

## **TITLE 7**

### **Licensing and Regulation**

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## **CHAPTER 1**

### **Licensing of Dogs and Regulation of Animals**

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**SEC. 7-1-1 DOG LICENSE REQUIRED; DEFINITIONS.**

- (a) **License Required.** It shall be unlawful for any person in the City of Osseo to own, harbor or keep any dog 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.

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 shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the City of Osseo after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the City unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog 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 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, 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 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 at all times, but this requirement does not apply to a dog during competition or to a dog 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 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 KENNEL LICENSES.

#### (a) **Dog Licenses.**

- (1) It shall be unlawful for any person in the City of Osseo to own, harbor or keep any dog 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 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 becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license tax under this Section shall be Two Dollars (\$2.00) for spayed females or neutered males. The minimum fee for unsplayed or unneutered animals shall be Five Dollars (\$5.00). 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.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Clerk-Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The City Clerk-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 for which the license is issued at all times, except as provided in Section 7-1-2(e).
  - (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any City police or humane officer shall seize, impound or restrain any dog for which a dog 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 Clerk-Treasurer upon application therefor.
- (b) **Kennel Licenses.**
- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of Thirty Dollars (\$30.00) for a kennel of twelve (12) or fewer dogs and an additional Three Dollars (\$3.00) for each dog in excess of twelve (12). Upon payment of the required kennel license tax and, if required by the Common Council, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the City Clerk-Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. A kennel license shall only be issued for those premises where a conditional use permit has first been obtained pursuant to the City Zoning Code.
  - (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition or to a dog securely confined indoors. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

State Law Reference: Section 174.053, Wis. Stats.

Cross Reference: Section 7-1-22.

#### **SEC. 7-1-4 LATE FEES.**

The City Clerk-Treasurer shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog 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 if the owner failed to obtain a license on or before the dog 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 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 Clerk-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) **Quarantine of Dog or Cat.**
  - (1) Delivery to isolation facility or quarantine on premises of owner. An officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
  - (2) Health risk to humans. If a dog or cat 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 dog or cat 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.
- (e) 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.
- (f) 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.
- (g) 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.

**SEC. 7-1-6 RESTRICTIONS ON KEEPING OF DOGS, CATS, FOWL AND OTHER ANIMALS.**

- (a) Restrictions. It shall be unlawful for any person within the City of Osseo 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.

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- (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.
- (7) In the case of a dog, is unlicensed.
- (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 two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. 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) **Animals Running at Large.**
  - (1) No person having in his possession or ownership any animal or fowl shall allow the same to run at large within the City. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.
  - (2) A dog or cat shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.
- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Section 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.

### SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

- (a) **Animal Control Agency.**
  - (1) The City of Osseo 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 Osseo 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.**

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.

#### **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 and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the Police Department shall direct. 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.**

The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.

**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.**

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. A dog, animal or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Police Department within a four (4) week period.

**SEC. 7-1-13 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS.**

**(a) Protected Animals.**

- (1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonina mydas*), Mexican ridley turtle (*lepidochelys kempii*).
- (2) 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).
- (3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.

- (c) **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. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any of the following animals, reptiles or insects:
- (1) All poisonous animals and reptiles including rear-fang snakes.
  - (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); orangutans (*Pongo*); and siamangs (*Symphalangus*).
  - (3) Baboons (*Papio*, *Mandrillus*).
  - (4) Bears (*Ursidae*).
  - (5) Bison (*Bison*).
  - (6) Cheetahs (*Acinonyx jubatus*).
  - (7) Crocodilians (*Crocodylia*), thirty (30) inches in length or more.
  - (8) Constrictor snakes, six (6) feet in length or more.
  - (9) Coyotes (*Canis latrans*).
  - (10) Deer (*Cervidae*); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
  - (11) Elephants (*Elephas* and *Loxodonta*).
  - (12) Game cocks and other fighting birds.
  - (13) Hippopotami (*Hippopotamidae*).
  - (14) Hyenas (*Hyaenidae*).
  - (15) Jaguars (*Panthera onca*).
  - (16) Leopards (*Panthera pardus*).
  - (17) Lions (*Panthera leo*).
  - (18) Lynxes (*Lynx*).
  - (19) Monkeys, old world (*Cercopithecidae*).
  - (20) Ostriches (*Struthio*).
  - (21) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
  - (22) Rhinoceroses (*Rhinocero tidae*).
  - (23) Sharks (class *Chondrichthyes*).
  - (24) Snow leopards (*Panthera uncia*).
  - (25) Tigers (*Panthera tigris*).
  - (26) Wolves (*Canis lupus*).
  - (27) Poisonous insects.
  - (28) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.
- (d) **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; if:
- (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, ducklings 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: Section 948.11, Wis. Stats.

