, limit the time or otherwise restrict the stopping, standing or parking of vehicles beyond the provisions of Chapter 346. The Chief of Police, in cooperation with the Public Works Department, shall have the authority to restrict the turning or movement of heavy traffic and to impose special weight limitations on any highway or portions thereof which, because of the weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of any restrictions on heavy traffic movement or special weight limitations.

(4) No prohibition, restriction or limitation on parking or restriction on movement or turning of heavy traffic and imposition of special weight limits is effective unless official traffic control devices have been placed or erected indicating the particular prohibition, restriction or limitation.

(5) After the parking limitations on any given street have expired, any change of location of not more than one (1) stall following expiration of the period allowed shall be and constitute a violation of this Chapter.

(b) **Suspension Powers of the Mayor.** For a limited and reasonable period of time, the Mayor, with the consent of the Council, may suspend the parking time limitations upon notification to the Chief of Police. In the event there does not exist sufficient time to notify the Common Council of his desire to do so because of untimely notice or advance information or request to the Mayor, said Chief Executive is then authorized to take such action without approval of the Council.

SEC. 10-1-21 PARKING RESTRICTIONS DURING TEMPORARY SNOW REMOVAL OR STREET MAINTENANCE.

(a) **Street Maintenance.** Whenever it is necessary to clear or repair a City roadway or any part thereof, the Public Works Department and/or Police Department shall post such highways or parts thereof with signs bearing the words "No Parking." Such signs shall be erected at least two (2) hours prior to the time that street maintenance work is to be commenced. No person shall park a motor vehicle in violation of such signs.

(b) **Temporary Parking Restrictions for Special Events.** Pursuant to the provisions of Subsection 349.13, Wis. Stats., the Chief of Police is authorized to direct that temporary "No Parking" signs be erected by the Public Works Department during parades, festivals and other authorized events that require the regulating of vehicle stopping, standing or parking on City roadways. The temporary regulation shall be limited to the time the event exists or is likely to exist.

(c) **Parking During Snow Removal.** No person shall park, place or leave standing any automobile, truck or other vehicle on any street or public way after one (1) hour from the time such area has been designated and marked with signs or barriers by the Police Department and/or the Department of Public Works of the City indicating no parking due to snow removal.

SEC. 10-1-22 STOPPING OR PARKING PROHIBITED IN CERTAIN SPECIFIED PLACES.

(a) **Parking Prohibited.** No person shall stop, park or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, in any of the following places:

(1) Within an intersection.

(2) On a crosswalk.

(3) On a sidewalk or parkway area, except when parking in such place is clearly indicated by official traffic signs or markers or parking meters. "Parkway or Sidewalk Area" means that area between the sidewalk and the nearest curb line running parallel or generally parallel thereto or in the absence of a sidewalk ten (10) feet beyond the curb line.

(4) Alongside or opposite any highway excavation or obstruction when such stopping or standing would obstruct traffic or when pedestrian traffic would be required to travel in the roadway.

(5) On the roadway side of any parked vehicle unless double parking is clearly indicated by official traffic signs or markers.

(6) Within twenty (20) feet of the driveway entrance to a fire station.

(7) Upon any portion of a highway where and at the time when stopping or standing is prohibited by official traffic signs indicating the prohibition of any stopping or standing.

(8) In any place or manner so as to obstruct, block or impede traffic.

(9) Within ten (10) feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign.

(10) Upon any portion of a highway where and at the time when parking is prohibited, limited or restricted by official traffic signs.

(11) Upon any bridge.

(12) Upon any street or highway within the City limits any vehicle which faces a direction different from the direction of normal traffic flow for the lane of traffic in which said vehicle is stopped or standing.

(13) Upon any terrace or sidewalk in the City at any time.

(b) **Parking in Driveways.** No person shall park or leave standing any motor vehicle in any private driveway without the permission of the owner or lessee of the property which such driveway is located, whether or not such driveway is posted to limit or restrict parking.

(c) **Vehicles Not to Block Private Drive, Alley or Fire Lane.** No vehicle shall, at any time, be parked so as to unreasonably restrict the normal access to any drive, alley or fire lane. Said access shall be deemed to be unreasonably restricted if any vehicle is parked within four (4) feet of either side of said access. Upon discovery by a police officer or upon complaint by the owner of any such blocked drive, alley or fire lane, a City law enforcement officer may order said vehicle towed from such position at the risk and expense of the owner of said vehicle.

(d) **Parking Vehicle for Repair or to Display for Sale Prohibited.** No person shall stand or park a vehicle on any street, alley, public right-of-way or municipal parking lot in the City for the purpose of repairing said vehicle or to display such vehicle for sale.

SEC. 10-1-23 PARKING RESERVED FOR VEHICLES OF DISABLED.

(a) When official traffic signs indicating such restriction have been erected in accordance with Section 10-1-3 of this Chapter, no person shall park, stop or leave standing any vehicle upon any portion of a street, highway or public or private parking facility reserved for vehicles displaying special registration plates or identification cards or emblems issued by the Wisconsin Department of Transportation or, for vehicles registered in another jurisdiction, by such other designating the vehicle as one used by a physically disabled person.

(b) The following streets, parts thereof, are reserved for parking for the handicapped only:

(1) On the south side of Portland Road from a point five hundred eight (508) feet west of the southwest corner of the intersection of Hilbert Avenue with Portland Road to a point five hundred seventy-five (575) feet west from said intersection.

(2) On the south side of Hamilton Road from a point eighty (80) feet from the intersection of Hamilton Road and Washington Avenue to a point one hundred forty-five (145) feet east from said intersection.

(3) On the east side of Washington Avenue from a point eighty-four (84) feet north of the main entrance to Firemen's Park for a distance of one-hundred seventy nine (179) feet. (Ord. 91-20) (Ord. 91-32) (Ord. 98-16)

(4) On the west side of Hilbert Street from a point sixty-eight (68) feet north of the northwest corner of Hilbert Avenue and Spring Street, for a distance of 24 feet. (Ord. 95-35)

SEC. 10-1-24 PARKING VEHICLES WITH MOTOR RUNNING.

No person shall park or leave standing any motor vehicle with the motor or refrigerator unit running for more than thirty (30) minutes within three hundred (300) feet of any residence within the City between the hours of 10:00 p.m. and 7:00 a.m.

SEC. 10-1-25 UNATTENDED MOTORIZED MACHINERY.

It shall be unlawful for any person, firm or corporation to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth and which is owned or controlled by him to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

SEC. 10-1-26 ANGLE PARKING.

Angle parking or parking diagonally is prohibited on all the streets, alleys and highways of the City except in places where vehicle parking markers indicate that the same is permissible. All vehicles shall park parallel to, and within one (1) foot of the curb except where streets and parking lots are so marked for angle parking.

SEC. 10-1-27 PARKING PROHIBITED ZONES.

(a) **Parking Prohibited Zones.** No person shall park or leave standing any vehicle upon any of the following highways, streets or parts thereof, except temporarily for the purpose of and while actually engaged in receiving or discharging passengers. Either the operator or owner of any vehicle may be held responsible the violation of this Section.

(1) On the west side of Washington Street for a distance of fifty-three (53) feet north of the north curb of Turner Street.

(2) On the west side of Washington Avenue for a distance of forty (40) feet of the south curb of Turner Street

(3) On the west side of Washington Avenue for a distance of two hundred eighteen (218) feet north of the north curb of Center Street.

(4) On the west side of Washington Avenue for a distance of fifty (50) feet south of the south curb of Center Street.

(5) On the west side of Washington Avenue for a distance of seventy-five (75) feet north of the north curb of Mill Street.

(6) On the west side of Washington Avenue for a distance of forty-nine (49) feet south of

the south curb of Mill Street.

(7) On the west side of Washington Avenue for a distance of one hundred (100) feet north of the north curb of Western Road.

(8) On the easterly side of Washington Avenue for a distance of fifty-three (53) feet northwest from the north curb line of Bridge Road at its intersection with Washington Avenue.

(9) On the easterly side of Washington Avenue for a distance of fifty-eight (58) feet southeast from the south curb line of Bridge Road at its intersection with Washington Avenue.

(10) On the north side of Bridge Road from the east curb of North Washington Avenue at its junction with Bridge Road, easterly to the west curb of Riveredge Drive at its junction with Bridge Road.

(11) On the south side of Bridge Road commencing at a point one hundred twelve (112) feet east of the west curb of Washington Avenue at its junction with Bridge Road easterly for a distance of one hundred eighty (180) feet.

(12) On the north side of Columbia Road for a distance of two hundred five (205) feet west from the west curb of Mequon Avenue at its junction with Columbia Road.

(13) On the south side of Columbia Road for a distance of two hundred twenty (220) feet west from the west curb of Mequon Avenue extended at its junction with Columbia Road.

(14) On the east side of Washington Avenue for a distance of seventy-seven (77) feet from the south curb of Sheboygan Road at its junction with Washington Avenue.

(15) On the west side of Sheboygan Road for a distance of ninety (90) feet from the Northeast curb of Washington Avenue at its junction with Sheboygan Road, and on the east side of Sheboygan Road for a distance of two hundred and sixty-four (264) feet from the southeast curb of Washington Avenue at its junction with Sheboygan Road. (Ord. 94-30)

(16) On the south side of Cleveland Street for a distance of fifty-five (55) feet west from the west curb of Washington Avenue at its junction with Cleveland Street.

(17) On the north side of Center Street between Washington Avenue and Hanover Street.

(18) On the west side of Washington Avenue between Spring Street and Lincoln Boulevard.

(19) On the west side of Washington Avenue for fifty (50) feet south of Elm Street.

(20) On the north side of Columbia Road for a distance of one hundred twenty-five (125) feet west of Washington Avenue.

(21) On the west side of Highland Drive commencing at a point two hundred five (205) feet southeasterly of the south curb of Columbia Road at its junction with Highland Drive and extending southerly and easterly along Highland Drive for a distance of three hundred fifty (350) feet.

(22) On the north side of Western Road for a distance of two hundred (200) feet west from the west curb of Washington Avenue at its junction with Western Road.

(Ord. 2003-14)

(23) On the north and south sides of Western Road for a distance of fifty (50) feet east of the east curb of Madison Avenue and for a distance of fifty (50) feet west of the west curb of Madison Avenue at its junction with Western Road.

(24) On either side of Taunton Street commencing at the south right-of-way of Pioneer Road and extending south thirty (30) feet.

(25) On the north side of Portland Road for a distance of ninety (90) feet west of the west curb of Hilbert Avenue.

(26) On the southerly side of Hamilton Road commencing at the centerline of the Wisconsin Central Railroad Ltd. tracks extending southeasterly sixty-five (65) feet to the driveway located at that point.

(27) On the north side of Jackson Street for a distance of seventy-five (75) feet east of the east curb of Washington Avenue.

(28) On the west side of Washington Avenue for a distance of forty-eight (48) feet north of the north curb of Cleveland Street.

(29) On the east side of Hilbert Avenue between Portland Road and Edgewater Drive.

(30) On the east side of Washington Avenue commencing at a point on the easterly edge of the right-of-way of Washington Avenue one hundred thirty (130) feet northwesterly from the northeast corner of Washington Avenue and Sheboygan Road; thence northwesterly along Washington Avenue a distance of twenty-five (25) feet.

(31) On the east side of Highland Drive from its junction with Columbia Road and extending southerly and easterly along Highland Drive for a distance of three hundred fifty (350) feet.

(32) On the south side of Bridge Road from its junction with Columbia Road westerly a distance of one hundred thirty (130) feet.

(33) On the east side of Madison Avenue for a distance of one hundred sixty-five (165) feet south of the south curb of Western Road at its junction with Madison Avenue.

(34) On the west side of Madison Avenue for a distance of one hundred ten (110) feet south of the south curb of Western Road at its junction with Madison Avenue.

(35) On the east side of Washington Avenue a distance of seventy (70) feet south of the south curb of Mill Street.

(36) On the west side of Taunton Avenue for a distance of fifty (50) feet south from a point three hundred ten (310) feet south of the intersection of the west right-of-way line of Taunton Avenue and the centerline of Pioneer Road and on the east side of Taunton Avenue from the driveway to Pioneer Container Corporation parking lot north to Pioneer Road.

(37) On the north side of Bridge Road for a distance of one hundred ninety-two (192) feet west of the western boundary line of the crosswalk at the intersection of Bridge Road and Columbia Road.

(38) On the north side of Jackson Street from Washington Avenue to Hanover Avenue. (Ord. 2010-08)

(39) On the north side of Columbia Road from its junction with Bridge Road to the east curb of Jefferson Avenue at its junction with Columbia Road.

(40) On the southerly side of Columbia Road commencing one hundred fifty-five (155) feet west of the intersection with Highland extending east along Columbia Road to the easterly City limits.

(41) On the west side of Washington Avenue for a distance of forty-six (46) feet south of the north curb of Spring Street at its junction with Washington Avenue.

(42) On the east side of Hanover Avenue from Cleveland Street to a point one hundred eighty (180) feet north of the intersection of Turner Street and Hanover Avenue.

(43) On the west side of Hanover Avenue commencing at a point two hundred sixty (260) feet north of the northwest curb of Hanover Avenue at its intersection with Center Street for a distance of fifty-eight (58) feet north.

(44) On the west side of Washington Avenue from the intersection of Western Road with Washington Avenue to a point sixty-five (65) feet south of said intersection.

(45) On the east and west sides of Washington Avenue from the intersection of Washington Avenue with Lincoln Boulevard south to the intersection of Washington Avenue with Pioneer Road.

(46) On the north side of Center Street from the west curb line of Hanover Avenue extended southerly to a point one hundred six (106) feet westerly thereof. (Ord. 92-24)

(47) On the east side of Madison Avenue southerly for a distance of one hundred forty-seven (147) feet from the south side of its intersection with Cleveland Street.

(48) On the south side of Center Street for a distance of seventy (70) feet west of the west curb of Washington Avenue.

(49) On the west side of Keup Road, between Columbia Road and Georgetown Drive.

(50) On the east side of Doerr Way.

(51) On the west side of McKinley Boulevard for a distance of six hundred (600) feet north of the north curb of Wirth Street.

(52) On the east side of McKinley Boulevard for a distance of three hundred fifty (350) feet north of the north curb of Garfield Avenue.

~~(53) On the east side of Washington Avenue for a distance of one hundred fifty (150) feet south from the south side of its intersection with Pioneer Road.~~ (deleted per Ord. 95-28)

(54) On the south side of Western Road for a distance of eight hundred thirty (830) feet west of the southwest corner of the intersection with Washington Avenue. (Ord. 90-22) (Ord. 96-20)

(55) At the intersection of Hilbert Avenue and Hamilton Road for a distance of thirty (30) feet, on both sides of Hilbert Avenue and on both sides of Hamilton Road, from the intersecting right-of-way lines in a northeast and southwest direction on Hilbert Avenue and in a northwest and southeast direction on Hamilton Road.

(56) On the south side of Hamilton Road for a distance of approximately eighty-four (84) feet west from the intersecting curb line with Johnson Street.(Ord. 92-26)

(57) On the south side of Hamilton Road for a distance of approximately two hundred-eighty (280) feet to the east from the intersecting curb line with Johnson Street.

(Ord. 92-26 (Ord. 92-50)

(58) On the west side of Johnson Street for a distance of approximately seventy-two (72) feet south from the intersecting curb line with Hamilton Road. (Ord. 92-26)

(59) On the east side of Johnson Street for a distance of approximately thirty-nine (39) feet south from the intersecting curb line with Hamilton Road. (Ord. 92-26)

(60) On the south side of Bridge Road for a distance of eighty-three (83) feet from the intersection curbline of Riveredge Drive to the west, stopping at the private drive to the residence of N69 W6261 Bridge Road. (Ord. 92-41)

(61) On the north side of Hamilton Road starting at a distance of two hundred-fifty (250) feet east of the intersecting curbline with Hilbert Street and continuing east for a distance of eighty-four (84) feet. (Ord. 92-42)

(62) On the south side of Cleveland Street for a distance of sixty (60) feet west from the southwest corner of the intersection of Cleveland Street and Hanover Avenue. (Ord. 93-24)

(63) On the north side of Cleveland Street from the intersection of Madison Avenue and Cleveland Street west to the intersection of Evergreen Blvd. and Cleveland Street. (Ord. 93-34)

(64) On the west side of Cardinal Avenue for a distance of fifty (50) feet north of the northwest corner of the intersection with Zeunert Street; on the east side of Cardinal Avenue for a distance of thirty (30) feet north across from the northwest corner of the intersection with Zeunert Street, and on the east side of Cardinal Avenue for a distance of 130 feet south, beginning at a point five hundred twenty four (524) feet south from the southeast corner of Lincoln Blvd. (Ord. 94-24)

(65) On the south side of Lincoln Blvd. for a distance of ninety (90) feet west of the southwest corner of the intersection with Washington Avenue. (Ord. 94-48)

(66) On the south side of Bridge Road for a distance of one hundred fifty-six (156) feet west of the southwest corner of the intersection with Washington Avenue. (Ord. 94-47)

(67) On the east and west sides of Washington Avenue from Pioneer Road south to the city limits. (Ord. 2012-17)

~~(68) On the west side of Washington Avenue eight hundred (800) feet south from the southwest corner of Pioneer Road and Washington Avenue. (Ord. 95-34)~~ (Ord. 2012-17)

(69) On the north side of Jackson Street from Washington Avenue east to Hilgen Avenue and on the west side of Hilgen Avenue from Jackson St. to Hamilton Rd. (Ord.96-03a)

(70) On the north side of Mill Street between Washington Avenue and Portland Road. (Ord. 96-21)

(71) On the south side of Mill Street for a distance of forty (40) feet east from the intersection with Washington Avenue and commencing two-hundred (200) feet east from the intersection with Washington Avenue to Portland Road. (Ord. 96-21)

(72) On the west side of Harrison Avenue northerly for a distance of seventy-four (74) feet commencing at the north end of the northern most driveway of Parkview School. (Ord. 96-30)

(73) On the north and south sides of Pioneer Road from Washington Avenue east to the city limits (Ord. 2002-22)

(74) On the west side of Cardinal Avenue three hundred and seventy-four (374) feet south from the southwest corner of Zeunert Street and Cardinal Avenue for a distance of seventy-five (75) feet. (Ord. 98-09)

~~(75) On the north side of Zeunert, commencing at the intersecting curb line of Zeunert Street and Washington Avenue for a distance of three hundred forty (340) feet to the east. (Ord. 98-10)~~ (Ord. 2008-08)

(76) On the north side of Bridge Road for a distance of one hundred seven (107) feet west of the west curb of Washington Avenue. (Ord. 99-29)

(77) On the north side of Cambridge Avenue, commencing at the intersecting curb line of Washington Avenue for a distance of one hundred forty-two (142) feet to the east. (Ord. 2000-07)

(78) On the north side of Bridge Road from the intersection of Bridge Road and Cedar Ridge Drive to the intersection of Bridge Road and Columbia Road. (Ord. 2000-26)

(79) On the north side of Alyce Street from the crosswalk at Washington Avenue to a point forty (40) feet west, and on the south side of Alyce Street from the crosswalk at Washington Avenue to the first driveway to the west. (Ord. 2000-38)

(80) On the south side of Fairfield Street commencing at the east line of the Wisconsin Electric Power Company right-of-way and extending forty (40) feet to the east. (Ord. 2001-37)

(81) On the east wide of Juniper Lane from the north right-of-way line of Western Road to a point one hundred fifteen (115) feet north. (Ord. 2002-10)

(82) On the west side of Juniper Lane from the north right-of-way line of Western Road to a point two hundred ten (210) feet north. (Ord. 2002-10)

(83) On the west side of Johnson Avenue from Lincoln Blvd. to a point two hundred (200) feet north of Lincoln Blvd. (Ord. 2002-23)

(84) On both sides of Alder Street. (Ord. 2007-10)

(85) On the south side of Columbia Road for a distance of seventy two (72) feet west of the west curb line on the easterly leg of Cedar Court, and for a distance of forty five (45) feet east of the east curb line on the easterly leg of Cedar Court. (Ord. 2009-09)

(86) Between driveways on the east side of Riveredge Drive 374' north of the north curb line on Bridge Road and continuing north approximately 20 feet. (Ord. 2014-16)

(87) On the north side of Bridge Road from the east curb line extended on Franklin Avenue to a point 72 feet to the east. (Ord. 2015-01)

SEC. 10-1-28 PARKING REGULATED ZONES.

