TITLE 7

Licensing and Regulation

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CHAPTER 1

Licensing of Dogs and Cats; Regulation of Animals

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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.

Cross Reference: 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

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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 – Twenty Dollars ($20.00) for publication. (Ord. 2002-37) (Ord. 2008-26)(Ord. 2016-22)

(2) Class C Wine License – Twenty Dollars ($20.00) for publication. (Ord. 2002-37) (Ord. 2008-26)(Ord. 2016-22)

(3) All Operator Licenses -- Ten Dollars ($10.00). (Ord. 2002-37)

(4) Class A Intoxicating Liquor and Fermented Malt Beverage License – Twenty Dollars ($20.00) for publication. (Ord. 2002-37) (Ord. 2008-26)(Ord. 2016-22)

(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) **Minimum Open Hours Required.** (Ord. 2016-23)

(1) Definitions.

In this section:

a. "Open to the public for business" means that any member of the public is able to enter the licensed premises and engage in the licensee's principal activity or activities, including but not limited to the purchase of alcohol beverages. Factors to consider in determining whether a licensee is "open to the public for business" include, but are not limited to:

i. Whether the licensee's doors are unlocked;
ii. Whether the licensee's interior lights are on;
iii. Whether the licensee's exterior lights are on during hours of darkness;
iv. Whether the licensee publishes open hours in any form of public communication, including but not limited to websites and advertisements;
v. Whether the licensee has the necessary staff on site to operate the licensee's advertised business.

b. "Day" means the period from 6:00 a.m. on one calendar day to the next statutory closing hour as set forth in Wis. Stat. s. 125.68(4)(c). A day which falls within two calendar months shall be deemed to fall within the calendar month of the month preceding 12:00 midnight. For example, the time period of 6:00 a.m. on Thursday, March 31 to 2:00 a.m. on Friday, April 1 shall be counted as one "day" under this section, and shall be deemed to fall within the calendar month of March.

c. "Extraordinary circumstances" means an unforeseen and undesired event which completely precludes the business from being open to the public at any time, including but not limited to fire, flooding, other weather-related damage, or utility interruption. Staffing shortages or economic difficulty are not "extraordinary circumstances."

(2) Minimum Open Hours Required.

a. Each licensee holding a "Class B" license shall be open to the public for business for not less than 15 days each calendar month. On each of such 15 days each calendar month, each licensee holding a "Class B" license shall be open to the public for business for not less than 240 consecutive minutes.

(3) Enforcement.

a. Upon a report that a licensee is not in compliance with section (2)(a), the City Clerk shall send the licensee a warning letter via certified mail reminding the licensee of the requirements of this subsection and directing the licensee to submit a response within 14 days setting forth the licensee's reasons for noncompliance with section (2)(a) and the licensee's plans for becoming compliant.

b. After the 14 day warning period set forth in section (3)(a), a licensee's continued noncompliance with section (2)(a) is grounds for suspension, revocation, or non-renewal of the "Class B" license.

(4) Exemptions.

a. Notwithstanding the foregoing, any licensee which is a tax-exempt nonprofit organization under section 501(c)(3) of the Internal Revenue Code shall be exempt from section (2)(a).

b. Notwithstanding the foregoing, any licensee which is a tax-exempt veteran's organization under Section 501(c)(19) of the Internal Revenue Code shall be exempt from section (2)(a).

c. A licensee may file a petition with the City Clerk requesting a 60-day exemption from section (2)(a) due to extraordinary circumstances. The City Clerk shall require the licensee to appear before the Common Council in support of the petition. If the licensee fails to appear, the petition shall be denied. If the licensee appears, the Common Council may take testimony and/or other evidence from the licensee on the petition. The Common Council shall find whether the licensee has shown good cause for a 60-day exemption due to extraordinary circumstances and grant or deny the petition. If an extraordinary circumstance continues, the licensee must file a new petition seeking an additional 60-day exemption.

(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 One Hundred Dollars ($100) 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 Fifty Dollars ($150.00). 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) (Ord. 2016-22)

(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.