**SEC. 7-1-15 PROVIDING PROPER FOOD AND DRINK TO  
CONFINED 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: Section 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: Section 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) **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.
- (b) **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.
- (c) **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.
- (d) **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 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. 7-1-20 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.

**(1) Liability for injury.** (a) *Without notice.* Subject to s. 895.045 and except as provided in s. 895.57(4), the owner of a dog is liable for the full amount of damages caused by the dog injuring or causing injury to a person, domestic animal or property.

(b) *After notice.* Subject to s. 895.045 and except as provided in s. 895.57(4), the owner of a dog is liable for 2 times the full amount of damages caused by the dog biting a person with sufficient force to break the skin and cause permanent physical scarring or disfigurement if the owner was notified or knew that the dog had previously, without provocation, bitten a person with sufficient force to break the skin and cause permanent physical scarring or disfigurement.

**(2) Penalties imposed on owner of dog causing damage.** (a) *Without notice.* The owner of a dog shall forfeit not less than \$50 nor more than \$2,500 if the dog injures or causes injury to a person, domestic animal, property, deer, game birds or the nests or eggs of game birds.

(b) *After notice.* The owner of a dog shall forfeit not less than \$200 nor more than \$5,000 if the dog injures or causes injury to a person, domestic animal, property, deer, game birds or the nests or eggs of game birds, and if the owner was notified or knew that the dog previously injured or caused injury to a person, domestic animal, property, deer, game birds or the nests or eggs of game birds.

(c) *Penalties in addition to liability for damages.* The penalties in this subsection are in addition to any other liability imposed on the owner of a dog.

**(3) Court order to kill a dog.** (a) The state, any municipality, or a person who is injured by the dog, whose minor child was injured by the dog, or whose domestic animal is injured by the dog may commence a civil action to obtain a judgment from a court ordering an officer to kill a dog. The court may grant the judgment if the court finds both of the following:

1. The dog caused serious injury to a person or domestic animal on 2 separate occasions off the owner's property, without reasonable cause.
2. The owner of the dog was notified or knew prior to the 2nd injury, that the dog caused the first injury.

(b) Any officer enforcing a judgment under this subsection shall kill a dog in a proper and humane manner.

**(4) Law enforcement dogs.** (a) In this subsection, "law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(b) The owner of a dog that is used by a law enforcement agency is not liable under sub. (1) for damages caused by the dog to a crime suspect while the dog is performing law enforcement functions.

(c) Subsection (2) does not apply to the owner of a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

(d) Subsection (3) does not apply to a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

**SEC. 7-1-21 LIMITATION ON NUMBER OF DOGS.**

- (a) **Purpose.** The keeping of a large number of dogs within the City for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs is, therefore, declared a public nuisance.
- (b) **Definitions.**
  - (1) **Dog.** A dog means any canine, regardless of age or sex.
  - (2) **Residential Lot.** A residential lot means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute one (1) lot.
- (c) **Number Limited.**
  - (1) No family shall own, harbor or keep in its possession more than three (3) dogs on any residentially zoned lot without the prior approval of the Common Council except that a litter of pups or a portion of a litter may be kept for not more than eight (8) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of three (3) dogs shall be allowed on the residential lot unless the prior approval is obtained from the Common Council. For the purposes of this Section, the term "family" shall be defined as one (1) or more persons. Persons may keep more than three (3) dogs only if they have first received a kennel license and a conditional use permit pursuant to the City Zoning Code.
  - (2) The above requirement may be waived with the approval of the Common Council or when a kennel license has been issued by the City. Such application for waiver shall first be made to the City Clerk-Treasurer who shall forward the request with his approval or objection to the Health Officer and the Police Department. After review, these officials shall make a recommendation to the Common Council prior to Council action on the matter.

**SEC. 7-1-22 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. 7-1-23 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 or 7-1-22 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 jurisdiction 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**

**SEC. 7-2-1 STATE STATUTES ADOPTED.**

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt 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.

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.

**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 LICENSES.**

- (a) **Retail Class "A" Intoxicating Liquor License.** A retail Class "A" intoxicating liquor license, when issued by the City Clerk-Treasurer 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-Treasurer 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.

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- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk-Treasurer 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-Treasurer 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 (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.
- (e) **Special Class "B" Fermented Malt Beverage Picnic License.**
  - (1) **License.** A special Class "B" picnic license, when issued by the City Clerk-Treasurer 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 at a particular picnic, post meeting, fair or similar gathering. Such license may be issued only to bona fide clubs, state, county or local fairs, associations or agricultural societies, lodges or societies that have been in existence for not less than six (6) months prior to the date of application for such license or to posts of ex-servicemen's organizations now or hereafter established. Such license is valid for dates as approved by the Common Council. Irrespective of other Sections of this Chapter, the Common Council is hereby authorized to issue a fermented malt beverage license to any local civic, or any local religious or any local not-for-profit organization pursuant to this Section.
  - (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-Treasurer 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 special 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 fifteen (15) days prior to the meeting of the Common Council at which the application will be considered. 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.
- (f) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk-Treasurer 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.