When signs are erected in any block giving notice thereof, no person shall park or leave standing any vehicle for longer than the period specified upon any of the following highways, streets or parts thereof, except temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(a) **Parking for More Than One (1) Consecutive Hour.**

(1) On the south side of Jackson Street from a point 270 feet east of Washington Avenue to Hilgen Avenue between the hours of 7:00 a.m. and 7:00 p.m., except Saturdays and Sundays. (Ord. 96-06) (Ord. 2005-03)

(b) **Parking for More than One (1) Consecutive Hour on School Days Between 7:00 A.M. and 3:00 P.M.** Parking on the following streets is limited to one (1) hour between 7:00 a.m. and 3:00 p.m. on the days school is in session:

(1) On the west side of Evergreen Blvd. from Center Street north to Cleveland Street. (Ord. 93-26)

(2) On the east side of Evergreen Blvd. from Center Street north to Cleveland Street. (Ord. 93-26)

(c) **Parking for More than Two (2) Consecutive Hours Between 7:00 A.M. and 7:00 P.M.** Parking on the following streets is limited to two (2) hours between 7:00 a.m. and 7:00 p.m., except on Sundays and holidays:

(1) On both sides of Washington Avenue between Spring Street and Cleveland Street.

(2) On both sides of Hanover Avenue between Western Road and Turner Street.

(3) On both sides of Mill Street between Washington Avenue and Hanover Avenue.

(4) On both sides of Turner Street between Washington Avenue and Hanover Avenue.

(5) On the south side of Victoria Court between Evergreen Boulevard and Madison Avenue.

(6) On both sides of Spring Street commencing at the east curb of Washington Avenue at its junction with Spring Street and extending one hundred seventy-five (175) feet east of the centerline of Washington Avenue.

(7) On the south side of Bridge Road between Washington Avenue and the bridge crossing Cedar Creek.

~~(8) On the southerly side of Hamilton Road commencing at a point two hundred (200) feet southeasterly of the centerline of the Wisconsin Central Railroad Ltd. tracks extending southeasterly for a distance of seventy (70) feet.~~ (Ord. 2015-04)

~~(9) On the north side of Hamilton Road for a distance of four hundred sixty (460) feet northwesterly form the west curb of Park Street at the intersection of Hamilton Road.~~ (Ord. 2015-04)

(10) On the north side of Hamilton Road between Hilbert Avenue and the Wisconsin Central Railroad Ltd. right-of-way.

(11) On the west side of Doerr Way commencing at a point seventy-three (73) feet south of Pioneer Road on the west side of Doerr Way, running south for a distance of six hundred (600) feet.

(12) On both sides of Columbia Road east from Washington Avenue to Portland Road.

(13) On the south side of Cleveland Street between Hanover Avenue and Washington Avenue.

(14) On the south side of Center Street between Washington Avenue and Hanover Avenue.

(15) On the south side of Mill Street, commencing forty (40) feet east of the intersection with Washington Avenue easterly for 160 feet. (Ord. 96-21)

(d) **Parking for More Than Two (2) Consecutive Hours on School Days Between 7:00 A.M. and 3:00 P.M.** Parking on the following streets is limited to two (2) hours between 7:00 a.m. and 3:00 p.m. on the days school is in session:

~~(1) On the north side of Cleveland Street from its intersection with the east side of Evergreen Boulevard east to the west side of Madison Avenue.~~ (deleted per Ord. 93-34)

(2) On both sides of Cleveland Street between Evergreen Boulevard and Harrison Street. (Ord. 93-26)

(3) On both sides of Cleveland Street west of Harrison Street for sixty (60) feet to the end of the roadway. (Ord. 93-26)

(4) On both sides of Harrison Street between Cleveland Street and Bridge Road. (Ord. 93-26)

~~(5) On both sides of Harrison Street south of Cleveland Street for one hundred forty (140) feet to the end of the roadway.~~ (deleted per Ord. 94-50)

(6) On both sides of Cleveland Court, north of Cleveland Street. (Ord. 93-26)

(7) On the east side of Juniper Lane for a distance of five hundred (500) feet north from its intersection with Western Road. (Ord. 93-26)

(8) On the north side of Cleveland Street between Evergreen Boulevard and Madison Avenue. (Ord. 93-26)

(9) On the east side of Juniper Lane for a distance of five hundred (500) feet north from its intersection with Western Road. (Ord. 93-26)

(10) On the south side of Victoria Court between Evergreen Boulevard and Madison Avenue, and on the north side of Victoria Court for a distance of three hundred (300) feet west from its northwest intersection with Madison Avenue. (Ord. 94-50)

(11) On both sides of Center Street for a distance of two hundred seventy-six (276) feet east from its intersection with Evergreen Boulevard.. (Ord. 94-49)

(12) On the east side of Evergreen Boulevard for a distance of two hundred ninety (290) feet north from the northeast corner of Cleveland Street, and on the west side of Evergreen Boulevard for a distance of three hundred sixty-five (365) feet north from the northwest corner of Cleveland Street. (Ord. 94-51)

(13) On the west side of Madison Avenue from the south line of Victoria Court to a point 230 feet south of Victoria Court.

(14) Both sides of Evergreen Blvd. from Center Street south to the southern property line of Founders Park. (Ord. 2013-30)

(e) **Parking for More Than Two (2) Consecutive Hours Between 9:00 A.M. and 5:00 P.M.** Parking on the following street is limited to two (2) consecutive hours between 9:00 a.m. and 5:00 p.m.:

(1) On both sides of Riveredge Drive North for a distance of three hundred fifty-seven (357) feet from the north side of its intersection with Bridge Road.

(f) **Parking for More Than Three (3) Consecutive Hours.**

(1) Parking on the following streets is limited to three (3) hours, between 7:00 a.m. and 7:00 p.m., except on Sundays and holidays:

a. On both sides of Washington Avenue between Cleveland Street and Elm

Street.

b. On the west side of Portland Road for a distance of one hundred sixty (160) feet south from the intersection with Columbia Road and on the east side of Portland Road for a distance of one hundred (100) feet south from the intersection with Columbia Road. (Ord. 98-13)

c. On both sides of Elm Street between Washington Avenue and St. John Avenue.

(2) Parking on the following street is limited to three (3) hours between 7:00 am. and 7:00 p.m.:

a. On both sides of Bridge Road, west from Washington Avenue to St. John Avenue.

(3) Parking on the following street is limited to three (3) hours between the hours of 6:00 a.m. to 6:00 p.m., except on Sundays and holidays:

a. On both sides of Wirth Street, commencing two hundred twenty-eight (228) feet east of its intersection with the centerline of Sommerset Avenue for a distance of one hundred seventy-two (172) feet.

(g) **Parking for More Than Two (2) Consecutive Hours.**

Parking on the following streets is limited to two (2) hours:

(1) On the entire east side of the westerly leg of Cedar Court. (Ord. 2004-13)

(h) **Parking for More Than Four (4) Consecutive Hours.**

(1) On the east and west sides of Washington Avenue for a distance of 100 feet north and south of the Poplar Avenue right-of-way lines extended. (Ord. 2005-21)

SEC. 10-1-29 MISCELLANEOUS RESTRICTED PARKING HOURS ON CERTAIN STREETS.

There shall be no parking on the following streets during the designated hours:

~~(a) On the east side of Washington Avenue to a point seventy (70) feet south of the south curb of Mill Street to a point one hundred sixteen (116) feet south of the south curb of Mill Street between the hours of 8:00 a.m. and 6:00 p.m. except Sundays and holidays.~~ (deleted per Ord. 90-22)

(b) On the west side of Washington Avenue commencing one hundred sixty (160) feet south of the southwest corner of Western Road at its intersection with Avenue for a distance of sixty-four (64) feet south between the hours of 7:00 am. and 6:00 p.m., Monday through Friday, and on Saturday and Sunday between the hours of 1:00 a.m. and 12:00 noon.

(c) On the east side of Sheboygan Road from the intersection of Sheboygan Road with Washington Avenue beginning at a distance of two hundred and sixty-four (264) feet north of the southeast intersection to a point which is at the end of a line which is perpendicular to the west side of Sheboygan Road and ends at the south curb of

Willowbrooke Drive at its intersection with Sheboygan Road between the hours of 8:00 a.m. and 6:00 p.m. At the discretion of the Chief of Police, during Maxwell Street Days, Ozaukee County Fair, and other city festivals, parking may be allowed in all or part of this restricted area. (Ord. 94-30)

(d) On the north side of Victoria Court commencing at a point two hundred ninety-two (292) feet west of Madison Avenue to the intersection of Evergreen Boulevard between the hours of 7:00 a.m. and 3:00 p.m. on school days.

(e) On both sides of Wirth Street, commencing two hundred twenty-eight (228) feet east of its intersection with the centerline of Sommerset Avenue for a distance of one hundred seventy-two (172) feet, between the hours of 6:00 a.m. to 6:00 p.m., except on Sundays and holidays.

(f) On the south side of Wilson Avenue for a distance of one hundred (100) feet west of the west curb of Madison Avenue between the hours of 7:30 a.m. and 4:30 p.m. on school days. (Ord. 91-25) (Ord. 91-27)

(g) On the north side of Wilson Avenue for a distance of seventy-eight (78) feet west of the west curb of Madison Avenue between the hours of 7:30 a.m. and 4:30 p.m. on school days. (Ord. 91-25) (Ord. 91-27)

(h) On the north side of Lincoln Blvd. for a distance of fifty (50) feet east of the east curb of Madison Avenue between the hours of 7:30 a.m. and 4:30 p.m. on school days. (Ord. 91-25) (Ord. 91-27)

(i) On the east side of Madison Avenue for a distance of fifty-five (55) feet north of the north curb of Lincoln Blvd. between the hours of 7:30 a.m. and 4:30 p.m. on school days. (Ord. 91-27)

(j) On the west side of Madison Avenue between Lincoln Blvd. and Wilson Avenue between the hours of 7:30 a.m. and 4:30 p.m. on school days.

(k) On the east side of Harrison Avenue commencing at a point one hundred-sixty (160) feet north of the intersecting curb line of Pine Street and continuing for a distance of four hundred ninety-six (496) feet between the hours of 8:00 a.m. and 9:00 a.m. and between 3:00 p.m. and 4:00 p.m. on school days. (Ord. 94-37)

(l) Two-hour parking on the west side of the eastern most intersection of Columbia Road and Cedar Court southward for one hundred forty (140) feet. (Ord. 95-23)

(m) On both the north and south sides of Thornapple Lane from the east intersection with Keup Road east to the Grafton Village limits during school days only, from 8:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 4:00 p.m. (Ord. 96-27)

(n) No parking, standing, or stopping on the south side of Hamilton Road from its intersection with Hilgen Avenue three hundred ten (310) feet northwest on school days between the hours of 7:30 a.m. and 3:30 p.m., with the exception of school buses which are in the process of loading or unloading school children. (Ord. 2003-04) (Ord. 2007-05)

(o) No parking or standing on the east side of Keup Road from its intersection with Alpine Drive to a point 260 feet south of the Alpine Drive centerline. (Ord. 2003-23)

(p) On the east side of Cardinal Avenue from a point beginning at 425 feet south of the

south right-of-way line of Lincoln Boulevard to a point 532 feet south of said south right-of-way line, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. (Ord. 2005-25)

(q) On the west side of Madison Avenue from the south line of Cleveland Street for a distance of 160 feet south during the hours of 7:00 a.m. to 3:00 p.m. Monday through Friday. (Ord. 2006-15)

(r) No stopping or standing on the east and west sides of Washington Avenue from the north curb line extended of Lincoln Boulevard to a point 150 feet north. (Ord. 2014-18)

SEC. 10-1-30 PARKING OF RECREATIONAL OR UTILITY VEHICLES ON CITY STREETS.

(a) **Temporary Permit Required.** No person shall park, stop or leave standing any recreational vehicle, utility vehicle or trailer, or equipment for more than twenty-four (24) consecutive hours on any City street, alley, highway, public right-of-way, or City off-street parking lot in a residentially zoned area unless they possess a temporary permit. In no case may a person inhabit a mobile recreational unit overnight unless a temporary permit is obtained prior to such habitation and in no event shall a recreational vehicle be parked in or inhabited in a City park.

(b) **Definitions.** "Mobile recreational vehicle or equipment" means any boat, boat trailer or unit designed as temporary living quarters for recreational, camping or travel use, regardless of size or weight, including, but not limited to, motor homes, travel trailers, pick-up trucks with camping units, pop-up camping trailers, house trailers, mobile homes, private or converted buses. The unit may have its own automotive power or be mounted on or drawn by an automotive vehicle. Utility vehicle or trailer means any unit designed to carry or transport items including, but not limited to, motorcycles, boats, snowmobiles, equipment, car or custom-built that is either enclosed or open in style.

(c) **Permit Application.** A "temporary permit" may be obtained from the Cedarburg Police Department where there is no alternative parking available. Such permit shall be valid for a period of not more than seven (7) consecutive days. The permit may be renewed up to a maximum period of fourteen (14) days in any calendar year. No permission shall be granted for parking in lots adjacent to or included in a City park. Parking at Western and Hanover lot may be permitted by temporary permit, but no recreational vehicle shall be inhabited at such location.

(d) **Exemptions.** Public utility equipment working in the public right-of-way under permit, and contractors engaged in City contracts are exempt from the requirements of this ordinance.

SEC. 10-1-31 PARKING RESTRICTIONS FOR NON-AUTOMOBILES.

(a) **Compact Vehicle Parking Only.** In addition to all other parking restrictions set forth in this Chapter, compact vehicles only shall be allowed to park on the following streets:

(1) On the east side of Washington Avenue commencing at the intersection of the

mid-point of Elm Street and the mid-point of Washington Avenue, thence northwesterly along Washington Avenue a distance of one hundred forty-eight (148) feet. (Ord. 95-06)

(2) On the north side of Hamilton Road commencing at the intersection of the mid-point of Hilgen Street thence northwesterly along Hamilton Road for a distance of one hundred ten (110) feet. (Ord. 98-19)

(3) On the north side of Portland Road commencing at the intersection of the mid-point of Highland Drive thence westerly along Portland Road for a distance of seventy-eight (78) feet. (Ord. 98-21)

(4) On the east side of Hanover Avenue for a distance of twenty-four (24) feet south of the driveway at W63 N582 Hanover Avenue. (Ord. 2003-16)

(5) On the west side of Portland Road commencing at the intersection of the mid-point of Mill Street thence northerly along Portland Road for a distance of sixty-eight (68) feet. (Ord. 2003-17)

(6) On the west side of Portland Road commencing at the intersection of the mid-point of Mill Street thence southerly along Portland Road for a distance of sixty-one (61) feet. (Ord. 2003-17)

(7) On the east side of Washington Avenue in the first space immediately south of the Interurban Trail. (Ord. 2011-13)

(b) **Bus Parking Prohibited.** No buses shall park on the following streets:

(1) On Riveredge Drive. (Ord. 95-06)

SEC. 10-1-32 LONG-TERM PARKING.

(a) No person shall park any vehicle on any City street, alley, highway, public right-of-way or City off-street parking lot in the City of Cedarburg for a period in excess of seven (7) consecutive days.

(b) The restriction of Subsection (a shall not be met if the vehicle is absent from such street, alley, public right-of-way or City off-street parking lot for less than twenty-four (24) consecutive hours during any seven (7) day period or is parked in another location within five hundred (500) feet of the location from which it has been moved within such seven (7) day period.

SEC. 10-1-33 WINTER PARKING; SNOW EMERGENCIES.

(a) **Winter Parking.** No person shall park any vehicle on any street in the City of Cedarburg for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 6:00 a.m. between December 1 and April 1. This prohibition shall not apply to physicians or ambulances on emergency calls. This Section shall not alter or effect any other ordinance of the City of Cedarburg related to parking and towing of vehicles during a snow emergency.

(b) **Snow Emergency**.

(1) Declaration of Emergency. A snow emergency shall exist whenever there is an accumulation of snow or whenever snow or inclement weather causes a serious public hazard to exist which impairs transportation, the movement of fuel, health and medical services, fire and police protection and other vital services and facilities of the City. Such emergency shall continue for a period of forty-eight (48) hours or until such earlier time as snow plowing operations have been declared completed or until the streets have been made reasonably safe for use by motor vehicles, all to be determined by the Director of Public Works.

(2) Alternate Side Parking. Whenever a snow emergency exists and the Director of Public Works causes an announcement thereof to be made by at least two (2) radio stations whose normal operating range includes the City of Cedarburg, it shall be unlawful:

a. For any person to park any motor vehicle upon the even-numbered side of any street in the City of Cedarburg on any odd-numbered day of the month or upon the odd-numbered side of any street in the City of Cedarburg on any even-numbered day of the month at any time; and

b. For any person to park any motor vehicle upon any street in the City of Cedarburg between the hours of 12:00 a.m. (midnight) and 6:00 a.m.

(3) Duration. The parking restrictions imposed by this Section shall remain in effect during the course of any snow emergency and until such snow emergency terminates.

(c) **Removal of Vehicles.** Whenever such an emergency exists, as previously defined, and any vehicles are illegally parked, stopped, or standing in such a manner as to prevent or impede snow clearance or removal in any manner upon any street, alley, highway, or parking lot, the City employees or their agents shall be authorized to move or remove such vehicles, where such vehicles will no longer prevent or impede such aforesaid snow clearance or removing. Towing fees will be assessed against the owner of such vehicle. This section shall not be construed to exempt the owner from other penalties which he may incur.

Cross Reference: Section 10-1-12.

SEC. 10-1-34 LOADING ZONE PARKING RESTRICTIONS.

(a) **General Loading Zones.** No person shall park, stop, or leave standing any vehicle, whether attended or unattended, except while loading or unloading passengers, material or merchandise from such vehicle on the following streets or parts thereof:

~~(1) On the south side of Zeunert Street, commencing at a point two hundred twenty-five (225) feet east of the east curb of Washington Avenue at its junction with Zeunert Avenue easterly for a distance of sixty (60) feet.~~ (Ord. 2015-05)

(2) On the east side of Washington Avenue from a point thirty (30) feet north of Bridge Road for a distance of one hundred eight (108) feet north.

~~(3) On the southerly side of Hamilton Road, commencing at a point eighty-eight (88) feet~~

~~southeasterly of the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company tracks for a distance extending southeasterly one hundred twelve (112) feet.~~ (Ord. 2015-10)

(4) On the west side of Hanover Avenue, commencing at a point one hundred forty-five (145) feet north of the north property line of Center Street at the intersection of Hanover Avenue extending north thirty (30) feet.