Cross Reference: Section 7-2-17.

### SEC. 7-2-5 LICENSE FEES.

There shall be the following classes and denominations of licenses which, when issued by the City Clerk-Treasurer under the authority of the Common Council after payment of the fee hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Sections 125.04(5), (6);

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125.28(1)(a), (b), (d); 125.28(2); 125.31(2)(a); 125.22(1), (2), (4); 125.32(4)(a); 125.31(2)(b); 125.26(2); 125.04(6); 125.17; 125.68(2); 125.32(2); 125.51(2); 125.51(3); or 125.57, Wis. Stats.:

- (a) Retail Class "A" Intoxicating Liquor License -- \$500.00 annually or fraction thereof.
- (b) Retail Class "B" Intoxicating Liquor License -- \$500.00 annually.
- (c) Class "A" Fermented Malt Beverage Retailer's License -- \$10.00 annually.
- (d) Class "B" Fermented Malt Beverage Retailer's License -- \$100.00 per year or three-fourths (3/4) of that amount for a six (6) month period. Club license as defined in Section 125.32(4)(b), Wis. Stats., shall be issued for a fee of Ten Dollars (\$10.00). Class "B" fermented malt beverage retailer's license for brewers shall be pursuant to Section 125.31(1)(a) and 125.06(1), Wis. Stats.
- (e) Special Class "B" Fermented Malt Beverage Picnic License -- \$10.00 per event.
- (f) Wholesaler's License -- \$25.00 annually or fractional part thereof.

### SEC. 7-2-6 APPLICATION FOR LICENSE.

- (a) **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-Treasurer 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.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant.
- (d) **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.
- (e) **License Quotas.** No more than the number of licenses permitted under Chapter 125, Wis. Stats., shall be granted by the City.

### 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 are citizens of the United States and of Wisconsin.
- (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" or "B" 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



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- 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-Treasurer 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.

### SEC. 7-2-8 INVESTIGATION.

The City Clerk-Treasurer shall notify the Chief of Police, Chief of the Fire Department and Building Inspector of each new 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. These officials shall furnish to the City Clerk-Treasurer 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.

### 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.
- (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.

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### 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-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the City.

### 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-Treasurer. 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-Treasurer 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.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk-Treasurer 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-Treasurer 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-Treasurer shall affix to the license his affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

### SEC. 7-2-13 POSTING LICENSES; DEFACEMENT.

- (a) Every person licensed in accordance with the provisions of this Chapter shall immediately 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.

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### SEC. 7-2-14 CONDITIONS OF LICENSE.

All retail Class "A" and "B" 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" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises 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 "B" license, at all times, the licensee, members of the licensee's immediately family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (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 issued under this Chapter. No Class "B" 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" or Class "B" 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) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **Gambling Prohibited.** No gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Ordinance or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A" or Class "B" liquor or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. 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.

ORDINANCE TO AMEND SECTION 7-2-15(b) OF THE CITY OF  
OSSEO CODE OF ORDINANCES

The Common Council of the City of Osseo does ordain and amend as follows:


**SEC. 7-2-15 CLOSING HOURS.**

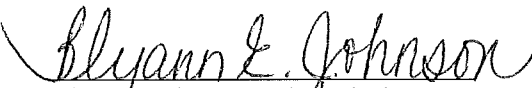
(b) **Class "A" Licenses.** No premises for which a "Class A" Retailers License is issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 6:00 a.m. Class "A" licensed premises may remain open for the conduct of their regular business, but may not sell fermented malt beverages between the hours of 12:00 Midnight and 6:00 a.m.

(f) **Effective Date.** This ordinance shall take effect following passage and publication as provided by law.

ADOPTED this 12th day of September, 2016.

CITY OF OSSEO

  
Tom M. Twesme, Mayor

  
Blyann Johnson, City Clerk

Published: October 13<sup>th</sup>, 2016

## Fermented Malt Beverages and Intoxicating Liquor

- (j) **Licensee or Permittee Responsible for Acts of Help.** 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.
- (k) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
  - (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
  - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
  - (3) Exposes any portion of the female breast at or below the areola thereof; or
  - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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.

Closing hours shall be established in conformance with Section 125.32(3), Wis. Stats., and further restricted as follows:

- (a) **Class "B" Licenses.**
  - (1) No premises for which a retail Class "B" liquor and fermented malt beverage 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. There shall be no closing hours on January 1st.
  - (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 licensee or permittee and one (1) employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning. Under no circumstances shall the consumption of alcohol beverages be permitted after closing hours. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning during closed hours. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Common Council or its designee for any variance of the above exigent circumstances.
- (b) **Class "A" Licenses.** Class "A" licensed premises may remain open for the conduct of their regular business daily between the hours of 8:00 a.m. and 9:00 p.m.
- (c) **Modification of Closing Hours.** Closing hours may be modified for specific events by a majority vote of the Common Council.

amended  
10/13/16

196.55

6:00

## Fermented Malt Beverages and Intoxicating Liquor

### SEC. 7-2-16 RESTRICTIONS ON SPECIAL CLASS "B" FERMENTED MALT BEVERAGE SPECIAL EVENT LICENSE.

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 Osseo, 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) **Fencing.** All organizations shall install a double fence around the main point of sale to control ingress and egress and shall continually station a licensed operator or security guard at the entrance for the purpose of checking age identification. There shall be only one (1) point of ingress and egress. The double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences. A single eight (8) foot chain link fence may be used to meet the fence requirements. This requirement may be waived by the Common Council due to the physical characteristics on the licensed site.
- (d) **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.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (f) **Permitted Cups or Cans Only.** Intoxicants will be sold outside only in foam or plastic cups or cans.
- (g) **Additional Requirements.** In addition, requesting organizations shall comply with the following:
  - (1) When the event sponsored by the requesting organization is to take place on City park property, the organization shall work closely with the City officials in locating, setting up and identifying the size of the snow fence area. Such information shall be made part of the temporary Class "B" permit application.
  - (2) When the event sponsored by the requesting organization is to take place on City-owned property other than park property and/or privately owned property, the organization shall work closely with the Police Department in locating and setting up the snow fence area. The Chief of Police shall work closely with the requesting organization in identifying the size of the fenced-in area and the exact location. Such information shall be made part of the temporary Class "B" permit application. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It shall contain adequate sanitary facilities to accommodate the size of the group.
- (h) **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

## Fermented Malt Beverages and Intoxicating Liquor

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 Osseo. 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 BEER GARDEN LICENSES REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" PREMISES.**

- (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 permit granted by the Common Council. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Common Council at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid Beer Garden permit.
- (b) **Limitations on Issuance of Beer Garden Permits.** No permit shall be issued for a Beer Garden if any part of the Beer Garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. No permit shall be issued for a Beer Garden if the Beer Garden area is greater than fifty percent (50%) of the gross floor area of the adjoining licensed premises. Each applicant for a Beer Garden permit shall accurately describe the area intended for use as a Beer Garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the Beer Garden. Every Beer Garden shall be completely enclosed with a fence or wall not less than six (6) feet in height. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the Beer Garden. There shall be a licensed operator with the Beer Garden at all times the Beer Garden is in operation. There shall be a Twenty (\$20.00) Dollar annual fee for a beer garden.
- (c) **Adjoining Property Owners to be Notified of Pendency of Applications.** All property owners within one hundred fifty (150) feet of the proposed beer garden shall be notified of the pendency of application for a Beer Garden permit by first class mail.
- (d) **State Statutes Enforced Within Beer Garden.** Every permittee 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 Beer Garden permit by the Common Council.

Cross Reference: Section 7-2-4(e).

### **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.

## Fermented Malt Beverages and Intoxicating Liquor

- (b) **Abandonment of Premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The loss or non-use of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Common Council. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.
- (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-Treasurer commanding the licensee complained of to appear before a special committee designated by 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. 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 offense 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 Committee deems its allegations sufficient, the Committee shall recommend revocation or suspension of the license as provided herein.
- (2) **Procedure on Hearing; Effect of Revocation.**
- a. The designated committee shall serve as a hearing agency for the Common Council.
- b. The Chairman of the Committee, or the Chair's designee, 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-Treasurer shall serve as secretary to the Committee and shall make and receive all exhibits admitted into the record.
- c. Within ten (10) days of the completion of the hearing and filing of briefs, if any, the Committee, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true and, if so, submit a report