(5) On the south side of Zeunert Street, commencing one hundred thirty (130) feet from the intersecting curb line of Cardinal Avenue and Zeunert Street for a distance of two hundred forty-two (242) feet to the west. (Ord. 98-10)

(6) On the south side of Cleveland Street, commencing at the southeast intersecting curb line of Cleveland Street and St. John Avenue easterly for a distance of sixty (60) feet. (Ord. 96-08)

(7) At the westerly curb line of Washington Avenue, described as being from a point one hundred fifty two (152) feet south of the south curb line of Mill Street, south for a distance of eighteen (18) feet, between the hours of 8:00 a.m. and 4:00 p.m., except Sundays and holidays. (Ord. 96-16) (Ord. 2001-23)

(8) On the west side of Evergreen Blvd. commencing five hundred fourteen (514) feet south of the northwest corner of Evergreen Blvd. and Washington Avenue and southerly for a distance of sixty-six (66) feet (in front of Cedarburg Community Pool). (Ord. 96-25)

(9) On the east side of St. John Avenue, commencing ninety-six (96) feet and four (4) inches from the intersecting curb line of St. John Avenue and Cleveland Street for a distance of fifty (50) feet to the south. (Ord. 99-18)

(b) **Bus Loading Zones.** No person shall park, stop, or leave standing any vehicle, whether attended or unattended, except buses while loading or unloading passengers on the following streets or parts thereof:

(1) On the north side of Zeunert Street for a distance of one hundred forty (140) feet east from a point three hundred fifty-five (355) feet east of the east curb of Washington Avenue. (96-25)

SEC. 10-1-35 MUNICIPAL PARKING LOTS.

(a) No person shall park any vehicle on any municipal parking lot for more than twenty-four (24) hours without police permission.

(b) Parking of any vehicle on the following municipal parking lots is restricted to a maximum of four (4) hours between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, with the exception of holidays:

(1) Southeast corner of Hanover Avenue and Turner Street;

(2) Northeast corner of Hanover Avenue and Center Street;

(3) East side of Washington Avenue opposite the intersection of Turner Street.

~~(4) Northeast corner of Hanover Avenue and Western Road (Ord. 2000-12)~~ (Ord. 2005-13)

(5) Lot across from Fire Station #1 between Mequon Avenue and Jefferson Avenue.

SEC. 10-1-36 PARKING OF VEHICLES OVER 10,000 POUNDS OR 21 FEET RESTRICTED. (Ord. 2004-18)

(a) No person owning or having control of any truck, trailer, tractor, or recreation vehicle in excess of ten thousand (10,000) pounds gross weight, or over twenty-one (21) feet in length, or having an enclosed area with a height of more than eight (8) feet from the roadway, shall park the same upon any street, avenue or public way in the City of Cedarburg between the hours of 6:00 p.m. and 7:00 a.m. Two (2) hour parking will be allowed between 7:00 a.m. and 6:00 p.m. The provisions of this Subsection shall not be deemed to prohibit the lawful parking of such equipment upon any street, avenue or public way in the City for the actual loading or unloading of goods, ware or merchandise, providing, however, the "loading" and "unloading," as used in this Section, shall be limited to the actual time consumed in such operation. The Common Council may, however, designate specific truck parking zones. Public vehicles and equipment engaged in authorized government business are exempt from the requirements of this subsection. Vehicles and equipment actively engaged in construction, remodeling, or maintenance of adjacent private property may park on the street in accordance with posted parking restrictions between the hours of 7:00 a.m. and 6:00 p.m.

(b) Any vehicle unlawfully parked under Subsection (a) above may be removed from the street by order of the Chief of Police, and the expense of so moving and storing such vehicle shall be paid by the operator or owner of said vehicle as a forfeiture in addition to the penalties hereafter prescribed.

SEC. 10-1-37 TRAFFIC AND PARKING REGULATIONS ON SCHOOL DISTRICT GROUNDS.

Pursuant to the provisions of Section 118.105, Wis. Stats., the following regulations shall apply to the grounds of the Cedarburg School District located within the City:

(a) **Parking.** No Cedarburg High School student shall, between the hours of 7:00 a.m. and 4:00 p.m. on any day when school is in session, park any vehicle on any Cedarburg High School parking area designed for staff and visitors only. All parking on any grounds of the Cedarburg School District from 7:00 a.m. to 4:00 p.m. shall be restricted to areas designated for parking by the School Board. When signs are erected by the School Board giving notice of such restrictions, all persons shall park only in areas designated and signed for visitor parking. All parking on grounds of the Cedarburg School District from 7:00 a.m. to 4:30 p.m. shall be by permit only and shall be restricted to areas designated for parking by the District Board. When signs are erected by the School Board giving notice of such restrictions, no person shall park a motor vehicle in an area other than one for which he shall have been issued a permit or without displaying a valid permit. There shall be no parking on said grounds between 11:00 p.m. and 6:00 a.m., except when school functions extend past 11:00 p.m.; on such nights there shall be no parking one (1) hour after the function has concluded. All authorized visitors shall park only in areas designated and signed for visitor parking. No

vehicle shall, at any time, be parked on a driveway of the Cedarburg High School.

(b) **Speed Limits.** No person shall at any time operate a motor vehicle upon any Cedarburg School District grounds at a speed in excess of fifteen (15) miles per hour.

SEC. 10-1-38 UNLAWFUL REMOVAL OF PARKING CITATIONS.

No person other than the owner or operator thereof shall remove a City parking ticket from a motor vehicle.

SEC. 10-1-39 OPERATION OF MOTOR VEHICLES IN PUBLIC PARKING LOTS.

(a) **Unlicensed Operators Prohibited.** No person who does not hold a valid operator's license shall operate a vehicle in any public parking lot or in any private parking lot held out for the use of parking for the general public.

(b) **Traffic Regulations Applicable.** All provisions of Section 10-1-1 of this Chapter and of the Wisconsin Statutes and laws incorporated herein by reference shall be applicable on any public parking lot and on any private parking lot or road held out for use for the general public for parking or vehicular traffic.

SEC. 10-1-40 REMOVAL OF ILLEGALLY PARKED VEHICLES.

(a) **Hazard to Public Safety.** Any vehicle parked, stopped or standing upon a highway or public parking lot or ramp in violation of any of the provisions of this Chapter is declared to be a hazard to traffic and public safety.

(b) **Removal by Operator.** Such vehicle shall be removed by the operator in charge, upon request of any traffic officer, to a position where parking is permitted or to a private or public parking or storage premises.

(c) **Removal by Traffic Office.** Any traffic officer after issuing a citation for illegal parking, stopping or standing of an unattended vehicle in violation of this Chapter, is authorized to remove such vehicle to a position where parking is permitted.

(d) **Removal by Private Service.** The officer may order a motor carrier holding a permit to perform vehicle towing services, a licensed motor vehicle salvage dealer or a licensed motor vehicle dealer who performs vehicle towing services to remove and store such vehicle in any public storage garage or rental parking grounds or any facility of the person providing the towing services.

(e) **Towing and Storage Charges.** In addition to other penalties provided in this Chapter, the owner or operator of a vehicle so removed shall pay the actual cost of moving, towing and storage. If the vehicle is towed or stored by a private motor carrier, motor vehicle salvage dealer or licensed motor vehicle dealer, actual charges regularly paid for such services shall be paid. If the vehicle is stored in a public storage garage or rental facility, customary charges for such storage shall be paid. Upon payment, a receipt shall be issued to the owner of the

vehicle for the towing or storage charge.

SEC. 10-1-41 INOPERABLE, WRECKED OR DISCARDED VEHICLES.

(a) **Storage Prohibited.** No person owning or having custody of any partially dismantled, nonoperable, wrecked, junked or discarded motor vehicle shall allow such vehicle to remain on any public highway, parking lot or ramp longer than twenty-four (24) hours after notification thereof by the Police Department. Notification shall be accomplished by placing in a conspicuous place on the vehicle and by mailing or serving upon the owner or occupant in charge of the premises a written notice setting forth briefly the applicable provisions of this Section and the date of the notice. Any vehicle so tagged which is not removed within twenty-four (24) hours after notice is declared to be a public nuisance and may be removed as provided in Section 10-1-40.

(b) **Exemptions.** This Section shall not apply to a motor vehicle in an appropriate storage place or depository maintained in a lawful place and manner authorized by the City.

SEC. 10-1-42 THROUGH SEC. 10-1-49 RESERVED FOR FUTURE USE.

ARTICLE D

Miscellaneous Provisions

SEC. 10-1-50 DISTURBANCE OF THE PEACE WITH A MOTOR VEHICLE. (Ord. 92-29) Ord. 96-24) (Ord. 2004-10)

(a) **Noise created by excessive acceleration prohibited.** No driver of any vehicle, including motorcycles, all-terrain vehicles and bicycles, shall cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin and emit loud noises or to unnecessarily throw stones or gravel; nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the public peace.

(b) **Noise created by the use of engine compression brakes prohibited.** The use of engine compression braking systems is prohibited within the Cedarburg City limits, except in emergencies.

(c) **Excessive radio and other noise prohibited.** Pursuant to Wis. Stats. 346.94(16), no person may operate or park, stop, or leave standing any vehicle, including motorcycles, all-terrain vehicles, and bicycles, while using a radio or other electronic sound amplification device that emits sound from the vehicle that is audible under normal conditions from a distance of Fifty (50) or more feet, unless the electric sound amplification device is being used to request assistance or warn against an unsafe condition.

(d) **Exemptions.** Pursuant to Wis. Stats. 346.94(16), subsection (b) above does not apply to any of the following:

(1) The operator of an authorized emergency vehicle, including ambulances, police vehicles, fire department vehicles, and snow removal vehicles.

(2) The operator of a vehicle of a public utility.

(3) The operator of a vehicle that is being lawfully used for advertising purposes.

(4) The operator of a vehicle that is being used in a lawful city or community event or celebration, procession or assemblage.

(5) The activation of a theft alarm signal device.

(e) Nothing in this section shall be read to limit or create exceptions to the noise prohibitions contained in Section 11-2-9 of the Code of Ordinances of the City of Cedarburg.

(f) Enforcement shall be pursuant to Wis. Stats. 346.94(16) and 66.948.

SEC. 10-1-51 RAILROAD REGULATIONS.

(a) **Speed Limits.** It shall be unlawful for any person, firm, or corporation to run any locomotive, engine, car or cars on any railroad or railway within the limits of the City of Cedarburg at the rate of speed higher than fifteen (15) miles per hour.

(b) **Obstructing Streets.** It shall be unlawful to stop and leave standing any railroad train, locomotive, or car upon or across any street crossing, causing the obstruction of public travel thereon, for a longer period of time than five (5) minutes. It shall be unlawful to obstruct any

street crossing in the City of Cedarburg for a continuous period of more than five (5) minutes by the operation of more than one (1) train or locomotive over the same crossing.

SEC. 10-1-52 PEDESTRIAN REGULATIONS.

(a) **Obedience to Traffic Control Devices.** No person shall fail to obey the instructions of any Uniform Traffic Control Device when traveling as a pedestrian on any highway within the City of Cedarburg unless otherwise directed by a law enforcement officer.

(b) **Crossing at Crosswalks.** No pedestrian shall cross at a crosswalk except on the right half thereof whenever practicable. Where sidewalks are provided, no pedestrian shall walk along and upon an adjacent roadway except when the sidewalk is visibly unsafe, obstructed or closed to public travel.

SEC. 10-1-53 MOTOR VEHICLES ON PEDESTRIAN WAYS AND OVER PASSES.

No person shall operate or park any motor vehicle on any pedestrian way or pedestrian overpass within the City of Cedarburg except municipal or county maintenance vehicles.

SEC. 10-1-54 SCHOOL CROSSING GUARDS AND BUSES. (Ord. 2000-39)

(a) **School Crossing Guards**. Pursuant to Sec. 349.215, Wis. Stats., those adult persons hired by and acting as School Crossing Guards shall have the authority to stop vehicular traffic and to keep it stopped as long as necessary at their respective school crossings for the purpose of protection of persons who are crossing a highway in the vicinity of a school. (Ord. 2007-11)

(b) **School Buses.**

(1) All school buses may use their flashing red warning lights and stop arms while loading or unloading pupils or other authorized passengers upon all streets, highways and roadways in the City.

(2) All school bus operators shall bring their vehicle to the far right-hand side of the street, highway or roadway when loading or unloading pupils or other authorized passengers within the City.

State Law Reference: Sec. 349.215, Wis. Stats.

SEC. 10-1-55 DRIVING OVER CURBING OR SAFETY ISLANDS PROHIBITED.

(a) **Driving Over Curbing Prohibited.** It shall be unlawful for any motor vehicle to be driven or backed over any curbing in the City of Cedarburg.

(b) **Driving Over Safely Zones or Islands Prohibited.** Whenever safety zones or safety islands are marked in accordance with the Wisconsin Uniform Traffic Control Device Manual, no operator of a vehicle shall at any time drive through or over a safety zone or safety Island.

SEC. 10-1-56 MISCELLANEOUS LANE AND TURN CONTROLS.

The City Engineer, in cooperation with the Chief of Police, is authorized, when in his judgment the safety of the situation requires, to place Official Traffic Control Devices within or adjacent to intersections directing that a different course from that specified in Section 346.31, Wis. Stats., be traveled by vehicles turning at the intersection and to mark lanes for traffic designating separate lanes for slow moving traffic or for traffic moving in a particular direction.

SEC. 10-1-57 BARRIERS ACROSS STREETS FOR PLAY PURPOSES.

(a) The following streets may be set aside during the period indicated for the safety of children in coasting or other play activities:
   (1) Hamilton Road between Washington Avenue and Hilgen Avenue.

(b) No street may be set aside pursuant to Subsection (a) if that portion of the street is part of any federal, state or county trunk highway system.

(c) Such barricades, lights or warning signs as the Council directs shall be erected and maintained during the periods that such streets are set aside. The barricades shall be erected so as to accommodate access of residents along such streets to their homes to the greatest extent possible, consistent with protecting the safety of the children.

SEC. 10-1-58 AND SEC. 10-1-59 RESERVED FOR FUTURE USE.

ARTICLE E

Enforcement and Penalties

SEC. 10-1-60 PENALTIES.

(a) **Forfeiture Penalty.** The penalty for violation of any provision of this Chapter shall be a forfeiture as hereafter provided, together with court costs and fees prescribed by Sections 814.63(1) and (2) or 814.65(1), Wis. Stats., the penalty assessment for moving traffic violations and the driver improvement surcharge imposed by Sections 165.87 and 346.655, Wis. Stats., where applicable. Payment of the judgment and applicable court costs, fees, assessments and surcharges may be suspended by the sentencing court for not more than sixty (60) days. Any person eighteen (18) years of age or older who shall fail to pay the amount of the forfeiture, court costs, any penalty assessment or driver surcharge or other penalty imposed for violation of any provision of this Chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding ninety (90) days.

(b) **Other Sanctions.**

(1) By Court. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges of the defendant, order the defendant to submit to assessment and rehabilitation programs or to attend traffic safety school in addition to payment of a monetary penalty or in lieu or imprisonment.

(2) By Municipality. No person who has been convicted of a violation of any provision of this Chapter shall be issued a license or permit by the City Clerk, except dog license, until the forfeiture imposed for such violation and any penalty assessment, court costs and fees or surcharge is paid.

(c) **Forfeitures For Violation of Uniform Moving Traffic Regulations.** Forfeitures for violations of any moving traffic regulation set forth in the Wisconsin Statutes adopted by reference in Section 10-1-1 shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable Wisconsin Statute, any variations or increases for subsequent offenses; provided, however, that this Subsection shall not be construed to permit prosecution under this Chapter for any offense described in Chapters 341 to 348, Wis. Stats., for which an imprisonment penalty or fine may be imposed upon the defendant.

(d) **Forfeitures For Parking Violations.**

(1) Forfeitures for Uniform Statewide Parking. Stopping and Standing Offenses. Minimum and maximum forfeiture for violation of parking violations adopted by reference in Section 10-1-1 as described in Chapters 341 to 348, Wis. Stats., may be as found in the current edition of the Revised Uniform State Traffic Deposit Schedule or may be as provided in Subsection (d)(2).

(2) Penalty for Winter Parking Violations. The penalty for winter parking violations not

included under Subsection (d)(1) above may be a forfeiture of Eleven Dollars ($11.00) when paid within five (5) days of the issuance of the citation, Twenty-one Dollars ($21.00) when paid after five (5) days but before the end of the fifteenth (15th) day after the issuance of the citation, Thirty-one Dollars ($31.00) when paid after fifteen (15) days but before the end of the twenty-eighth (28th) day after the issuance of the citation, and Forty-one Dollars ($41.00) when paid after the twenty-eighth (28th) day after the issuance of the citation, or may be as found in the current edition of the revised Uniform State Traffic Deposit Schedule. (Ord. 92-06) (Ord. 92-54) (Ord. 2006-39)(Ord. 2011-28)

(3) Penalty for Other Parking Violations. The penalty for all other parking violations not included under Subsection (d)(1) or (2) above may be a forfeiture of Twenty Dollars ($20.00) when paid within five (5) days of the issuance of the citation, Thirty Dollars ($30.00) when paid after five (5) days but before the end of the fifteenth (15th) day after the issuance of the citation. Forty Dollars ($40.00) when paid after fifteen (15) days but before the end of the twenty-eighth (28th) day after the issuance of the citation, and Fifty Dollars ($50.00) when paid after the twenty-eighth (28th) day after the issuance of the citation, or may be as found in the current edition of the revised Uniform State Traffic Deposit Schedule. (Ord. 2006-39)

(e) **Other Violations.** Any person who shall violate any provision of this Chapter for which a penalty is not otherwise established by this Section shall be subject to a forfeiture of not less than Twenty Dollars ($20.00) nor more than Two Hundred Dollars ($200.00).

SEC. 10-1-61 ENFORCEMENT.

(a) **Enforcement Procedures**.

(1) How Enforced. This Chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this Section.

(2) Applicable Court Procedures. Except where otherwise specifically provided by the laws of the State of Wisconsin or this Code, the traffic regulations in this Code shall be enforced in the County Circuit Court.

(b) **Citations**.

(1) Uniform Citation and Complaint. The Wisconsin Uniform Traffic Citation and Complaint described and defined in the Wisconsin Statutes may be used for enforcement of all provisions of this Chapter including those provisions which describe or define parking violations contained in Section 10-1-60(d)(1) and (2), except violations of Sections 346.71 through 346.73, Wis. Stats. Violations of Sections 346.71 through 346.73, Wis. Stats., shall be reported to the District Attorney and the Wisconsin Uniform Traffic Citation shall not be used in such cases except upon written request of the District Attorney.

(2) Parking Citations.

a. The Chief of Police shall recommend a citation for use in enforcing the parking traffic offenses in this Chapter. Such citation may be used for

enforcement of parking regulations as defined and described in Section 10-1-60(d)(2) of this Chapter. The citation for parking violations shall contain a notice that the person cited may discharge the forfeiture for violation of a parking regulation and penalty thereof by complying with Subsection (c)(2) of this Section. Parking citations may be issued by law enforcement officers or by civilian employees of the Police Department.

b. Citations issued for all parking violations under this title shall conform to Sec. 345.28, Wis. Stats., and any future amendments, revisions or modifications thereof. Direct payment of the applicable minimum forfeiture may be made to the Cedarburg Police Department within twenty-eight (28) days of the issuance of said citation in lieu of a court appearance. The citation shall specify the amounts of the applicable forfeitures as provided in this title.

c. No officer or City authority shall be personally or officially responsible for the payment of any dishonored check received relative to the payment of any forfeiture.

d. If the alleged violator fails to pay the amount of the forfeiture as provided herein or to appear in court within twenty-eight (28) days after the issuance of the parking citation, the Chief of Police may take any or all of the actions authorized under Sec. 345.28, Wis. Stats.