## Fermented Malt Beverages and Intoxicating Liquor

- to the Common Council including its findings of fact, conclusions of law and a recommendation as to what action, if any, the Common Council should take with respect to the license. If the recommendation 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 Committee determines that the charges are not substantiated, it shall recommend to the Common Council that the complaint be dismissed without cost to either party. The Committee's recommendation shall be promptly filed with the Clerk-Treasurer.
- d. At the regular meeting of the Common Council after the filing of the Committee's recommendation, the Common Council shall act on the recommendation and may reverse or modify any portion thereof by a simple majority vote. The recommendation of the Committee shall become the decision of the Common Council unless reversed or modified. No further testimony or evidence shall be allowed before the Common Council. Only those members of the Common Council who have certified to the City Clerk-Treasurer in writing that they have read the transcript, exhibit and recommendation made shall be permitted to vote on the matter. The City Clerk-Treasurer shall make the said certifications a part of the record. The decision of the Common Council shall be a final determination for purposes of judicial review.
  - e. 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.
  - f. When a license is revoked, it shall be so entered of record by the City Clerk-Treasurer, 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) **Non-renewal of License.** The City Attorney may, after investigation, commence an action before the Committee to hear evidence and make a recommendation to the Common Council that a license issued pursuant to this Chapter not be renewed. The Chairman of the Committee shall, in writing, notify the licensee of the consideration of non-renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non-renewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for non-renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subsection (c) above shall apply. The commencement of this action shall stay action by the Common Council on the licensee's application until the Committee makes its recommendation.
- (e) **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 licensee 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.

## Fermented Malt Beverages and Intoxicating Liquor

### (f) Point Values for Alcohol Beverages' Violation, Revocations and Suspensions.

- (1) Purpose and Definitions. The purpose of this Subsection is to administratively interpret those portions of this Chapter and Title 11, Chapter 5, of this Code of Ordinances relating to establishing an alcohol beverage demerit point system to assist in determining which licenseholders should be subject to suspension or revocation procedures.
- (2) Point Schedule. The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome licenseholders who have repeatedly violated state statutes and City Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

<u>Type of Violation</u>	<u>Point Value</u>
1. Sale of Alcohol Beverages Without License or Permit; Sale of Controlled Substances on Licensed Premises	100
2. Sale of Alcohol Beverages to Underaged Person	50
3. Sale of Alcohol Beverages to Intoxicated Person	50
4. Underaged Person on Premises	50
5. Intoxicated Bartender; Disorderly Conduct on Premises	50
6. After Hours Consumption	50
7. Refusal to Allow Police to Search Premises or Refusal to Cooperate with Lawful Police Investigation	50
8. Licensee, Agent or Operator Not on Premises at all Times	25
9. Persons on Premises After Closing Hours	25
10. Violation of Carry-out Hours	25
11. Licensee Permitting Person to Leave Licensed Premises With Open Alcohol Beverage	25
12. All Other Violations of this Chapter	25

- (3) Violations, How Calculated. In determining the accumulated demerit points against a licensee within twelve (12) months, the City shall use the date each violation was committed as the basis for the determination.

#### (4) Suspension or Revocation of License.

- a. The Committee shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated one hundred fifty (150) points in a twelve (12) month period as a result of court-imposed convictions or who have had referred to it reports from the City Attorney which, if believed, would result in one hundred fifty (150) demerit points in twelve (12) months.
- b. If the demerit point accumulation, calculated from the date of violation, exceeds one hundred fifty (150) points in a twelve (12) month period, two hundred (200) points in a twenty-four (24) month period or two hundred fifty (250) points in a thirty-six (36) month period, the suspension shall be for not less than ten (10) days nor more than ninety (90). If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.
- c. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

## Fermented Malt Beverages and Intoxicating Liquor

### SEC. 7-2-19 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.

The presence of underage persons on a licensed premises as provided under Section 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

- (a) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" license.
- (b) During the period of any non-alcohol event, a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Department to a requesting licensee.
- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event, all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

Personnel Committee has not met on researching sick leave for family as well as individuals. They will discuss this at the next Personnel Committee Meeting, and a report will be presented at the March council meeting.

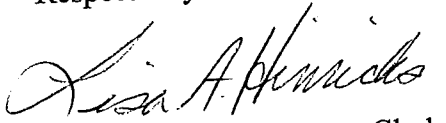
Motion by Fox and seconded by Shieler to increase Bartender License's fee from \$5.00 to \$10.00. Motion carried.

Mayor will get bids for City Hall furnace which will include venting done to eliminate two furnace's and give report on the March council meeting.

Discussion on Animal Control will be talked about at the next Law Enforcement Committee Meeting.

Motion by Becker and seconded by Holm to adjourn. Motion carried.

Respectfully submitted,



Lisa A. Hinrichs, Deputy Clerk

Approved February 8, 1999 at Council Meeting

## Fermented Malt Beverages and Intoxicating Liquor

### ARTICLE B

#### Operator's License

##### SEC. 7-2-20 OPERATOR'S LICENSE REQUIRED.

There shall be upon the premises operated under a Class "A" or Class "B" intoxicating liquor license or Class "B" fermented malt beverage license at all times the licensee or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the Class "A" or Class "B" licenses unless he shall possess an operator's license or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be upon the premises at the time of such service.

State Law Reference: Section 125.17, Wis. Stats.

##### SEC. 7-2-21 PROCEDURE UPON 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-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the City.

##### 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; PROVISIONAL LICENSE.

- (a) **Fee.** The fee for an operator's license shall be Five Dollars (\$5.00) per year.
- (b) **Provisional License.** The City Clerk-Treasurer may issue provisional operator's licenses in accordance with Section 125.17(5), Wis. Stats., at a cost of Ten Dollars (\$10.00) per license so issued. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. A provisional license may not be issued to any person who has been denied an operator's license by the Common Council or who has had his operator's license revoked or suspended within the preceding twelve (12) months. The City Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The City Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application.

##### SEC. 7-2-24 ISSUANCE.

After the Common Council approves the granting of an operator's license, the City Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in

## Appendix A – City of Osseo Operator's License Review Policy

### (A) Purpose.

- (1) The Common Council of the City of Osseo, Trempealeau County, Wisconsin is responsible for issuance of Operator's License for the service of alcohol beverages. The holder of such license must exercise a high degree of responsibility as the distributor for what is essentially a legal drug.
- (2) Licensees are expected to ensure that alcohol beverages are not served or sold to underage persons or intoxicated persons. They are expected to uphold all laws relating to the sale and consumption of alcohol beverages on the premises they control or manage. Licensees are expected to actively discourage and minimize disturbances of the peace, maintain community safety, discourage impaired driving and also frequently work in cooperation with law enforcement authorities.
- (3) Before issuing an Operator's License to an individual, the Common Council must be reasonably satisfied that the applicant can be entrusted with these responsibilities. This policy is adopted to guide City officials in evaluating applications for Operator's Licenses and to assist in determining when an application may be rejected or approved.
- (4) This policy is not intended to set forth all possible reasons for denial of an application. This policy is also not to be construed as a limit on the Common Council's ultimate discretion to issue a license or deny an application for any lawful reason.

### (B) Arrest and Conviction Records.

The City Clerk-Treasurer, in cooperation with the City of Osseo Police Department, shall conduct a review of the arrest and conviction records of all applicants and report the results to the Common Council. Persons with arrest or conviction records revealing any of the following, **shall not** be issued an Operator's License providing the circumstances of the offense substantially relates to the job or licensed activity.

- (1) Conviction of a felony, unless duly pardoned.
- (2) Conviction, or current charge pending, under State Statute or local ordinance, for one (1) or more violent offenses including but not limited to battery, sexual assault, intimidation of witness, resisting or obstructing an officer, perjury, bail jumping, drug offenses, or offenses substantially similar to said offenses, within five (5) years prior to the date of license application.
- (3) Conviction, or current charge pending, under State Statute or local ordinance for two (2) or more violent offenses, offenses against government, or drug offenses,

arising out of separate incidents within the ten (10) years prior to the date of license application.

- (4) Conviction, or current charge pending, for two (2) or more offenses arising out of separate incidents within five (5) years prior to the date of application, whether under State Statute or similar local ordinance including but not limited to the following offenses or those substantially similar to said offenses:
  - (a) Disorderly conduct.
  - (b) Criminal damage to property.
  - (c) Solicitation of prostitution or other prostitution-related offenses.
  - (d) Alcohol beverage offenses.
  - (e) Possession of controlled substances or controlled substance analog.
  - (f) Operating a motor vehicle contrary to any offense under Section 346.63, Wisconsin Statutes. (Impaired driving law).
  - (g) Open intoxicants violation – in minor vehicles or public places.
- (5) The person is a habitual law offender. A person shall be considered a habitual law offender of the person has been convicted or has a current pending charge for:
  - (a) Two (2) or more offenses arising from separate incidents within the year immediately preceding the date of application;
  - (b) Three (3) or more offenses arising from separate incidents within the five (5) years immediately preceding the date of application; or
  - (c) Six (6) or more offenses arising from separate incidents within ten (10) years immediately preceding the date of application.
- (6) Any other criminal or ordinance offenses that substantially relate to the job or licensed activity that the issuing authority believes are needed to be considered in order to protect the public and properly regulate the issuance of operator licenses.

**(C) Truthful Application Requirement.**

If the Common Council determines that the applicant has provided false information or intentionally omitted pertinent information, the application shall be denied and no new application from that person shall be approved for a period not less than one (1) year from the date of denial.

**(D) Appeal of Initial Determination.**

- (1) Any person denied an Operator's License may appeal the determination to the Common Council for reconsideration. Operator's Licenses will be granted only where extraordinary circumstances or significant new information exist to demonstrate that the person is capable of exercising the necessary judgment and responsibility to hold an Operator's License despite the evidence to the contrary contained in the person's arrest or conviction record.