(c) **Deposits and Stipulations.**

(1) Uniform Traffic Offenses.

a. Who May Make. Persons arrested or cited for violation of moving traffic offenses created by this Chapter shall be permitted to make deposits and stipulations of no contest or released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes. Stipulations of guilt or no contest may be made by persons arrested for violations of this Chapter in accordance with Section 66.12(1)(b) of the Wisconsin Statutes whenever the provisions of Section 345.27 of the Wisconsin Statutes are inapplicable to such violations. Stipulations shall conform to the form contained in the uniform traffic citation and complaint under Section 345.11 of the Wisconsin Statutes. Stipulations may be accepted by the Police Department.

b. Delivery or Mailing of Deposit and Stipulation. Any person stipulating guilt or no contest under the preceding Subsection must make the deposit required under Section 345.26 of the Wisconsin Statutes or, if the deposit is not established under such Statute, shall deposit a forfeited penalty as provided in the schedule established by the Chief of Police and approved by the Common Council. Deposits may be brought or mailed in lieu of court appearance to the Police Department or placed in marked depositories as directed by the Officer.

c. Receipt Required. Every officer accepting a stipulation under the provisions of this Chapter shall comply with the provisions of Sections 343.27, 343.28,

345.26(1)(a) and 345.27(2) of the Wisconsin Statutes and shall require the alleged violator to sign a statement of notice in substantially the form contained on the uniform traffic citation and complaint promulgated under Section 345.11 of the Wisconsin Statutes. The official or person receiving the deposit shall furnish and deliver or mail an original receipt for such deposit to the alleged violator and shall deliver the deposit and stipulation, and a copy of the receipt to the City Treasurer.

(2) Non-moving Traffic Offenses.

a. Direct Payment of Penalty Permitted. Persons cited (summons not issued) for violation of non-moving traffic offenses described and defined in this Chapter may discharge the penalty thereof and avoid court prosecution by mailing or forwarding within seventy-two (72) hours of the issuance of the citation to the Police Department the minimum forfeiture specified for the violation. The issuing officer shall specify thereon the amount of the applicable forfeiture as provided in this Chapter.

b. Registration Suspension. If the alleged violator does not pay the forfeiture or appear in court in response to the citation for a nonmoving traffic violation on the date specified in the citation or, if no date is specified on the citation, within twenty-eight (28) days after the citation is issued, the City may ask the Wisconsin Department of Transportation to suspend the registration of the vehicle involved or refuse registration of any vehicle owned by the person pursuant to the provisions of Sec. 345.28(4), Wis. Stats., and Subsection (c)(3) below.

c. Deposits Returned to City Treasury. The Police Department receiving deposits for non-moving traffic violations under this Subsection shall pay over such deposits to the City Treasurer. Such payment shall be accompanied by an itemized statement for each deposit of the offense charged and the name of the depositor.

d. Bond. Any officer authorized to accept deposits under Sec. 345.26, Wis. Stats., or this Section, shall qualify by taking the oath prescribed by Sec. 19.01, Wis. Stats.

(3) Registration Suspension Program.

a. The City shall participate in the Wisconsin Department of Transportation Traffic Violation and Registration Program as set forth in Sec. 345.28, Wis. Stats., and Wis. Adm. Code Trans. 128 and all amendments or changes thereto.

b. The Police Department is hereby designated as a delegated authority for purposes of Sections 85.13 and 345.28, Wis. Stats., and Wis. Adm. Code Trans. 128. The Police Department is authorized to perform, on behalf of the City, all functions required of a local authority under said Statutes and Code including, but not limited to:

1. Preparing and completing all forms and notices, notifying the Wisconsin Department of Transportation of unpaid citations for non-moving traffic violations;
2. Specifying whether the registration of vehicles involved in unpaid citations for non-moving traffic violations should be suspended and/or whether registration should be refused for any vehicle owned by persons with unpaid citations for non-moving traffic violations;
3. Determining the method by which the City will pay the Wisconsin Department of Transportation for administration of the program; establishing the effective date for participation;
4. And taking such other action as is necessary to institute and continue participation in the Wisconsin Department of Transportation Traffic Violation and Registration Program.

c. The Chief of Police is hereby authorized to assign a member of the Police Department to perform such acts as are necessary to effectuate this Subsection.

d. In addition to all applicable fines and court costs, the cost of using the Wisconsin Department of Transportation Traffic Violation and Registration Program shall be assessed as permitted by Sec. 345.28(4)(d), Wis. Stats. The Police Department may refuse to notify the Wisconsin Department of Transportation of payment on a citation until all applicable fines and costs, including costs assessed under the preceding sentence, are paid.

e. This Subsection shall not be interpreted as requiring that all unpaid citations for non-moving traffic violations be processed through the Wisconsin Department of Transportation Traffic Violation and Registration Program. The City's participation in such program shall be in addition to any and all other means legally available to enforce such citations.

State Law Reference: Sec. 345.28, Wis. Stats.; Chapter Trans. 128, Wis. Adm. Code.

CHAPTER 2

Bicycles

10-2-1 Definitions
10-2-2 Manner of Operation Restricted
10-2-3 Lighting and Other Equipment
10-2-4 Parking a Bicycle
10-2-5 Rules of the Road
10-2-6 Registration of Bicycles; Rules of Operation
10-2-7 Skateboards
10-2-8 In-line Skates
10-2-9 Penalties

SEC. 10-2-1 DEFINITIONS.

As used in this Chapter:

(a) **Bicycle** means every device propelled by the feet acting upon pedals and having wheels, any two (2) of which are not less than fourteen (14) inches in diameter.

(b) **Bicycles' Lane** means that portion of a roadway set aside for exclusive use of bicycles and so designated by appropriate signs and markings by the responsible body.

(c) **Bike Route** means any bicycle lane, bicycle way or highway which has been duly designated by the responsible governing body and identified by appropriate signs and markings.

(d) **Bicycle Way** means any path or sidewalk, or portion thereof, designated for the use of bicycles by the responsible governing body.

(e) **Carrier** means any device attached to a bicycle designed for carrying articles.

(f) **Identification Tag** means a metal plate or sticker indicating that a bicycle is registered.

(g) **In-Line Skates** means skates with wheels arranged singly in a tandem line rather than in pairs. (Ord. 94-33)

(h) **Right-of-Way** means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(i) **Roller Device** means roller skates irrespective of the configuration of the wheels, roller blades, skate boards, scooters, unicycles or any other wheel device or apparatus whether or not affixed or strapped to the body or upon which the operator rests or rides, which is propelled by power from the operator of such device, excepting bicycles.

SEC. 10-2-2 MANNER OF OPERATION RESTRICTED.

No bicycle shall be allowed to proceed in any street in the City by inertia or momentum with the feet

of the rider removed from the bicycle pedals. No rider of a bicycle shall remove both hands from the handlebars or practice any trick or fancy riding in any street in the City nor shall any bicycle rider carry or ride any other person so that two (2) persons are on the bicycle at one time, unless a seat is provided for a second person.

SEC. 10-2-3 LIGHTING AND OTHER EQUIPMENT.

No person shall operate a bicycle upon a highway unless equipped as required in Sec. 347.81, Wis. Stats.

SEC. 10-2-4 PARKING A BICYCLE.

No person shall leave a bicycle at such a place or in such a way as to create a hazard to pedestrians, automobile operators or to anyone else. Bicycles shall be parked either upon the roadway against the curb, in bicycle racks or, if on the sidewalk, in such a manner as to afford the least obstruction to pedestrian traffic, and not in such a manner as to obstruct the ingress and egress to buildings used by the public. If there is no bicycle rack or other facility intended to be used for the parking of bicycles in the vicinity, the operator may park a bicycle on the sidewalk in an upright position parallel to and within twenty-four (24) inches of the curb.

SEC. 10-2-5 RULES OF THE ROAD.

The provisions of Chs. 346 and 347, Wis. Stats., and applicable City Ordinances shall govern the operation of bicycles where appropriate.

SEC. 10-2-6 REGISTRATION OF BICYCLES; RULES OF OPERATION. (Ord. 2001-34)

(a) **Registration Required.** No person who resides in the City of Cedarburg shall ride or propel a bicycle upon any public path set aside for the exclusive use of bicycles unless such bicycle has been registered and a registration sticker attached in a conspicuous place to the rear of the frame. No person who resides in the City of Cedarburg shall ride or propel a bicycle upon any of the streets or public highways unless such bicycle has been registered and a registration sticker attached thereto.

(b) **Issuance of License.** Application for license shall be made to the Police Department upon blanks provided containing the name, date of birth and address of the owner, together with a complete description of the bicycle. Upon proper application and payment of the appropriate license fee, the Police Department shall issue a bicycle registration sticker. The sticker shall be issued beginning January 1, 2002 and shall be effective for as long as the bicycle is owned by the individual. The fee shall be Five dollars ($5.00). The Police Department shall keep a record of the date of the issuance of each sticker, to whom issued, and the number thereof. Registration shall be serially numbered and kept on file at the Police Department.

(c) **License Sticker.** The sticker fee to be paid for each bicycle shall be as stated in Subsection (b). Said fee shall be paid in advance at the time of the issuance of the sticker by the Police Department. All sticker fees shall be paid into general funds of the City.

(d) **Rules of Operation** Every license issued hereunder shall be subject to the following conditions:

(1) Every person propelling or riding a bicycle upon a public roadway shall be subject to the provisions of all Ordinances and state laws applicable to the operator of any vehicle, except those provisions with reference to equipment of motor vehicles and except those provisions which, by their nature, would have no application.

(2) No person may operate a bicycle upon a highway, bicycle lane or bicycle way during the hours of darkness unless such bicycle is equipped with or the operator is wearing a lamp emitting a white light visible from a distance of at least five hundred (500) feet to the front of such bicycle. Such bicycle shall also be equipped with a red reflector that has a diameter of at least two (2) inches of surface area on the rear so mounted and maintained as to be visible from all distances from fifty (50) to five hundred (500) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to but not in lieu of the red reflector.

(3) No person may operate a bicycle upon a highway, bicycle lane or bicycle way unless all braking equipment with which the bicycle was originally provided is in good working order. No person may operate a bicycle equipped with a coaster break upon a highway, bicycle lane or bicycle way unless such brake will enable the operator to make the rear wheel skid on dry, level, clean pavement.

(4) Every bicycle, when operated upon a street or highway, shall be equipped with a horn or bell in good working order capable of emitting sound audible under normal conditions for a distance of not less than one hundred (100) feet and no bicycle shall be equipped with a siren or whistle or shall use any such bell or horn otherwise than as a reasonable warning to other users of the street or highway.

(5) No such bicycle shall be operated upon sidewalks between Spring Street and Sheboygan Road along Washington Avenue. (Ord. 2001-20)

(6) Every bicycle, when operated on a highway, shall be kept as close to the right-hand curb as practicable.

(7) Every person, when operating a bicycle upon a highway, may ride two (2) abreast if such operation does not impede the normal and reasonable movement of traffic. Bicycle operators riding two (2) abreast on a 2-lane or more roadway shall ride within a single lane.

(8) No person riding upon a bicycle shall cling or attach himself or his bicycle to any other moving vehicle upon a street or highway.

(9) The operator of a bicycle shall not carry another person on the bicycle when operating such bicycle upon any highway in the City, nor shall the operator of any

such bicycle tow or draw any coaster, sled, person on roller skates, toy vehicle and other similar vehicle on a public highway.

(10) No person operating a bicycle upon a public highway shall participate in any race or speed or endurance contest with any other bicycle or vehicle. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

(11) No rider of a bicycle shall remove both hands from the handlebars or feet from the pedals or practice any acrobatic or fancy riding on any street.

(12) Every person operating a bicycle upon a street or highway shall stop for all arterial stop signs and for traffic signals unless otherwise directed by a police officer.

(13) No bicycle operator shall suddenly stop, slow down or turn without giving an arm signal required by state law for the operator of motor vehicles.

(14) Wherever authorized signs are erected for the control of motor vehicle traffic, the bicycle operator shall obey such signs except when regulations applicable to pedestrians.

(15) Every person operating a bicycle emerging from an alley, driveway or building shall stop prior to riding on or across a sidewalk or roadway. Such operator shall yield the right-of-way in all cases to all pedestrians approaching on said sidewalk and to all vehicles approaching on said roadway.

(e) **Suspension.** The Chief of Police may suspend the registration and remove the license plate from any bicycle operated contrary to any state law or City ordinance, such suspension and removal to continue for a period not to exceed thirty (30) days. Such suspension and removal shall be in addition to other penalties provided hereunder. Registration cards shall be shown to any police officer on demand or when ordered to appear for any violation of this Section.

(f) **Responsibility of Guardian.** No parent or guardian of any child shall authorize or knowingly permit such child to violate any of the provisions of Sections 346.78 to 346.81 of the Wisconsin Statutes.

(g) **Removal and Alteration of Identification Tags**

(1) Removal Prohibited. No person shall remove an identification tag from a bicycle during the period for which issued except upon a transfer of ownership or when the bicycle is dismantled and no longer operated upon any highway within the City.

(2) Alteration Prohibited. No person shall alter or counterfeit any identification tag.

SEC 10-2-7 SKATEBOARDS.

No person may ride or otherwise use a skateboard upon sidewalks in the central business district, in outlying business districts and pedestrian paths.

SEC. 10-2-8 IN-LINE SKATES; GENERAL REGULATIONS FOR USE OF (Ord. 94-33)

(a) State laws applicable: Every person using in-line skates upon public roadway shall

be subject to the provisions of all ordinances and State laws applicable to the operator of any vehicle, except those provisions with reference to equipment of vehicle and except those provisions which by their nature would have no application.

(b) Sidewalks or walkways: Every person using in-line skates upon a sidewalk or pedestrian walkway shall yield the right-of-way to any pedestrian and shall exercise due care when passing any other persons proceeding in the same direction. No in-line skater shall use the sidewalks in the central business district, outlying business districts and pedestrian paths.

(c) In-line skaters to stay on the right side of roadway: Every person using in-line skates on a public roadway shall keep as close to the right hand curb as practicable. In-line skaters are prohibited to use the roadway on all state and county trunk highways.

(d) Clinging to moving vehicles prohibited: It shall be unlawful for any person using in-line skates to cling to or attach to any bicycle or other moving vehicle upon a public roadway.

(e) Observance of traffic regulations: Every person using in-line skates shall stop for all arterial and automatic traffic signals.

(f) Yielding to Traffic: The operator of a vehicle shall yield the right-of-way to a user of in-line skates in the same manner as for bicyclists and pedestrians under Section 346.23, 346.24, 346.37 and 346.38 of the Wisconsin Statutes. Every person when using in-line skates shall, upon entering a public roadway yield the right-of-way to motor vehicles, except that a person using in-line skates shall be subject to the same regulations as bicyclists and pedestrians under Sections 346.23, 346.24, 346.37 and 346.38 of the Wisconsin Statutes.

(h) Every person using in-line skates upon a one-way street shall proceed in the direction of the one-way traffic.

(i) Every person using in-line skates upon a public roadway must during hours of darkness wear or have attached to themselves a light or reflective material that is visible for a distance of five hundred (500) feet when directly in front of lawful upper beams of headlamps on a motor vehicle.

(j) No person using in-line skates upon a public roadway shall participate in any game, race, or speed or endurance contest with another in-line skater, bicycle or vehicle. No person shall use their in-line skates at a speed greater than is reasonable and prudent under existing conditions.

SEC. 10-2-9 PENALTIES. (Ord. 94-33)

(a) Any person sixteen (16) years of age or older who shall violate any provision of this Chapter may be issued a Uniform Traffic Citation, and upon conviction thereof may be required to forfeit not more than Two Hundred Dollars ($200.00) together with the costs of prosecution, and in default of such payment shall be imprisoned in the county jail until payment is made but not exceeding six (6) months.

(b) Any person fourteen (14) years of age through fifteen (15) years of age who shall violate any provisions of this Chapter may be issued a citation and be subject to the penalties provided by the Deposit Schedule and, upon conviction thereof, may be required to forfeit not more than Twenty-five Dollars ($25.00), together with the cost of the prosecution and, in default of such payment, the Court may suspend the child's operating privileges, as defined in Sec. 340.01, Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days.

(c) Any person under fourteen (14) years of age who shall violate any provision of this chapter may be issued a special Violation Warning Notice along with the following additional actions:

(1) First offense in one (1) year: a warning letter sent to the parent or guardian requiring their signature and return of the warning notice to the Police Department.

(2) Second offense in the same year: a warning letter mailed to parent or guardian.

(3) Third offense in the same year: a mandatory parent-child-police conference.

(4) Fourth and subsequent offense in the same year: mandatory referral to Ozaukee County Juvenile Court.

(d) Any parent or guardian of any child who authorizes or knowingly permits such child to violate any of the provisions of this Chapter may be subject to the provisions of Sections 346.77 and 346.82(1), Wis. Stats.

CHAPTER 3

Snowmobiles

10-3-1 State Snowmobile Laws Adopted
10-3-2 Applicability of Traffic Regulations to Snowmobiles
10-3-3 Speed; Hours of Operation; Equipment
10-3-4 Unattended Vehicles
10-3-5 Operation on Sidewalks Prohibited
10-3-6 Snowmobile and Other Off-Highway Vehicle Operation Restricted
10-3-7 Restrictions on Operators
10-3-8 Accidents and Accident Reports
10-3-9 Snowmobile Routes and Trails Designated
10-3-10 Penalty
10-3-11 Enforcement

SEC. 10-3-1 STATE SNOWMOBILE LAWS ADOPTED.

Except as otherwise specifically provided in this Chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made part of this Chapter as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this Chapter. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

350.01 Definitions.
350.02 Operation of Snowmobiles on or in the Vicinity of Highways.
350.03 Right-of-way.
350.04 Snowmobile Races, Derbies and Routes.
350.045 Public Utility Exemption.
350.047 Local Utility Exemption.
350.05 Operation by Youthful Operators Restricted.
350.055 Safety Certification Program Established.
350.06 Firearms and Bows.
350.07 Driving Animals.
350.08 Owner Permitting Operation.
350.09 Head Lamps, Tail Lamps and Brakes, Etc.
350.10 Miscellaneous Provisions for Snowmobile Operation.
350.12 Registration of Snowmobiles.
350.125 Completion of Application for Registration by Snowmobile Dealers.
350.13 Uniform Trail Signs and Standards.
350.15 Accidents and Accident Reports.

350.17 Enforcement.
350.18 Local Ordinances.
350.19 Liability of Landowners.
350.99 Parties to a Violation.

SEC. 10-3-2 APPLICABILITY OF TRAFFIC REGULATIONS TO SNOWMOBILES.

No person shall operate a snowmobile upon any street, highway or alley within the City of Cedarburg in violation of the traffic regulation provisions of Sections 346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1) and 346.94(1), (6), (6m) and (9), Wis. Stats.

SEC. 10-3-3 SPEED; HOURS OF OPERATION; EQUIPMENT.

(a) **Speed.** No person shall operate a snowmobile within the City or on any trail designated in Section 10-3-6 of this Chapter at a speed in excess of fifteen (15) miles per hour.

(b) **Hours of Operation Restricted.** Except on a designated trail, no person shall operate a snowmobile or other off-highway vehicle anywhere within the City between the hours of 10:00 p.m. and 7:00 a.m., except for returning home via the most direct route.

(c) **Restriction on Equipment.** No snowmobile or other vehicle operating on the snowmobile route shall be allowed if it has an expansion chamber or any muffler other than the type and size provided by the manufacturer. Each snowmobile must display a lighted headlight and taillight at all times and said lights must conform to the requirements of Section 350.09 of the Wisconsin Statutes.

SEC. 10-3-4 UNATTENDED VEHICLES.

No person shall leave or allow a snowmobile owned or operated by him to remain unattended on any public highway or public property while the motor is running or with the starting key left in the ignition.

SEC. 10-3-5 OPERATION ON SIDEWALKS PROHIBITED.

No person shall operate a snowmobile upon any sidewalk, pedestrian way or upon the area between the sidewalk and the curb line of any street in the City, except as specifically authorized by Sec. 10-3-6 or for the purpose of crossing to obtain immediate access to an authorized area of operation.