- (2) Within thirty (30) days of receipt of the written determination to deny the Operator's License, an appeal may be filed by the applicant by submitting to the City Clerk-Treasurer a detailed written explanation of the specific extraordinary circumstances or significant new information, along with any supporting documentation including, but not limited to, letters from treatment centers and opinions of doctors or counselors. Simple expressions of remorse or unsubstantiated pledges of having changes one's ways do not constitute specific evidence of extraordinary circumstances.
- (3) The appellant shall be given written notice by regular mail of the date and time the Common Council will hear and render a decision on appeal. Failure to appear will generally constitute grounds for denial of the appeal; however, a decision may be made based upon the written appeal application alone if the written materials, in the opinion of the Common Council, do not appear to set forth sufficient grounds to overturn the original denial of the Operator's License application.



## **Fermented Malt Beverages and Intoxicating Liquor**

the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

### **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 SEC. THROUGH 7-2-29 RESERVED FOR FUTURE USE.**

## **Fermented Malt Beverages and Intoxicating Liquor**

### **ARTICLE C**

#### **Penalties**

##### **SEC. 7-2-30 PENALTIES.**

- (a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the City of Osseo, 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 Osseo, 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 the general penalty section of this Code of the City of Osseo.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

## CHAPTER 3

### Pharmacists' Permits; Cigarette License

7-3-1        Pharmacists' Permits  
7-3-2        Cigarette License

#### SEC. 7-3-1    PHARMACISTS' PERMITS.

- (a) A Pharmacist's Permit, when issued by the City Clerk-Treasurer in and upon compliance with this Code and the Wisconsin Statutes, shall entitle and authorize the holder thereof to possess, sell or offer for sale intoxicating liquors as defined by Section 125.02, Wis. Stats., in quantities less than four (4) liters for medicinal or scientific purposes only and not to be drunk on the premises. Said sales shall be made in compliance with Section 125.57, Wis. Stats.
- (b) Upon the approval of the application by the Common Council, the City Clerk-Treasurer shall, upon filing by the applicant of a receipt showing the payment to the City of a permit fee of Ten Dollars (\$10.00), issue to the applicant a permit.
- (c) Each permit shall be numbered in the order in which issued and shall specifically state the premises for which issued, the fee paid and the name of the licensee.

State Law Reference: Section 125.57, Wis. Stats.

#### SEC. 7-3-2    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-Treasurer 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-Treasurer 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-Treasurer a license fee of ~~Five Dollars (\$5.00)~~ (\$100.00).
- (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-Treasurer. 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: Section 134.65, Wis. Stats.

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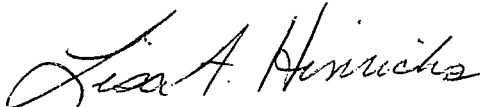
**Renee Springer - Special Assessment:** Motion by Holm and seconded by Fox  
City of Osseo will pay Trempealeau County Treasurer \$1,060.92 to wipe out the special  
assessment against the Springer's and Trempealeau County Treasurer will return that  
same amount to the city. Then the City of Osseo will place this amount back on the tax  
roll for 4 year repayment. Motion carried.

Motion by Becker and seconded by Shipler that they approve Dale Olson request to carry  
over his vacation to 1999 one week. Motion carried.

Motion by Shipler and seconded by Becker that we increase the Tobacco Retailer License  
Fees to \$100.00 per establishment. Motion carried.

Motion by Becker and seconded by Hanson to adjourn. Motion carried.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lisa A. Hinrichs".

Lisa A. Hinrichs, Deputy Clerk

## **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	Regulation of Direct Sellers
7-4-8	Records
7-4-9	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 Osseo without being registered for that purpose as provided herein.

#### **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, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, but shall not include religious organizations.
- (e) **Clerk** shall mean the City of Osseo Clerk-Treasurer.
- (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.

#### **SEC. 7-4-3 EXEMPTIONS.**

The following shall be exempt from all provisions of this Chapter:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling goods at wholesale to dealers in such goods;

## Direct Sellers

- (c) Any person selling agricultural products which such person has grown;
- (d) 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;
- (e) 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;
- (f) 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;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (h) 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;
- (i) 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-Treasurer 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;
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk-Treasurer that such person is a transient merchant, provided that there is submitted to the City Clerk-Treasurer 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.