SEC. 10-3-6 SNOWMOBILE AND OTHER OFF-HIGHWAY VEHICLE OPERATION RESTRICTED.

(a) **Operation on Private Property.** Except as permitted by this Code of Ordinances, it shall be unlawful to operate any snowmobile or any other motor-driven craft or vehicle principally manufactured for off-highway use on the City streets, alleys, parks, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the express consent of the owner before operation of such craft or vehicle on private property not owned or controlled by him.

(b) **Permitting Operation by Improper Persons Prohibited.** No owner or person having charge or control of a snowmobile shall authorize or permit any person to operate such snowmobile who is not permitted under state law to operate such or who is under the influence of an intoxicant or a dangerous narcotic drug.

(c) **Operation While Under Influence Prohibited.** Sec. 346.63, Wis. Stats., shall apply to the operation of a snowmobile any place within the City.

(d) **Operation in Parks.** No person shall drive a snowmobile in any park within the City except upon designated snowmobile trails as shall be designated by the Common Council.

(e) **Written Consent of Owner Required.** The consent required under Sec. 350.10(6), (11), (12) and (13), Wis. Stats., and in Subsection (a) above shall be written consent dated and limited to the year in which the consent is given. If the property is owned or leased by more than one (1) person, the consent of each must be obtained.

SEC. 10-3-7 RESTRICTIONS ON OPERATORS.

(a) No person under the age of twelve (12) years may operate a snowmobile. No person over the age of twelve (12) years but under the age of sixteen (16) years may operate a snowmobile unless he holds a valid snowmobile safety certificate or is accompanied by a person over eighteen (18) years of age or by a person over fourteen (14) years of age having a snowmobile safety certificate issued by the Department of Natural Resources.

(b) No person shall operate any snowmobile upon any street, alley or other public right-of-way in the City unless such person shall have a valid motor vehicle operator's license or unless such operator is accompanied by a person who has a valid motor vehicle operator's license and who is occupying a seat on the vehicle.

SEC. 10-3-8 ACCIDENTS AND ACCIDENT REPORTS.

(a) If he can do so without serious danger to himself or to persons on board, the operator of a snowmobile involved in a snowmobile accident within the City shall stop his snowmobile and shall render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize any danger caused by the accident and shall give his name and address and identification of his snowmobile to any person injured and to the owner of any damaged in the accident.

(b) If the snowmobile accident results in death or injury to any person or total property damage in excess of Two Hundred Dollars ($200.00), every operator of a snowmobile involved in

such accident shall, as soon as possible, notify the Police Department of the accident and shall, within ten (10) days after the accident, file a written report thereof with the department on forms prescribed by it.

(c) If the operator of a snowmobile is physically incapable of making the report required by this Section and there was another occupant in the snowmobile at the time of the accident capable of making the report, he shall make such report.

(d) "Snowmobile accident" means a collision, accident or other casualty involving a snowmobile.

SEC. 10-3-9 SNOWMOBILE ROUTES AND TRAILS DESIGNATED.

(a) **Route Designated.** Except as provided in Sections 350.02 and 350.045 of the Wisconsin Statutes, or for snowmobile events authorized in accordance with Section 350.04, Wis. Stats., no person shall operate a snowmobile upon any public right-of-way, golf course or any other public municipal property in the City of Cedarburg except upon those snowmobile routes and trails designated and shown in that certain map entitled "Snowmobile Routes and Trails in the City of Cedarburg," a copy of which is on file in the offices of the City Clerk and Police Department and which is incorporated herein by reference as though fully set forth and except for purposes of testing and maintaining snowmobiles and moving them to trailers for purposes of transport. (Ord. 90-44)

(b) **Snowmobiling in Public Parks.** No person shall operate an all-terrain vehicle or snowmobile on any land or waters within boundaries designated as City skating rinks and/or City parks, and no person shall load or unload any such vehicle in any City park.

(c) **Trail Markers.** The Chief of Police is directed and authorized to procure, erect and maintain appropriate snowmobile route, trail and limit signs and markers as approved by the State Department of Natural Resources under Section 350.13, Wis. Stats. The Chief of Police shall have the power to declare the stated snowmobile routes and trails either open or closed.

(d) **Markers to be Obeyed** No person shall fail to obey any route or trail sign, marker or limit erected in accordance with this Section.

Cross Reference: Section 10-1-54.

SEC. 10-3-10 PENALTY.

Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not more than Five Hundred Dollars ($500.00), together with the costs of prosecution, and, in default of payment thereof, may be imprisoned in the county jail for not exceeding ten (10) days, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wisconsin Statutes for the same offense and further provided that the penalty and forfeiture for parking violations on highways shall be the amount applicable to such violations by owners or operators of motor vehicles under Title 10, Chapter 1, of this Code of Ordinances.

SEC. 10-3-11 ENFORCEMENT.

(a) **Uniform Citation for Highway Violations.** The uniform traffic citation promulgated under Sec. 345.11, Wis. Stats., shall be used for violations of this Chapter relating to highway use except as herein provided.

(b) **Parking Violations.** The special traffic citation described and defined in Title 10, Chapter 1, of this Code of Ordinances shall be used for enforcement of violations of rules of the road relating to parking of vehicles adopted by reference in Section 10-3-1 of this Chapter.

(c) **Other Violations.** All violations of this Chapter not described in Subsections (a) or (b) shall be enforced in accordance with Sections 66.12 and 66.114 of the Wisconsin Statutes. Stipulations of guilt or no contest may be made as provided in Sec. 66.12(1)(b), Wis. Stats., in substantially the form provided in the uniform traffic citation within five (5) days of the date of the citation for such violation. Bail deposits may also be made under Sec. 66.12, Wis. Stats. Such deposits shall include a Three Dollars ($3.00) Clerk's fee and costs of prosecutions.

(d) **Police Department to Receive Stipulations and Penalties.** Stipulations, forfeited penalties and deposits for obtaining release from arrest authorized under this Chapter may be accepted at the Police Department offices by the Chief or officer designated by him. The officer authorized to accept penalties and deposits shall be bonded and such bond shall be filed with the City Clerk.

(e) **Forfeited Penalties and Deposits.** Except as otherwise provided in Sec. 345.26, Wis. Stats., and the deposit schedule adopted by the State Board of County Judges, required forfeited penalties and deposits or bail not including costs or fees for violation of this chapter shall be as established by the schedule adopted by the Common Council.

CHAPTER 4

All-Terrain Vehicles, Utility Terrain Vehicles and Off-Road Motor Vehicle Operation

10-4-1 State All-Terrain Vehicle and Utility Terrain Vehicle Laws Adopted
10-4-2 Speed Limits
10-4-3 Penalties
10-4-4 Unauthorized Operation of Motor Vehicles on Public or Private Property

SEC. 10-4-1 STATE ALL-TERRAIN VEHICLE AND UTILITY TERRAIN VEHICLE LAWS ADOPTED.

The provisions describing and defining regulations with respect to all-terrain vehicles and utility terrain vehicles in the following enumerated Subsections of Sec. 23.33, Wis. Stats., and any future amendments or revisions, are hereby adopted by reference and made part of this Section as if fully set forth herein. Any acts required to be performed by the following Statutory Subsections or which are prohibited by such Statutory Subsections are required to be performed by this Section or are prohibited by this Section:

23.33(2)	Registration
23.33(3)	Rules of operation [including Subsections (a) through (i)]
23.33(4)	Operation on or near highway [including Subsections (a) through (e)]
23.33(5)(a)(c)	Age restrictions
23.33(6)	Equipment requirements [including Subsections (a) through (e)]
23.33(7)	Accidents [including Subsections (a) and (b)]
23.33(1)	Definitions [including Subsections (a) through (n)]

SEC. 10-4-2 RESTRICTIONS ON ATV AND UTV OPERATION. No person shall operate any all-terrain vehicle within the City except for the purposes of testing, maintenance, or moving vehicles onto trailers or other means of transport. No person shall operate any utility terrain vehicle within the City except as allowed by Wis. Stat. § 23.33. (Ord. 2016-07)

SEC. 10-4-3 PENALTIES.

Violation of this Chapter shall be punishable by a forfeiture and enforced pursuant to Sections 10-3-10 and 10-3-11.

SEC. 10-4-4 UNAUTHORIZED OPERATION OF MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY.

(a) **Purpose.**

(1) The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands including damage or destruction of vegetation, animal life and improvements to the lands; and

(2) The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and

(3) The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and

(4) The unauthorized off-road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

(b) **Definitions**. For purposes of this Section, the terms below shall be defined as follows:

(1) Unauthorized shall mean without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.

(2) Off-Road shall mean any location which:

a. Is not a paved or maintained public street or alley; or

b. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or

c. Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creekbed, riverbed or lake provided, however, that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, riverbed or lake.

(3) Operation shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

(4) Motor Vehicle shall mean, for purposes of this Section, any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. Motor vehicle shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this Section shall not be so defined while:

a. It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites provided such operation is by persons having legitimate business on such lands or sites;

b. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.

c. It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

(c) **Unauthorized Off-road Operation Prohibited.**

(1) The unauthorized off-road operation of a motor vehicle is prohibited.

(2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in authorized areas pursuant to Sections 10-3-9 and 10-4-2, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the City streets, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(d) **Prohibited Use of Snowmobile Trails.** Except as provided in Section 10-4-2 and Subsection (b)(4) above, no person shall operate any motor vehicle other than a snowmobile on a snowmobile trail.

CHAPTER 5

Abandoned and Junked Vehicles

10-5-1 Abandoned Vehicles; Definitions
10-5-2 Removal and Impoundment of Vehicles
10-5-3 Removal, Storage, Notice or Reclaimer of Abandoned Vehicles
10-5-4 Disposal of Abandoned Vehicles
10-5-5 Report of Sale or Disposal
10-5-6 Owner Responsible for Impoundment and Disposal Costs
10-5-7 Conflict with Other Code Provisions
10-5-8 Junked Vehicles and Appliances on Private Property

SEC. 10-5-1 ABANDONED VEHICLES; DEFINITIONS.

(a) **Abandonment of Vehicles Prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Cedarburg for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the City of Cedarburg or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than seventy-two (72) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance. After notification to the owner pursuant to Subsection 10-5-3(b), any abandoned vehicle may be impounded until lawfully

claimed or disposed of under Section 10-5-4.

(b) **Definitions.** For purposes of this Chapter, the following definitions shall be applicable:

(1) Vehicle shall mean a motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.

(2) Unattended shall mean unmoved from its location with no obvious sign of continuous human use.

(3) Street shall mean any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.

(c) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:

(1) A vehicle shall be presumed unattended if it is found in the same position seventy-two (72) hours after issuance of a traffic ticket or citation or placement of the notice described in Section 10-5-3(b)(1) and if such traffic ticket or citation or notice remains placed upon the windshield during said seventy-two (72) hours.

(2) Any vehicle left unattended for more than seventy-two (72) hours on any public street or public ground or left unattended for more than seventy-two (72) hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this Subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by the Chief of Police.

(d) **Exceptions**. This Section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with City zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

SEC. 10-5-2 REMOVAL AND IMPOUNDMENT OF VEHICLES.

Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of Section 10-5-3.

SEC. 10-5-3 REMOVAL STORAGE, NOTICE OR RECLAIMER OF ABANDONED VEHICLES.

(a) **Applicability.** The provisions of this Section shall apply to the removal, storage, reclaimer or disposal of abandoned vehicles as defined in Section 10-5-1.

(b) **Removal.**

(1) Notification of a violation hereunder and order for removal may be accomplished by the Police Department of the City of Cedarburg by placing a notice in a conspicuous place on the motor vehicle, setting forth briefly the applicable provisions of this Section and the date of the notice; in addition, written notice of such violation and

order for removal shall be sent by certified mail to the registered owner's last-known address and, in case that said motor vehicle is located on private property, to the owner of said property, allowing seventy-two (72) hours from the date of said notice for the removal of said vehicle.

(2) Any police officer who discovers any motor vehicle, trailer, semi-trailer or mobile home on any public street or highway or any private or public property in the City of Cedarburg which has been abandoned and for which no response has been received to the notifications placed on the vehicle and sent to the owner shall cause the vehicle to be removed to a suitable place of impoundment.

(3) Any police officer who discovers any motor vehicle, trailer, semi-trailer or mobile home on any public street or highway or public or private property in the City of Cedarburg which is in violation of parking restrictions or other municipal ordinances or state statutes or is otherwise impeding traffic or threatening public safety and convenience may cause the vehicle to be removed to a suitable place of impoundment without providing the notifications required by Section 10-5-3(b)(1).

(4) Upon removal of the vehicle, the police officer shall notify the Chief of Police or his designee of the abandonment and of the location of the impounded vehicle.

(c) **Storage and Reclaimer.** Any abandoned vehicle which is determined by the Chief of Police or his designee to be abandoned shall be retained in storage for a period of fourteen (14) days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Chief of Police or his designee determines an abandoned vehicle to have a value of less than One Hundred Dollars ($100.00), or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of seven (7) days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason.

All substantially complete vehicles in excess of nineteen (19) model years of age shall be deemed as a having value in excess of One Hundred Dollars ($100.00). Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to the Chief of Police or his designee to prove an ownership or secured party interest in said vehicle.

(d) **Notice to Owner or Secured Party.** Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:

(1) That the vehicle has been deemed abandoned and impounded by the City of Cedarburg;

(2) The "determined value" of the abandoned vehicle;

(3) If the cost of towing and storage costs will exceed the determined value of the vehicle;

(4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within fourteen (14) days of the date of notice, unless the vehicle has been determined to have a value less than One Hundred Dollars ($100.00) or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven (7) days upon the payment of the aforesaid charges; and

(5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

SEC. 10-5-4 DISPOSAL OF ABANDONED VEHICLES. (Ord. 2007-04)

Any abandoned vehicle impounded by the City which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this Chapter may be sold by public auction sale, Internet auction, or public sale. In the event the abandoned vehicle is sold by public auction or public sale, sealed bids must be received. A Class I Notice, including the description of the vehicles, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale. In the event the abandoned vehicle(s) is sold by Internet auction, a third party shall assist in the sale of the vehicle provided that a list shall be preserved of the vehicle(s) sold, the price for each vehicle, and the name and owner from whom the vehicle was received. Three days' notice shall be given to the public in the official newspaper of the City that unclaimed vehicles will be placed with an Internet auction site. It shall not be necessary to publish a list of the vehicles to be sold, but it shall be sufficient to give notice that articles will be sold via the Internet, naming the Website and giving the beginning date of any such sale. The auction company shall pick up the vehicle(s) and relocate the vehicle(s) to their facility from which the vehicle(s) will be picked up upon sale. The City shall also endeavor to include a notice on its official City Website, although failure to do so shall not void any sale.

SEC. 10-5-5 REPORT OF SALE OR DISPOSAL.

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the City for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and

may be sold again. Any listing of vehicles to be sold by the City shall be made available to any interested person or organization which makes a written request for such list to the Police Department. The Police Department may charge a reasonable fee for the list.

SEC. 10-5-6 OWNER RESPONSIBILITY FOR IMPOUNDMENT AND DISPOSAL COSTS.

(a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the City against the owner.

(b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

SEC. 10-5-7 CONFLICT WITH OTHER CODE PROVISIONS.

In the event of any conflict between this Section and any other provisions of this Municipal Code, this Chapter shall control.

SEC. 10-5-8 VEHICLES AND APPLIANCES ON PRIVATE PROPERTY.

(a) **Storage of Automobiles Restricted.** No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery or appliances shall be stored unenclosed outside a building upon private property within the City for a period exceeding ten (10) days unless it is in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance.

(b) **Definitions.**

(1) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this Section is defined as follows: motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

(2) The term "unlicensed - motor vehicles, truck bodies, tractors or trailers" as used in this Chapter is defined as follows: motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

(3) The term "motor vehicle" is defined in Sec. 340.01(35), Wis. Stats.

(4) The term "inoperable appliance" is defined as any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

(c) **Exceptions.** This Section shall not apply to any motor vehicle or motor vehicle accessories

stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided such vehicles are stored in compliance with the Ordinances of the City. Also excepted are motor vehicles registered pursuant to Sections 341.265 and 341.266, Wis. Stats. In other situations, the Common Council may issue temporary permits permitting an extension of not to exceed an additional thirty (30) days' time to comply with this Section where exceptional facts and circumstances warrant such extension.

(d) **Enforcement.**

(1) Whenever the Police Department shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the City, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicle or appliance is not removed within five (5) days, the Police Department shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.

(2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the Chief of Police shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Sections 10-5-3 through 10-5-6 by the Chief of Police or his duly authorized representative. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.

(e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a penalty as provided in Section 1-1-7. Each motor vehicle or appliance involved shall constitute a separate offense.

CHAPTER 6

Neighborhood Electric Vehicles and Golf Carts

10-6-1 Neighborhood Electric Vehicles; Definitions, Standards, Permitted Users, Permitted Uses, Operation
10-6-2 Golf Carts; Definitions, Permitted Uses

SEC. 10-6-1 NEIGHBORHOOD ELECTRIC VEHICLES (Ord. 2008-14)

(a) **DEFINITION**. "Neighborhood electric vehicle" (NEV) means a self-propelled motor vehicle that has successfully completed the neighborhood electric vehicle America Test program conducted by the Federal Department of Energy and that conforms to the definition and requirements for low speed vehicles as adopted in the Federal Motor Vehicle Safety Standards for "low-speed vehicles" under 49 CFR 571.3(b) and 571.500. Electric golf carts are excluded from the definition of an NEV.

(b) **STANDARDS**. NEVs shall have 4-wheels, shall have a speed range of at least 20 miles per hour but not greater than 25 miles per hours on paved surfaces; and shall have a gross vehicle weight at rest of less than 3,000 pounds. NEVs shall meet the general test conditions under 49 CFR 571.50056, and shall have all of the following items of equipment:

(1) Headlamps;
(2) Front and rear turn signals
(3) Stop lamps;
(4) Reflex reflectors; one red on each side as far to the rear as practicable, and one red on the rear;
(5) An exterior mirror mounted on the driver's side and either an exterior mirror on the passenger side or an interior rearview mirror;
(6) Parking brake;
(7) A windshield that conforms to the requirements of the federal motor vehicle safety standard on glazing materials (49 CFR 571.205);
(8) A vehicle identification number (VIN) that complies with Federal law (49 CFR 565);
(9) A Type 1 or Type 2 seatbelt assembly conforming to 49 CFR 571.209, and Federal Motor Safety Standard No. 209, for each designated seating position.

(c) **PERMITTED USERS OF NEIGHBORHOOD ELECTRIC VEHICLES.** To use a NEV on the streets of the City of Cedarburg the operator must possess a valid Wisconsin driver's license.

(d) **PERMITTED USE OF NEIGHBORHOOD ELECTRIC VEHICLES ON CITY STREETS.** A licensed individual may operate a NEV on the streets of the City of Cedarburg having a posted speed limit of 35 miles per hour or less, and the headlamps must be on during operation. The use of an NEV is not permitted on a State Highway.

(e) **OPERATION OF NEIGHBORHOOD ELECTRIC VEHICLES.** The operation of NEVs as permitted herein shall in all respects be in compliance with the City of Cedarburg Code of Ordinances and all State of Wisconsin laws.

SEC. 10-6-2 GOLF CARTS (Ord. 2016-07)

(a) **DEFINITION**. "Golf cart" means a self-propelled vehicle with a steering wheel that is designed to have a maximum speed of no more than 25 miles per hour on a flat, level surface.

(b) **GENERAL RULE.** No person may operate a golf cart upon any public highway of the City except as allowed in subsection (c).

(c) **GOLF CART USE PERMITTED AS PART OF SPECIAL EVENT OPERATIONS.** A person may operate a golf cart only upon any highway enumerated in subsection (d) and only if such operation is in connection with the operations of a concert, fair, festival, or other special event taking place within the City.

(d) **CITY STREETS ENUMERATED.** Operation of a golf cart under subsection (c) is allowed only upon the following highways:

1. Upon Bridge Road between Evergreen Boulevard and Mequon Avenue
2. Upon Center Street between Washington Avenue and Hanover Avenue
3. Upon Cleveland Street between Washington Avenue and Evergreen Boulevard
4. Upon Columbia Road between Mequon Avenue and Washington Avenue
5. Upon Evergreen Boulevard between Cleveland Street and Bridge Road
6. Upon Hanover Avenue between Cleveland Street and Western Road
7. Upon Hilbert Avenue between Portland Road and Spring Street
8. Upon Madison Avenue between Bridge Road and Cleveland Street
9. Upon Mequon Avenue between Bridge Road and Columbia Road
10. Upon Mill Street between Hanover Avenue and Portland Road
11. Upon Portland Road between Columbia Road and Hilbert Avenue
12. Upon Riveredge Drive between Bridge Road and the northern boundary of Boy Scout Park
13. Upon St. John Avenue between Cleveland Street and Bridge Road
14. Upon Spring Street between Hilbert Avenue and Washington Avenue
15. Upon Turner Street between Washington Avenue and Hanover Avenue
16. Upon Washington Avenue between Spring Street and Sheboygan Road
17. Upon Western Road between Washington Avenue and St. John Avenue

(e) **PENALTY.** Upon conviction for a violation of this section, the operator shall forfeit not less than $30.00 nor more than $500.00, plus all applicable statutory surcharges.

TITLE 11

Offenses and Nuisances

Chapter 1	State Statutes Adopted
Chapter 2	Offenses Against Public Safety and Peace
Chapter 3	Offenses Against Property
Chapter 4	Obscenity
Chapter 5	Offenses Involving Alcoholic Beverages
Chapter 6	Offenses by Juveniles
Chapter 7	Public Nuisances

CHAPTER 1

State Statutes Adopted

SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

(1)	29.601(3)(a)	Deleterious substances.
(2)	101.123	Smoking prohibited.
(3)	167.10	Fireworks regulated.
(4)	175.25	Storage of junked vehicles.
(5)	254.76(1)	Causing fires by tobacco smoking.
(6)	287.81(2)	Littering.
(7)	939.05(2)(b)	Aiding and abetting.
(8)	939.22	Words and phrases defined – Crimes – General Provisions.
(9)	940.19(1)	Battery.
(10)	940.291	Failure of a police officer to render aid.
(11)	941.10	Negligent handling of burning materials.
(12)	941.12(2), (3)	Interfering with fire fighting.
(13)	941.13	False Alarms and interference with firefighting.
(14)	941.20(1)	Endangering safety by use of dangerous weapon.
(15)	941.23	Carrying concealed weapon.
(16)	941.235	Carrying a firearm in a public building.
(17)	941.24	Possession of switchblade knife.
(18)	941.35	Emergency telephone calls.

(19)	941.36	Fraudulent tapping of electric wires or gas or water meters or pipes.
(20)	941.37(1), (2)	Obstructing emergency or rescue personnel.
(21)	942.05	Opening letters.
(22)	943.01(1)	Criminal damage to property.
(23)	943.11	Entry into locked vehicle.
(24)	943.125	Entry into locked coin box.
(25)	943.13	Trespass to land.
(26)	943.14	Criminal trespass to dwellings.
(27)	943.145	Criminal trespass to a medical facility.
(28)	943.15	Entry onto a construction site or into a locked building, dwelling or room.
(29)	943.20	Theft of property.
(30)	943.21(3)	Fraud on hotel keeper, recreational attraction, taxicab operator, or gas station.
(31)	943.22	Cheating tokens.
(32)	943.23(2)	Operating vehicle without owner's consent.
(33)	943.24(1)	Worthless checks.
(34)	943.34(1)	Receiving stolen property.
(35)	943.37	Alteration of property identification marks.
(36)	943.38(3)	Forgery.
(37)	943.41	Financial transaction card crimes.
(38)	943.50(4)(a)	Retail theft.
(39)	943.55	Removal of shopping cart.
(40)	944.17	Sexual gratification.
(41)	944.20	Lewd and lascivious behavior.
(42)	944.21	Obscene material or performance.
(43)	944.23	Making lewd, obscene or indecent drawings.
(44)	944.30	Prostitution.
(45)	944.31	Patronizing prostitutes.
(46)	944.33	Pandering.
(47)	945.01	Definitions relating to gambling.
(48)	945.02	Gambling.
(49)	945.04	Permitting premises to be used for commercial gambling.
(50)	946.40	Refusing to aid officer.
(51)	946.41	Resisting or obstructing officer.
(52)	946.42(2)	Escape.
(53)	946.69	Falsely assuming to act as public officer or employee or utility employee.
(54)	946.70	Impersonating peace officers.
(55)	946.72(2)	Tampering with public records and notices.

(56)	947.01	Disorderly conduct.
(57)	947.012	Unlawful use of telephone.
(58)	947.013	Harassment.
(59)	947.015	Bomb scares.
(60)	947.02	Vagrancy.
(61)	947.06	Unlawful assemblies and their suppression.
(62)	948.01	Definitions – Crimes Against Children.
(63)	948.03	Physical abuse of a child.
(64)	948.04	Causing mental harm to a child.
(65)	948.31	Interference with custody by parent or others.
(66)	948.40	Contributing to the delinquency of a child.
(67)	948.45	Contributing to truancy.
(68)	948.50	Strip search by school employee.
(69)	948.51	Hazing.
(70)	948.53	Child unattended in child care vehicle.
(71)	948.55	Leaving or storing a loaded firearm within the reach or easy access of a child.
(72)	948.60	Possession of a dangerous weapon by a person under 18.
(73)	948.61	Dangerous weapons other than firearms on school premises.
(74)	948.62	Receiving stolen property from a child.
(75)	948.63	Receiving property from a child.
(76)	948.70	Tattooing of children.
(77)	951.01	Definitions – Crimes Against Animals.
(78)	951.015	Construction and Application.
(79)	951.02	Mistreating animals.
(80)	951.025	Decompression prohibited.
(81)	951.03	Dognapping or catnapping.
(82)	951.04	Leading animal from motor vehicle.
(83)	951.05	Transportation of animals.
(84)	951.06	Use of poisonous and controlled substances.
(85)	951.07	Use of certain devices prohibited.
(86)	951.08	Instigating fights between animals.
(87)	951.09	Shooting at caged or staked animals.
(88)	951.095	Harassment of police and fire animals.
(89)	951.097	Harassment of service dogs.
(90)	951.10	Sale of baby rabbits, chicks and other fowl.
(91)	951.11	Artificially colored animals; sale.
(92)	951.13	Providing proper food and drink to confined animals.
(93)	951.14	Providing proper shelter.
(94)	951.15	Abandoning animals.

CHAPTER 2

Offenses Against Public Safety and Peace

11-2-1 Regulation of Firearms, Weapons and Explosives
11-2-2 Firearms/Weapons in Public Buildings Prohibited
11-2-3 Throwing or Shooting of Arrows, Stones and Other Missiles Prohibited
12-2-4 Facsimile Firearms Prohibited
11-2-5 Harassing or Obscene Telephone Calls
11-2-6 Sale and Discharge of Fireworks Restricted
11-2-7 Obstructing Streets and Sidewalks Prohibited
11-2-8 Loitering Prohibited
11-2-9 Loud and Unnecessary Noise Prohibited
11-2-10 Disorderly Conduct
11-2-11 Possession of Controlled Substances
11-2-12 Unauthorized Presence on School Property Prohibited
11-2-13 Failure to Obey Lawful Order
11-2-14 Trespass Prohibited
11-2-15 Harassment Prohibited
11-2-16 Purchase and Sale of Tobacco Products to Minors
11-2-17 Misuse of the E911
11-2-18 Scavenging of Recyclable Materials Prohibited.

SEC. 11-2-1 REGULATION OF FIREARMS, WEAPONS AND EXPLOSIVES.

(a) **Adoption of State Law Regarding Carrying of Weapons:** W.S.A. §939.22(10), §943.13 (1m)(c) and §941.23 regarding weapons, exclusive of the penalty, is hereby adopted and made an offense punishable as a violation of this Code. Nothing in this section shall prohibit any discharge, carry or use of weapons for firearms permitted under State Statute.

(b) **Discharge of Firearms and Dangerous Weapons Regulated.** No person, except a police officer, sheriff, deputy, or other law enforcement officer shall fire or discharge any dangerous weapon, firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description within the City.

(c) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm or dangerous weapon in such manner that the discharge shall enter or fall within the City.

(d) **Shooting Ranges.** This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council,

after an advisory recommendation from the Chief of Police, where proper safety precautions are taken.

(e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Chief of Police, except for blasting permits under Section 7-10-7(c).

(f) **Hunting Prohibited.** Hunting is prohibited within the corporate limits of the City of Cedarburg. (Ord. 2013-05)

SEC. 11-2-2 FIREARMS/WEAPONS IN PUBLIC BUILDINGS PROHIBITED.

(a) Pursuant to Wis. Stats. 943.13(1m)(c)4., no person shall enter or remain in any part of any building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or weapon or a specific type of firearm or weapon.

(b) The City Administrator/Treasurer shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the City of Cedarburg providing notice that no person is to enter or remain in any such building while carrying a firearm or weapon. Such signs shall be five inches by seven inches or larger.

(c) Nothing in this subsections shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm or weapon in any public building. Notwithstanding Wis. Stats. 939.22(22), for purposes of this paragraph, peace office does not include a commission warden who is not a State certified commission warden.

(d) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. 941.23 or 941.235. (Ord. 2011-16)

SEC. 11-2- 3 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow, stone, snowball or other missile within the City of Cedarburg, provided, however, upon written application to the Chief of Police, a person may be granted permission by the Common Council, upon the advisory recommendation of the Chief of Police, to construct and maintain supervised archery ranges if, in the opinion of the Common Council, the construction or maintenance of such ranges will not endanger the public health and safety. (Ord. 2013-05)

SEC. 11-2-4 FACSIMILE FIREARMS PROHIBITED

(a) Facsimile Firearms. Means any replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. “Facsimile firearm” does not include any actual firearm.

(b) Carrying and Displaying Facsimile Firearm Prohibited: No person, unless on his or her own land or acting with the consent of the owner of the land shall carry and/or display any facsimile firearm in such a manner as could reasonably be expected to alarm, intimidate, threaten or terrify another person. (Ord. 2013-05)

SEC. 11-2-5 HARASSING OR OBSCENE TELEPHONE CALLS.

Whoever commits any of the following acts shall be subject to the general penalty as provided in this Municipal Code:

(a) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
(b) Makes a telephone call, whether of not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
(c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
(d) Makes repeated telephone calls, during which conversation ensures, solely to harass any person at the called number or numbers;
(e) Knowingly permits any telephone under his control to be used for any purpose prohibited by this Section;
(f) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

SEC. 11-2-6 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 8, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 7-8-1 of the City of Cedarburg Code of Ordinances and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

SEC. 11-2-7 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

(a) **Obstructing Streets.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
(b) **Blocking Sidewalk Prohibited.** No person shall block any sidewalk by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.

(c) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

(d) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) Block. To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such walk.

(2) Sidewalk. Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

SEC. 11-2-8 LOITERING PROHIBITED.

No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police or peace offer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm. (Ord. 95-04)

SEC. 11-2-9 LOUD AND UNNECESSARY NOISE PROHIBITED. (Ord. 95-03)

(a) **Loud and Unnecessary Noise Prohibited.** No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

(b) **Complaints.** Upon receipt of a complaint concerning the existence of a nuisance as defined above, the (Chief of Police or designee) may commence prosecution if in his or her professional judgment such noise constitutes a nuisance following personal observation of the noise and consideration of the time of day, type of district and neighborhood which was the subject of the complaint.

(c) **Appeals**. The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Section for existing industries.

(d) **Permits for Amplifying Devices.**

(1) Permit Required. The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Cedarburg is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police.

(2) Grounds or Reasons for Denial or Allowance. The Chief of said Police Department shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

(3) Time Restrictions. The Chief of the Police Department shall not grant a permit to use a loudspeaker or amplifying device before the hours of 8:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

SEC. 11-2-10 DISORDERLY CONDUCT. (Ord. 99-36)

It shall be unlawful for any person, in a public or private place, to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

SEC. 11-2-11 POSSESSION OF CONTROLLED SUBSTANCES.

(a) **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161 of the Wisconsin Statutes.

(b) **Possession of Marijuana.** No person shall possess any amount of marijuana, tetra-hydrocannabinois or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.

(c) **Drug Paraphernalia**. (Ord. 90-12)

(1) Definition. In this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, as defined in Chapter 161, Wis. Stats., in violation of this section. It includes, but is not limited to:

a. Kits used, intended for use or designed for use in planting, propagating,

cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

g. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

i. Capsules, balloons, envelopes or other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

l. Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

(2) Water pipes.

(3) Carburetion tubes and devices.

(4) Smoking and carburetion masks.

(5) Objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand.

(6) Miniature cocaine spoons and cocaine vials.

(7) Chamber pipes.

(8) Carburetor pipes.

(9) Electric pipes.

(10) Air-driven pipes.
(11) Chillums.
(12) Bongs.
(13) Ice Pipes or chillers.

(2) **Determination of Drug Paraphernalia**. In determining whether an object is drug paraphernalia, the following shall be considered:

(a) Statements by an owner or by anyone in control of the object concerning its use.
(b) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
(c) The proximity of the object in time and space to a direct violation of this section.
(d) The proximity of the object to controlled substances.
(e) The existence of any residue of controlled substances on the object.
(f) Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object to deliver it to persons who the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
(g) Oral or written instructions provided with the object concerning its use.
(h) Descriptive materials accompanying the object which explain or depict its use.
(i) National and local advertising concerning its use.
(j) The manner in which the object is displayed for sale.
(k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
(l) The existence and scope of legitimate uses for the object in the community.
(m) Expert testimony concerning its use.

(3) **Prohibited Activities**.

(a) Possession of Drug Paraphernalia. No person may use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
(b) Manufacture, Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or

otherwise introduce into the human body a controlled substance in violation of this section.

(c) Delivery of Drug paraphernalia to a Minor. Any person 18 years of age or over who violates par. b by delivering drug paraphernalia to a person under 18 years of ago is guilty of a special offense.

(d) Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(e) Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 161, Wis. Stats.

(4) **Penalties.**

(a) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the city.

(b) Any person who violates sub. 3-a, b, or d shall, upon conviction, be subject to a forfeiture of not less than $100.00 and not more than $500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days.

(c) Any person who violates sub. 3-c shall, upon conviction, be subject to a forfeiture of not less than $200.00 and not more than $1,000.00, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed six months.

(d) **Synthetic Cannabinoid Prohibited.**

(1) It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give ,or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, Yucatan Fire”, “fake” or “new” marijuana, or by another name, label or description:

a. Salviadinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;

b. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethy-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210;

c. 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JW11-018\spice;

d. 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073;

e. 1-(3{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP;

f. or any similar structural analogs.

g. Medical or Dental Use Allowed. Acts otherwise prohibited under this section shall not be unlawful if done by or under the direction or prescription of a physician, dentist, or other medical health professional, licensed by the State of Wisconsin, provided that such use is permitted under Wisconsin and federal laws.

(2) **Penalties.**

(a) Any chemical used in violation of this section shall be seized and forfeited to the City.

(b) Any person who violates sub. (1) a., b., c., d., e., or f., shall, upon conviction, be subject to a forfeiture of not less than $100.00 and not more than $500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days. (Ord. 2011-05)

State Law Reference: Chapter 161, Wis. Stats.

SEC. 11-2-12 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.

(a) (1) It shall be unlawful for any person, except as provided in Subsection (b) hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.

(2) It shall be unlawful for any student who is under suspension, expulsion, exemption or other discipline excluding him from attending school under the jurisdiction of the Cedarburg Board of Education, or for any person, not a student presently enrolled to attend school under the jurisdiction of the Cedarburg Board of Education or not an employee of said Cedarburg Board of Education or not an otherwise "authorized person," to be present within any school building or upon any school ground under the Jurisdiction of said School Board without having first secured authorization to be there from the principal or other person in charge of said school building or school grounds, except while in direct route to secure said authorization. Authorized person" shall include any person who is present at any school building or school grounds for any purpose previously authorized by the Board of Education or its designee.

(3) Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of said School Board, or upon request of any police officer, display any written authorization to be present which he may have, in his possession or explain his presence or his status as

such student, employee, parent, or guardian, or "authorized person" referred to in Subsection (a)(2) hereof.

(b) This Section shall not apply to:

(1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or school grounds;

(2) Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;

(3) Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.

(c) The exceptions set forth in Subsection (b) shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.

(d) All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

SEC. 11-2-13 FAILURE TO OBEY LAWFUL ORDER.

It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

SEC. 11-2-14 TRESPASS PROHIBITED.

The provision of the Sections 943.13 and 788.26, Wis. Stats., pertaining to trespassing to lands and the citation procedure for enforcement of the prohibition on trespass to lands, respectively, including penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made a part of this Section as if fully set forth herein. Any act required to be performed or prohibited by either statute incorporated herein by reference is required or prohibited by this Section.

State Law Reference: Sections 788.26 and 943.13, Wis. Stats.

SEC. 11-2-15 HARASSMENT PROHIBITED.

(a) No person shall, with intent to harass or intimidate another person, do any of the following:

(1) Strike, shove, kick or otherwise subject a person to physical contact or attempt to threaten to do the same.

(2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate a person and which serve no legitimate purpose.

(b) This Section does not prohibit any person from participating in lawful conduct in labor disputes, pursuant to Sec. 103.53, Wis. Stats.

State Law Reference: Section 947.013, Wis. Stats.

SEC. 11-2-16 PURCHASE AND SALE OF TOBACCO PRODUCTS TO MINORS. (Ord. 92-05) (Ord. 2003-05)

The following statutes placing restrictions on sale or gift of cigarette or tobacco products to underage persons and on possession or use of cigarette or tobacco products by underage persons are adopted by reference to define offenses involving purchase, sale and use of tobacco products by underage persons provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made a part of this Code

134.66 Restrictions on Sale or Gift of Cigarettes or Tobacco Products
254.92 Purchase or possession of cigarettes or tobacco products by person under 18 prohibited.

SEC. 11-2-17 MISUSE OF THE E911. (Ord. 92-10)

(a) No person shall utilize the E911 emergency telephone number system for any purpose other than to report an emergency.

(b) It shall be unlawful to report an alleged emergency knowing that the fact situation which he or she reports does not exist.

(c) An "emergency" under this section exists when the person reasonably believes that immediate response by public safety personnel is essential due to the risk or actual occurrence of:

(1) Death or great bodily harm.

(2) Property damage.

(3) Any other situation which mandates the immediate response of public safety personnel.

(4) Any person violating this section shall, upon conviction, be subject to a forfeiture of not more than $200, together with the costs of prosecution.

SEC. 11-2-18 SCAVENGING OF RECYCLABLE MATERIALS PROHIBITED.

No person except law enforcement personnel and authorized employees of the City of Cedarburg shall remove, take or otherwise meddle or tamper with recyclable material, as that term is defined in Section 8-3-14(e) of this Code, which is placed out by any person for collection by the City.

(Ord. 95-04)

CHAPTER 3

Offenses Against Property

11-3-1 Destruction of Property Prohibited
11-3-2 Littering Prohibited
11-3-3 Abandoned Refrigerators Prohibited
11-3-4 Retail Theft
11-3-5 Storage of Junk, Etc., Regulated
11-3-6 Issuance of Worthless Checks
11-3-7 Theft of Library Material
11-3-8 Damaging or Tampering With Coin Machines
11-3-9 Damage to Public Property
11-3-10 Disturbing Cemetery Property
11-3-11 Penalties

SEC. 11-3-1 DESTRUCTION OF PROPERTY PROHIBITED.

(a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the City and belonging to the City or its departments, the Cedarburg School District or to any private person, without the consent of the owner or proper authority.

(b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed the amount specified in Sec. 799.01(1)(d), Wis. Stats. (Ord. 96-23)

(c) **Unlawful Removal of Property.** It shall be unlawful for any person to take and carry away the property of another without the owner's consent with the intention to do so.

SEC. 11-3-2 LITTERING PROHIBITED.

(a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the City, or upon property within the City owned by the Cedarburg School District or any private person, or upon the surface of any body of water within the City.

(b) **Litter From Conduct of Commercial Enterprise.**

(1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

(2) Litter to be Cleaned Up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way

shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3) Litter Picked Up at Litterer's Expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the City Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Dumping of Refuse and Grass in Gutters.** No person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley or highway.

(d) **Handbills.**

(1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the City except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

SEC. 11-3-3 ABANDONED REFRIGERATORS PROHIBITED.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

SEC. 11-3-4 RETAIL THEFT.

(a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant

without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection (d).

(b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

(c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this Section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(d) Penalty. If the value of the merchandise does not exceed One Hundred Dollars ($100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars ($200.00). If the value of the merchandise exceeds One Hundred Dollars ($100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

State Law Reference: Section 943.50, Wis. Stats.

SEC. 11-3-5 STORAGE OF JUNK, ETC., REGULATED.

No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood except or upon permit issued by the Common Council. The Chief of Police or Building Inspector may require by written order any premises violating this Section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

Cross Reference: Title 10, Chapter 5.

SEC. 11-3-6 ISSUANCE OF WORTHLESS CHECKS.

(a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars ($500.00) which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.

(b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:

(1) Proof that, at the time of issuance, the person did not have an account with the drawee; or

(2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or

(3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.

(c) This Section does not apply to a post-dated check.

(d) Any person violating any provisions of this Section shall forfeit not less than Fifty Dollars ($50.00) if the worthless check is for an amount equal to or less than One Hundred Fifty Dollars ($150.00) and shall forfeit not less than One Hundred Dollars ($100.00) if the worthless check is an amount greater than One Hundred Fifty Dollars ($150.00) and less than Five Hundred Dollars ($500.00), together with the costs of prosecution and, in default of payment, imprisonment in the County Jail until forfeiture and costs are paid but not to exceed sixty (60) days.

SEC. 11-3-7 THEFT OF LIBRARY MATERIAL.

(a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:

(1) Archives. A place in which public or institutional records are systematically preserved.

(2) Library. Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries of the City of Cedarburg.

(3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.

(b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and City Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.

(c) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

(d) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any library material.

(f) **Return Demanded.** No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the library.

State Law Reference: Section 943.61, Wis. Stats.

SEC. 11-3-8 DAMAGING OR TAMPERING WITH COIN MACHINES.

(a) No person shall, without lawful authority, open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the City. No person shall deposit a slug in a coin-operated machine.

(b) In this Section, coin machine means any device or receptacle designed to receive money or anything of value. The term includes a depository box, parking meter, vending machine, pay telephone, money-changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

SEC. 11-3-9 DAMAGE TO PUBLIC PROPERTY.

(a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit,

wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the City.

(b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the City.

SEC. 11-3-10 DISTURBING CEMETERY PROPERTY.

No person except the owner of the cemetery lot or a cemetery employee shall cut, remove, injury or carry away flowers, trees, plants or vines from any cemetery lot or property; nor shall any person deface, injury or mark upon any cemetery markers, headstones, monuments, fences or structures; nor shall any person other than the owner injure, carry away or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot.

SEC. 11-3-11 PENALTIES.

In addition to the general penalty of this Code in Section 1-1-7 or any other penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

CHAPTER 4

Obscenity

11-4-1 Exposing Minors to Harmful Materials

SEC. 11-4-1 EXPOSING MINORS TO HARMFUL MATERIALS.

(a) **Definitions.** As used in this Section:

(1) "Minor" means any person under the age of eighteen (18) years.

(2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion there of below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(3) "Sexual conduct" is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus and acts of excretory function, lewd exhibition of the genitals, especially in a stimulated condition and sexual relations between humans and animals.

(4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

(7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

a. The character and content of any material described herein which is reasonably suspect under this Section; and b. The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(8) "Knowledge of the minor's age" means:

a. Knowledge or information that the person is a minor; or

b. Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

(b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.

(c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

(2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(d) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

State Law Reference: Section 944.25, Wis. Stats.

CHAPTER 5

Offenses Involving Alcoholic Beverages

11-5-1 Outside Consumption
11-5-2 Sale to Underage or Intoxicated Persons Restricted
11-5-3 Underage Persons' Presence in Places of Sale; Penalty
11-5-4 Underage Persons; Prohibitions; Penalties
11-5-5 Defense of Sellers
11-5-6 Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
11-5-7 Possession of Alcohol Beverages on School Grounds
11-5-8 Adult Permitting or Encouraging Underage Violation
11-5-9 Solicitation of Drinks Prohibited

SEC. 11-5-1 OUTSIDE CONSUMPTION.

(a) **Alcoholic Beverages in Public Areas.**

(1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. No person shall purchase an intoxicating liquor or fermented malt beverage or wine by glass or in open containers except for consumption on the licensed premises, and no person shall be in possession of any glass or open container containing a fermented malt beverage, wine, or intoxicating liquor of any kind, or drink from the same, whether in or out of a vehicle, in any of the following places:

a. Any municipal parking lot;

b. Any public way, street, sidewalk, boulevard, parkway, safety zone or alley

c. Any privately owned property which is open for use to public vehicular traffic or public parking; and

d. Any grounds under the control of a public school district, and when posted, the grounds of any privately owned or operated school, church, hospital, or other institution or place, except duly licensed premises frequented by the public.

(2) Parks. No person shall purchase an intoxicating liquor, fermented malt beverage or wine by glass or in open containers except for consumption on the licensed premises, and no person shall be in possession of any glass or open container containing intoxicating liquor, wine or fermented malt beverage, or drink the same, whether in or out of a vehicle, in any municipal park or recreation area except in specific and during such hours as designated in a park usage permit issued by the office of the

City Clerk or on premises for which a class "B" license has been issued by the Common Council of the City of Cedarburg.

(3) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.

(4) Leaving Licensed Premises With Open Container.

a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.

b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.

c. It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcohol beverage from a Class A licensed premises between the hours of 9:00 p.m. and 6:00 a.m.

(5) Picnic Beer Permits For Parks.

a. Applicants for special Class"B" Permits shall fully comply with the requirements of Section 7-2-16.

b. The sale of fermented malt beverages from remote sites, that is, other than the main point of sale facility, shall be prohibited after the hour of 9:00 p.m.

(6) Exceptions.

a. The provisions of this Section may be waived by the Common Council for duly authorized events.

b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances for a specific area, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.

(b) **Definitions.**

(1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.

(2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.

(3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

SEC. 11-5-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

(a) **Sales of Alcohol Beverages to Underage Persons.**

(1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.

(2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

(1) Not more than Five Hundred Dollars ($500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or

(2) Not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) if the person has committed a previous violation within twelve (12) months of the violation.

(3) In addition to the forfeitures provided in Subsections (1) and (2) above, the Common Council shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Section 125.07(1)(b)3, Wis.

(c) **Sale of Alcohol Beverages to Intoxicated Persons.**

(1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

(2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

SEC. 11-5-3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY.

(Ord. 91-17) (Ord. 91-36)

(a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee

or his or her employee. The business may not be amusement or similar activities which normally constitute activities of a customer of the premises. The paragraph does not apply to:

(1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

(2) An underage person who enters or is on a "Class A", Class "C" or Class "A" premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

(3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.

(4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.

(5) Ski chalets, golf clubhouses and private tennis clubs.

(6) Premises operated under both a Class"B" fermented malt beverage or "Class B" alcoholic beverage license or Class "C" wine license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B", or Class "C" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

(7) An underage person who enters or remains on a Class "B", "Class B" or Class "C" premises for the purpose of transacting business at an auction or market if the person does not enter or remain in a room where alcohol beverages are sold, furnished or processed.

(8) An underage person who enters or remains in a room on Class"B", "Class B" or Class "C" licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. An underage person may enter and remain on Class "B", "Class B" or Class "C" premises under this Subsection only if the City of Cedarburg Police Department issues to the Class "B", "Class B" or Class "C" licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the Department shall make a determination that the presence of the underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(9) A person who is at least 18 years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.

(10) An underage person who enters or remains on Class "B", "Class B", or Class "C" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under the subdivision.

(11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.

(b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars ($500.00) if the licensee or permittee has not committed a previous violation within 12 months of the volition, not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) if the licensee or permittee has committed a previous violation within 12 months, not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), if the licensee or permittee has committed two previous violations within 12 months of the violation, and not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) if the licensee or permittee has committed 3 or more previous violations within 12 months of the violation. All violations occurring at one time shall be counted as one violation.

SEC. 11-5-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES. (Ord. 91-17) (Ord. 92-43)

(a) Any underage person who does any of the following is guilty of a violation:

(1) Procures or attempts to procure alcohol beverages.

(2) Knowingly possesses or consumes intoxicating liquor or fermented malt beverage.

(3) Enters or is on licensed premises in violation of Section 11-5-3(a).

(4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.

(b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age shall not enter, remain or loiter in any public or private place where any fermented malt beverage or other alcoholic beverage is being sold, dispensed, given away or made available to under-aged persons.

(c) Any person violating Subsections (a) or (b) is subject to the following penalties:

(1) For a first violation, a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties. (Ord. 2004-40)

(2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties. (Ord. 2004-40)

(3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties. (Ord. 2004-40)

(d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Common Council. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.

(2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

(e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

(f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 48.344(3), Wis. Stats.

(g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

(h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel

alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 11-5-5 DEFENSE OF SELLERS. (Ord. 91-17)

(a) **Defenses.** In determining whether or not a licensee or permittee has violated the provisions of this Code, all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered, including any circumstances under Subsections (1) to (4). In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this section:

(1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.

(2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal age.

(3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

(4) That the underage person supported the representation under Subsection (1) with documentation that he or she had attained the legal drinking age.

(b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purposes of Subsection (a). The licensee or permittee or his or her employee may require any of the following persons to sign the book:

(1) A person who has shown documentary proof that he or she has attained the legal drinking age to sign the book, if the person's age is in question.

(2) A person who alleges to be the underage person's parent, guardian or spouse and further alleges to have attained the legal drinking age, if the licensee or permittee or his or her employee suspects that such person is not the underage person's parent, guardian or spouse or that such person has not attained the legal drinking age.

(c) The book may show the date of the purchase of the alcohol beverages, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchaser and the purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

SEC. 11-5-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE; FALSE OR ALTERED IDENTIFICATION CARDS. (Ord. 91-17)

(a) (1) No person may make, alter or duplicate an official identification card, or provide an official identification card to an underage person, or knowingly provide other

documentation to an underage person purporting to show that the underage person has attained the legal drinking age. No person may possess an official identification card or other documentation used for proof of age with the intent of providing it to an underage person. Any person who violates this Subsection may be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00) or imprisoned not less than ten (10) days nor more than thirty (30) days or both.

(2) Any person who has attained the legal drinking age who, in applying for an card, presents false information to the issuing officer may be fined not less than Fifty Dollars ($50.00) nor more than One Hundred Dollars ($100.00) or imprisoned not more than ten (10) days or both.

(b) Any underage person who does any of the following is subject to the penalties specified under Sec. 48.344 and Secs. 125.07(4)(c) and (d), Wis. Stats.:

(1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.

(2) Makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal drinking age.

(3) Presents false information to an issuing officer in applying for an official identification card.

(4) Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

(5) Provides to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

State Law Reference: Section 125.09(3), Wis. Stats.

SEC. 11-5-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED. (Ord. 91-17)

(a) In this Subsection:

(1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.

(2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(4) "School premises" means premises owned, rented or under the control of a school.

(b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
  (1) On school premises;
  (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
  (3) While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

(d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars ($200.00), except that Sec. 48.344, Wis. Stats., and Section 11-5-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-6-5.

SEC. 11-5-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.
(Ord. 92-43)

(a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

(b) No person of legal drinking age shall knowingly suffer or permit any under-aged person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcoholic beverages are served, sold, dispensed, given away or made available to under-aged persons unless such under-aged person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(c) No adult may intentionally encourage or contribute to a violation of Section 11-5-4(a) or (b).

(d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars ($200.00).

State Law Reference: Section 125.07(1)(a)3 and 4, Wis. Stats.

SEC. 11-5-9 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.

CHAPTER 6

Offenses by Juveniles

11-6-1 Curfew
11-6-2 Possession of Controlled Substances by Juveniles
11-6-3 Petty Theft by Juveniles
11-6-4 Receiving Stolen Goods
11-6-5 City Jurisdiction Over Persons 14 through 17 Years of Age
11-6-6 Truancy
11-6-7 Enforcement and Penalties

SEC. 11-6-1 CURFEW.

(a) **Curfew Established.** It shall be unlawful for any person under sixteen (16) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Cedarburg between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.

(b) **Exceptions.**

(1) This Section shall not apply to a child:

a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.

b. Who is on his own premises or in the areas immediately adjacent thereto.

c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.

d. Who is returning home from a supervised school, church or civic function.

(2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or

permitted any person under sixteen (16) years of age to violate this Section.

(d) **Responsibility of Places of Amusement.** It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment refreshment or other place of business to permit any minor under sixteen (16) years of age to loiter, loaf or idle in such place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under sixteen (16) years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.

(e) **Detaining a Minor.** Every law enforcement officer is hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the Police shall take whatever action is deemed necessary in the best interest of the minor.

(f) **First Offense Notice.** The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the City, as provided in Subsection (e), such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care or custody shall result in a penalty being imposed as hereinafter provided.

(g) **Penalty**.

(1) Any parent, guardian or person having legal custody of a child described in Subsections (a) through (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.

(2) Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar ($1.00) nor more than Twenty-five Dollars ($25.00), together with the cost of prosecution.

SEC. 11-6-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance

contrary to the Uniform Controlled Substances Act, Chapter 161, of the Wisconsin Statutes.

SEC. 11-6-3 PETTY THEFT BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

SEC. 11-6-4 RECEIVING STOLEN GOODS.

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

SEC. 11-6-5 CITY JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE.

(a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.

(b) **Provisions of Ordinance Applicable to Persons 14 through 17 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., as are applicable to adults charged with the same offense.

(c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.

(d) **Additional Prohibited Acts.** In addition to any other provision of the City of Cedarburg Code of Ordinances, no person age 14 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.

(e) **Penalty for Violations of Subsection (d).** Any person 14 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-5-7.

SEC. 11-6-6 TRUANCY. (Ord. 99-10)

(a) **Authority.** Wisconsin Statutes Sections 118.163(1m) and 118.163(2) authorize the City of Cedarburg to adopt a municipal truancy ordinance.

(b) **Definitions.** For purpose of this ordinance:

(1) "Habitual Truant" - means a pupil who is absent from school without an acceptable excuse part or all of 5 or more days on which school is held during a school semester.

(2) "Truant" - means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

(3) "Acceptable Excuse" - has the meaning as defined in Sections 118.15 and 118.16(4), Wisconsin Statutes.

(4) "Operating Privilege" - has the meaning as defined in Section 340.01(40), Wisconsin Statutes.

(c) **Truancy.** The City of Cedarburg by this ordinance does prohibit any person under 18 years of age within its jurisdiction from being truant as that term is defined in this ordinance. The Cedarburg Police Department is authorized to issue a municipal citation to any such person found within its jurisdiction who is determined to be truant under the terms of this ordinance, the parents or guardian of such person, or both. Any citation issued shall be returnable in the Circuit Court of Ozaukee County in the same manner as all ordinance citations are returnable.

(d) **Disposition for Truancy.** Upon finding the pupil truant, the following dispositions are available to the Court:

(1) An order for the pupil to attend school.

(2) A forfeiture of not more than $50 plus costs for a first violation, or a forfeiture of not more than $100 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wisconsin Statutes Section 938.37 and subject to a maximum cumulative forfeiture amount of not more than $500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the pupil, the parents or guardian of the pupil, or both.

(e) **Habitual Truancy.** The City of Cedarburg by this ordinance does prohibit any person under 18 years of age within its jurisdiction from being a habitual truant as that term is defined in this ordinance. The Cedarburg Police Department is authorized to issue a municipal citation to any such person found within its jurisdiction who is determined to be habitually truant under the terms of this ordinance, the parents or guardian of such person, or both.

(1) Prior to the issuance of any citation, the law enforcement personnel shall determine whether the school officials have done the following:

a. Met with the pupil's parent or guardian to discuss the pupil's truancy or attempted to meet with the pupil's parent or guardian and received no response or were refused. This requirement does not apply if a meeting under Section 118.16(2)(cg)3., Wisconsin Statutes is not held within 10 school days after the date the notice under Section 118.16(2)(cg) was sent.

b. Provided an opportunity for educational counseling to the pupil to determine whether a change in the pupil's curriculum would resolve the pupil's truancy and considered curriculum modifications. This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.

c. Evaluated the pupil to determine whether learning problems are a cause of the truancy and, if so, taken steps to overcome the learning problems, except that the pupil need not be evaluated if tests administered to the pupil within the previous year indicate that the pupil is performing at his or her grade level.

This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.

d. Conducted an evaluation to determine whether social problems are a cause of the pupil's truancy and, if so, taken appropriate action or made appropriate referrals. This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.

(2) Any citation issued shall be returnable in the Circuit Court of Ozaukee County in the same manner as all ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation.

(f) **Disposition for Habitual Truancy.** Upon finding the pupil habitually truant, the following dispositions are available to the Court:

(1) Suspension of the pupil's operating privileges for not less than 30 days or more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

(2) An order for the pupil to participate in counseling or a supervised work program or other community service work as described in Section 938.34(5g) Wisconsin Statutes. The costs of any such counseling, supervised work program or other community service work may be assessed against the pupil, the parents or guardian of the pupil, or both.

(3) An order for the pupil to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a pupil to leave his or her home if the pupil is accompanied by a parent or guardian.

(4) An order for the pupil to attend an educational program as described in Section 938.34(7d) Wisconsin Statutes.

(5) An order for the department of industry, labor and human relations to revoke, under Section 103.72 Wisconsin Statutes, a permit under Section 103.70 Wisconsin Statutes authorizing the employment of the pupil.

(6) An order for the pupil to attend school.

(7) A forfeiture of not more than $500 plus costs, subject to Section 938.37 Wisconsin statutes. All or part of the forfeiture plus costs may be assessed against the pupil, the parents or guardian of the pupil, or both.

(8) Any other reasonable conditions consistent with Section 118.163(2) of the Wisconsin Statutes, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(9) An order placing the pupil under formal or informal supervision, as described in Section 938.34(2)Wisconsin Statutes for up to one year.

(10) An order for the pupil's parent(s), guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the pupil, or both.

(g) **Severability.** If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SEC. 11-6-7 ENFORCEMENT AND PENALTIES.

(a) **Citation Process.** For violations of Sections 11-6-2 through 11-6-5, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.

(b) **Penalties.** Violations of Sections 11-6-2 through 11-6-5 by a person under the age of eighteen (18) shall be punishable according to Sections 48.17(2), 48.343, 48.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the juvenile officer, in his discretion, from referring cases directly to the District Attorney's office.

CHAPTER 11

Public Nuisances

11-7-1 Public Nuisances Prohibited
11-7-2 Public Nuisances Defined
11-7-3 Public Nuisances Affecting Health
11-7-4 Public Nuisances Offending Morals and Decency
11-7-5 Public Nuisances Affecting Peace and Safety
11-7-6 Abatement of Public Nuisances
11-7-7 Cost of Abatement

SEC. 11-7-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City of Cedarburg.

SEC. 11-7-2 PUBLIC NUISANCE DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
(b) In any way render the public insecure in life or in the use of property;
(c) Greatly offend the public morals or decency;
(d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

SEC. 11-7-3 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11-7-2:

(a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
(b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
(c) **Breeding Places for Vermin, Etc.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material

whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(d) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.

(e) **Garbage Cans.** Garbage cans which are not fly-tight.

(f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.

(g) **Water Pollution** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(h) **Noxious Odors, Etc.** Any use of property, substances or things within the City or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, or inconvenience the health of any appreciable number of persons within the City.

(i) **Street Pollution** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.

(j) **Animals at Large.** All animals running at large.

(k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.

(l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

SEC. 11-7-4 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11-7-2:

(a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(b) **Gambling Devices.** All gambling devices and slot machines.

(c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the City.

(d) **Continuous Violation of City Ordinances.** Any place or premises within the City where City Ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or

ordinances of the City.

SEC. 11-7-5 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11-7-2:

(a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

(c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.

(d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) **Tree limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

(f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(g) **Fireworks**. All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.

(h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

(k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Ordinances of the City or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

(l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.

(m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(n) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids.

(o) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

(p) **Failure to Maintain Property.** Failure of an owner to maintain property as hereinafter required:

(1) Junked Vehicles and Machines. No person shall cause or permit the open storage of:

a. Abandoned motor vehicles, trailers, mobile homes or bicycles.

b. Abandoned parts, accessories or equipment for motor vehicles, trailers, mobile homes or bicycles.

c. Junked, damaged, dismantled, partially dismantled or otherwise inoperable motor vehicles, trailers, mobile homes or bicycles, whether awaiting repair or not for longer than seven days.

d. Machinery, equipment or parts thereof.

e. Ice boxes, refrigerators, stoves, glass building material, building rubbish or similar items likely to create physical hazards.

(2) Refuse. Rubbish and Garbage Storage. Every building or structure shall have adequate refuse, rubbish or garbage storage facilities as required by the City Municipal Code. No occupant shall accumulate or allow open storage of rubbish, boxes, lumber, metal or other materials which may provide harborage for rodents or vermin.

(3) Yards. Yards shall be kept substantially free of debris and shall be provided with adequate lawn, ground cover or vegetation. All areas not covered by any of the foregoing shall be treated to prevent dust accumulation or the blowing or scattering of dust particles in the air. All trees, bushes or other vegetation which overhang an entrance to a public highway, sidewalk or alley shall be properly trimmed to avoid obstruction of the view and movement of vehicles, bicycles and pedestrians.

(4) Driveways. Fences and Retaining Walls. Driveways, fences and retaining walls shall be maintained in good condition and repair.

(5) Exterior Appearance. Every building and structure shall be kept neat and attractive in appearance. All exterior wood surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner as often as necessary to preserve and maintain such appearance and prevent deterioration. Stone, brick or other masonry shall be kept adequately pointed and maintained.

SEC. 11-7-6 ABATEMENT OF PUBLIC NUISANCES.

(a) **Enforcement.** The Chief of Police, the Chief of the Fire Department, the Director of Engineering and Public Works and the Building Inspector shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) **Summary Abatement.** If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor, upon the recommendation of the appropriate department head, may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) **Abatement After Notice.** If the inspecting officer shall determine that public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).

(d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

SEC. 11-7-7 COST OF ABATEMENT AND PENALTY. (Ord. 2000-29)

(a) In addition to any other penalty imposed by this Chapter and Section 1-1-7 for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

(b) **Penalty.** Any person who shall violate any of the provisions of this Code shall be subject to a penalty, which is as follows:

(1) First Offense -- Penalty. Any person who violates any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00), together with the costs of prosecution.

(2) Second and Subsequent Offenses -- Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than Fifty Dollars ($50.00) nor more than Five Hundred

Dollars ($500.00) for each such offense, together with costs of prosecution.

(c) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining an appropriate action to prevent or remove a violation of any provision of this Code.

(d) **Other Remedies.** The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.

(e) **Citation Procedure.** All City officers and other City personnel charged with responsibility of enforcing the provisions of this Section are hereby authorized pursuant to Section 66.119(1)(a), Wis. Stats., to issue citations for violations of this Section.

TITLE 12

Parks and Navigable Waters

Chapter 1 Park Regulations
Chapter 2 Bulkhead Lines

CHAPTER 1

Park Regulations

12-1-1 Park Regulations
12-1-2 Radio-Controlled Models Prohibited in Parks
12-1-3 Turf Protection on Public Property
12-1-4 Park Hours
12-1-5 Ultralight Aircraft Regulated
12-1-6 Skateboards Prohibited in Specified Parks
12-1-7 Swimming Prohibited in Cedar Creek or Quarries
12-1-8 Reservation of Park Space

SEC. 12-1-1 PARK REGULATIONS. (Ord. 99-38)

(a) **Purpose and Definition**. In order to protect the parks, parkways, recreational facilities and conservancy areas within the City from injury, damage or desecration, these regulations are enacted. The term "park" as hereinafter used in this Chapter shall include all grounds, structures and watercourses which are or may be located within any area dedicated to the public use as a park, parkway, recreation facility or conservancy district in the City.

(b) **Specific Regulations.**

(1) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park.

(2) Sound Devices. No person shall operate or play any private or commercial amplifying system unless specific authority is first obtained from the Chief of Police as referenced in Section 11-2-9 of the Code of Ordinances.

(3) Pets. Pets, including animals of any species, are prohibited in all City parks except that dogs are allowed on parking lots and paved pathways, provided the dog is on a leash not more than six (6) feet in length and is under control of the handler at all times that the dog is on City property. (Ord. 2015-17)

(4) Bill Posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Park and Forestry Board.

(5) Throwing Stones and Missiles Prohibited. No person shall throw stones or other

missiles in or into any park.

(6) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables or other park equipment from any park.

(7) Trapping. No person shall trap in any park unless specific written authority first obtained from the Chief of Police.

(8) Making of Fires. No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park .

(9) Protection of Park Property. No person shall kill, injure, disturb or feed or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park, except as permitted by this Chapter. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.

(10) Motorized Vehicles. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. Motor vehicles are restricted to the roads and drives and parking areas. No motor vehicles of any nature may be used on the seeded areas except vehicles which have authorization from the Director of Parks and Recreation for shows, rides or exhibits and then only for the purpose of loading and unloading. No person shall operate any off-the-road vehicle, motorcycle, trail bike, all-terrain vehicle, truck or other motorized vehicle in any park, playground or other public ground, including where pathways or trails have been developed and or designated for walking, hiking, jogging, running, bicycling, cross-country skiing, sledding or other pedestrian use. All motorized vehicles are limited to use of roadways specifically for their use and according to other restrictions in this Code. (Ord. 99-38)

(11) Snowmobiles and All-Terrain Vehicles. No person shall operate a snowmobile or all-terrain vehicle in a City park except in designated areas.

(12) Speed Limit. No person shall operate any vehicle in a City park in excess of 15 m.p.h. unless otherwise posted.

(13) Glass Beverage Bottles in Parks Prohibited. No person shall bring into, carry onto or possess while in any public park glass bottles or glass containers, including those containing or normally used for containing soda water, fermented malt beverages or alcohol.

(14) Reckless Driving in Parks Prohibited. No person shall operate a motor vehicle in a reckless manner in any of the public parks of the City.

(15) Parking in Parks. Motor vehicle parking in City parks shall be permitted only in

designated parking areas and shall not be permitted between 11:00 p.m. and 5:00 a.m., except by permit issued by the Cedarburg Police Department.

(16) Horse and Carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Park and Forestry Board is first obtained. It shall be unlawful for any person to ride a horse or drive a horse-driven vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others.

(17) Removing Tree Protectors. No person shall remove any device for the protection of trees or shrubs.

(18) Golfing and Sporting Activities. No golfing or practicing golf in City parks or recreation areas shall be allowed. All sporting activities must be held in areas so designated for that purpose.

(19) Arrows. No person shall use or shoot any bow and arrow in any City park, except in authorized areas.

(20) Fees and Charges. The Common Council, upon the recommendation of the Park and Forestry Board, shall have the authority to establish such fees as deemed necessary for use of any park facility, shelter or land area. It shall be unlawful to use such areas without payment of such fee or charge when required.

(21) Firearms: Hunting. Possessing or discharging of any firearm or weapon of any kind is prohibited in all City Parks.

(22) Fish Cleaning. Cleaning of fish in shelters, toilet facilities or picnic areas prohibited in all City parks.

(23) Controlled Substances. Possessing, using or dispensing of a controlled substance in violation of the Uniform Controlled Substances Act is prohibited in all City parks.

(24) Camping. Overnight camping is not permitted in any City park.

(25) Utility Installation and Construction. Any private construction which may in any manner encroach upon or affect the parks and parkways shall be under the direction and jurisdiction of the Park and Forestry Board and no such installation, repair or construction shall commence without the written permission therefor from the Park and Forestry Board. All public works, including construction and installation of power lines, hydrants, sewers and the like shall be commenced only after notice to the Park and Forestry Board of the City's intention so to do. Where practicable, such construction and installation shall be performed pursuant to recommendations by the Park and Forestry Board.

(26) Boating on Lagoons. Boating of any type is prohibited on lagoons in City parks.

(27) Feeding of Waterfowl. Feeding of waterfowl in City parks is prohibited. (Ord. 97- 08a)

(28) Erecting of Tents. Requests to erect any tents in City parks must be made in writing to the Director of Parks and Recreation. Approval or denial of the request will be at the discretion of the Director of Parks and Recreation. The individual/organization will be responsible for contacting Diggers Hotline at least three (3) days prior to erecting the tent and for any damages resulting from the erection of the tent.

SEC. 12-1-2 RADIO-CONTROLLED MODELS PROHIBITED IN PARKS.

No person shall operate a radio-controlled model airplane, helicopter, boat or vehicle in any park in the City except in areas specifically designated and posted for such purpose.

SEC. 12-1-3 TURF PROTECTION ON PUBLIC PROPERTY.

Except as authorized by the Common Council, no person shall dig into the turf of any City-owned property for any purposes whatsoever or remove any trees or flowers. Absent authorization by the Common Council, the use of metal detectors and digging for buried objects on City property is prohibited.

SEC. 12-1-4 PARK HOURS. (Ord. 95-05) (Ord. 2002-20) (Ord. 2003-27)(Ord. 2007-21)

(a) **Park Hours.** Except for authorized events and subject to certain exceptions listed below, all City parks shall be closed from 11:00 p.m. to 5:00 a.m. the following day, and it shall be unlawful to enter in or be upon any park or playground after the designated closing time.
   (1) All Children's Playground and shelter/restroom shall be closed from 10:00 p.m. to 5:00 a.m. in Centennial Park.
   (2) Skate Facility shall be closed from 8 p.m. to 7 a.m.
   (3) Park hours shall be waived for Interurban Bridge Park and Cedar Creek Walkway.

(b) **Exceptions to Closing Hours.** Director of Parks and Recreation may modify closing hours for particular events.

(c) **Park Closing and opening Dates.** The Park and Forestry Board will have full authority to open and close any park, swimming pool, recreational facility or area because of season, condition, construction or when, in the interest of public safety, it is deemed necessary.

(d) **Emergency Authority.** Notwithstanding any regulations to the contrary, the City law enforcement authorities are authorized to close any park at any time that they determine that an emergency exists and to keep such park closed until such time as they determine that an emergency ceases to exist, or to close any park prior to the posted closing time when deemed to be in the best interests of the City to do so.

SEC. 12-1-5 ULTRALIGHT AIRCRAFT REGULATED.

(a) **Definition**. An ultralight aircraft, vehicle or hang glider is an unpowered or powered aircraft which is not subject to extensive regulation by the Federal Aviation Administration by virtue of its characteristics and which is defined as an ultralight vehicle by 14 C.F.R. Sec. 103.1 and which is defined as an ultralight aircraft by Sec. 114.195, Wis. Stats.

(b) **Regulations Regarding Use.**
   (1) No person shall operate any ultralight aircraft within the City in such a manner or in

such a location as to endanger or injure any person or property. No person shall operate an ultralight aircraft in the City in violation of any applicable state and federal regulations and standards. No person shall cause an ultralight aircraft to land or to take off from any property without permission of the owner or occupant of said property, provided that an emergency landing may be made to prevent a catastrophe. In the case of landing or taking off from a City public park or other City property, the operator of such ultralight aircraft shall first obtain a permit from the Park and Forestry Board. No fee shall be charged for the Park and Forestry Board permit which may be issued for a period up to thirty (30) days nor shall the Park and Forestry Board sponsor such activity.

(2) Any person desiring to land or to take off from any property owned by the City of Cedarburg shall, prior to receiving a permit, procure evidence of insurance as prescribed by the City's Schedule of Insurance Requirements. Evidence of such insurance shall include a certificate of insurance naming the City of Cedarburg as an additional insured and said certificate shall be filed with the City Clerk at the time the applicant seeks a permit.

SEC. 12-1-6 SKATEBOARDS PROHIBITED IN SPECIFIED PARKS. (Ord. 91-21)

No person may ride or otherwise use any roller device within the boundaries of Adlai Horn Park or Cedar Creek Park.

SEC. 12-1-7 SWIMMING PROHIBITED IN CEDAR CREEK OR QUARRIES. (Ord. 99-38)

No person shall bathe or swim in Cedar Creek or any tributary streams thereof or any quarry within or adjacent to any public park in said City.

SEC. 12-1-8 RESERVATION OF PARK SPACE. (Ord. 99-38)

(a) **Policy on Reservation.** The City-owned park and park facilities and shelter areas are primarily for the nonexclusive use of the residents and visitors of the City. However, under proper circumstances, exclusive use of the same or parts thereof may be permitted. This Section is intended to regulate exclusive use of municipally-owned parks, park facilities, park shelters or parts thereof in the City to the end that the general welfare of the City is protected.

(b) **Reservation of Park Space.** A person or group, firm organization, partnership or corporation may reserve the use of a park facility or a park shelter by written application filed with the Parks and Recreation Department for a permit for exclusive use of the same. The Parks and Recreation Department shall issue permits for exclusive use of a portion of a park or park shelter and permits for the exclusive use of City parks. Park facilities are reserved on a first-requested, first-reserved basis.

(c) **Application.** Applications shall be filed with the Parks and Recreation Department at least thirty (30) days prior to the date on which the exclusive use of the entire park is requested, or at least three (3) days prior to the date on which a park shelter or a portion of a park is to be used, and shall set forth the following information regarding the proposed exclusive use:

(1) The name, address and telephone number of the applicant.

(2) If the exclusive use is proposed for a group, firm, organization, partnership or corporations the name, address and telephone number of the headquarters of the same and the responsible and authorized heads or partners of the same.

(3) The name, address and telephone number of the person who will be responsible for the use of the said park, area or facility.

(4) The date when the exclusive use is requested and the hours of the proposed exclusive date.

(5) The anticipated number of persons to use the said park, area or facility. Any additional information which is deemed reasonably necessary to a fair determination as to whether a permit should be issued.

(d) **Reservation Fees and Deposits.** Subject to the provisions of Subsection (h), all applicants for reservation of park space or park buildings for which a permit is required shall pay fees and security deposits as set forth in Policy PR-1, Park Reservations, as the same from time to time may be amended. (Ord. 90-20) (Ord. 90-25) (Ord. 90-29)

(e) **Action on Application.** The Park and Forestry Board or appropriate committee thereof shall act promptly on all applications for permits for exclusive park use (not shelter use) after consulting with the applicant, if necessary.

(f) **Reasons for Denial.** Applicants may be denied for any of the following reasons:

(1) If it is for a use which would involve a violation of Federal or State law or any provision of this Code.

(2) If the granting of the permit would conflict with another permit already granted or for which application is already pending.

(3) If the application does not contain the information required by Subsection (c) above.

(4) The application is made less than the required days in advance of the scheduled exclusive use.

(5) If it is for a use of the park or park facility at a date and time when, in addition to the proposed use, anticipated nonexclusive use by others of the park or park facility is expected and would be seriously adversely affected.

(6) If the law enforcement requirements of the exclusive use will require so large a number of persons as to prevent adequate law enforcement to the park, park facility or shelter area involved or of the rest of the City.

(7) The exclusive use will reasonably create a substantial risk of injury to persons or damage to property.

(8) The exclusive use is so poorly organized that participants are likely to engage in aggressive or destructive activity.

(g) **Indemnification.** Prior to granting any permit for exclusive use of the park, the City may

require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the City and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the City and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants.

(h) **Permit Not Required For City Activity.** A permit is not required for exclusive use of the park or a park facility sponsored by the City.

(1) A permit is not required for exclusive use of the park or a park facility where such use is sponsored by the City. (Ord. 90-29)

(2) The Common Council shall have the authority to grant a variance to or waiver of fees required under this ordinance and Policy PR-1, Park Reservations, for such community events as it deems appropriate. (Ord. 90-29)

(i) **Permit Revocation.** The Common Council, Park and Forestry Board and/or Chief of Police after granting a permit may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of breach of the peace or by a major change in the conditions forming the basis of the issuance of the permit.

(j) **Form of Permit.** Each permit shall be in a form prescribed by the City and shall designate the park, park facility or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use and the name of the person, group, firm, organization, partnership or corporation to which the permit is issued.

(k) **Class B Fermented Malt Beverage.** When fermented malt beverages are sold at any event authorized by this Section, a valid Fermented Malt Beverage license shall be obtained and the provisions of Sections 7-2-11 and 11-5-1 shall be fully complied with. Said license must be held by the person who filed the original license and shall be presented to any law enforcement officer upon request.

<u>Cross Reference</u>: Sections 7-2-11 and 11-5-1.

CHAPTER 2

Bulkhead Lines

12-2-1 Bulkhead Lines Established

SEC. 12-2-1 BULKHEAD LINES ESTABLISHED.

(a) The bulkhead line of that part of Cedar Creek shore of Ozaukee County, hereinafter described and more particularly shown by the map on file with the City Clerk, is established and determined as set forth in the following description and the attached map, subject to the approval of the Department of Natural Resources; namely:

That part of the SE 1/4 of the NW 1/4 of Section 35, T 10 N, R 21 E, City of Cedarburg, Ozaukee Co., Wis., (being parts of Lots 4 and 21, Block 1 of "Assessor's Plat No. 2") described as follows:

Commencing at the S.W. Corner of Lot 12, Block 3 of "Cedarwood Subdivision," a subdivision in said Lot 4, Block 1, thence S 36E 17' W, along the easterly line of Park Street, 338.95'; thence S 69E 42' E, 145.80'; thence S 81E 44' E, 369.68' to the point of beginning of land herein described:

Thence N 14E 26' E, 47.20'; thence N 72E 16' E, 38.20'; thence S 31E 11' E, 82.30'; thence S 22E 29' E, 142.20'; thence S 18E 15' E, 366.67'; thence N 38E 17' W, 105.00'; thence N 35E 17' W, 135.30'; thence N. 26E 07' W, 148.00'; thence N 17E12' W, 174.73' to the point of beginning.

(b) Three (3) certified copies of the ordinances, together with three (3) true and correct copies of such map, shall be submitted to the Department of Natural Resources for its approval:
(1) One (1) in the office of the Department of Natural Resources;
(2) One (1) in the office of the City Clerk of the City Cedarburg, Wisconsin; and
(3) One (1) in the office of the Register of Deeds for and in Ozaukee County, Wisconsin.