### SEC. 7-4.4 REGISTRATION.

- (a) Applicants for registration must complete and return to the City Clerk-Treasurer a registration form furnished by the Clerk-Treasurer 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-Treasurer 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) **Late Registration Fee.**
  - (1) At the time the registration is returned, a fee shall be paid to the City Clerk-Treasurer to cover the cost of processing said registration. Each and every member of a group must file a separate registration form. The fee for a direct seller's, solicitor's or canvasser's license shall be: Ten Dollars (\$10.00) per day. Direct sellers may employ one (1) assistant without payment of an additional license fee, but such persons must comply with the other provisions of this Section, including registration.
  - (2) The applicant shall sign a statement appointing the City Clerk-Treasurer his/her 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) Upon payment of said fee and the signing of said statement, the City Clerk-Treasurer shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-4-5(b) below.

#### SEC. 7-4-5 INVESTIGATION.

- (a) Upon receipt of each application, the City Clerk-Treasurer 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-Treasurer 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 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 8:00 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 shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (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. 7-4-8 RECORDS.**

The Chief of Police shall report to the City Clerk-Treasurer all convictions for violation of this Chapter and the City Clerk-Treasurer shall note any such violation on the record of the registrant convicted.

**SEC. 7-4-9 REVOCATION OF REGISTRATION.**

- (a) Registration may be revoked by the Common Council 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.

Editorial Note: This Section is based on a model ordinance prepared by the Office of Consumer Protection of the Department of Justice. This Section conforms with the repeal of Sec. 440.85, Wis. Stats., and the uniform state plan recommended by the Department of Justice. Religious, patriotic, philanthropic or other organizations currently exempted from registration as charitable organizations under Sec. 440.41, Wis. Stats., are no longer exempt from registration under this Section.

## **CHAPTER 5**

### **Mobile Homes**

#### **7-5-1      Monthly Parking Fee; Limitations on Parking**

#### **SEC. 7-5-1      MONTHLY PARKING FEE; LIMITATIONS ON PARKING.**

- (a) There is hereby imposed on each owner of a nonexempt, occupied mobile home in the City of Osseo a monthly parking fee as determined in accordance with Section 66.058(3) of the Wisconsin Statutes which is hereby adopted by reference and made part of this Chapter as if fully set forth herein. It shall be the full and complete responsibility of the licensee to collect the proper amount from each mobile homeowner. Licensees shall pay to the City Clerk-Treasurer such parking permit fees on or before the 10th day of the month following the month for which such fees are due in accordance with the terms of this Chapter and such regulations as the City Clerk-Treasurer may reasonably promulgate.
- (1) Licensees of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk-Treasurer and Assessor on such homes added to their park or land within five (5) days after arrival of such home on forms furnished by the City Clerk-Treasurer in accordance with Sec. 66.058(3)(c) and (e) of the Wisconsin Statutes.
  - (2) Occupants or owners of non-exempt mobile homes parked outside of a mobile home park shall remit such fees directly to the City Clerk-Treasurer as provided in Subsection (a). It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each occupied nonexempt mobile home therein and to remit such fees to the City Clerk-Treasurer as provided in Subsection (a).
- (b) Owners of nonexempt, occupied mobile homes, upon receipt of notice from the City Clerk-Treasurer of their liability for the monthly parking permit fee, shall remit to the City Clerk-Treasurer a cash deposit of Twenty-five Dollars (\$25.00) to guarantee payment of such fees when due to the City. It shall be the full and complete responsibility of the licensees of a mobile home park to collect such cash deposits from each occupied, nonexempt mobile home therein and to remit such deposits to the City Clerk-Treasurer. Upon receipt of a notice from the owner or licensee that the nonexempt, occupied mobile home has been or is about to be removed from the City, the City Clerk-Treasurer shall apply said cash deposit to reduce any monthly parking permit fees for which said owner is liable and refund the balance, if any, to said owner.
- (c) It shall be unlawful for any person to park any mobile home in the City of Osseo at any site other than a licensed mobile home park.

State Law Reference: Sec. 66.058, Wis. Stats.

## CHAPTER 6

### Massage Establishments

7-6-1	Definitions
7-6-2	License Required
7-6-3	Application and Fee
7-6-4	Application for License for Massage Establishment
7-6-5	License
7-6-6	Construction and Maintenance Requirements for Massage Establishments
7-6-7	Permit for Masseur or Masseuse
7-6-8	Application for Masseur or Masseuse
7-6-9	Issuance of Permit for Masseur or Masseuse
7-6-10	Hours of Operation
7-6-11	Enforcement and Penalties

#### SEC. 7-6-1 DEFINITIONS.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- (a) **Massage.** Any method of pressure on, friction against or stroking, kneading, rubbing, tapping, pounding, bathing, touching, binding, painting, irritating or stimulating of external parts of the body with hands or with the aid of any manual, mechanical or electrical apparatus or appliance, with or without such supplementary aids as rubbing alcohol, liniments, antiseptic oils, powder, cremes, lotions, soaps, ointments or other similar preparations commonly used in this practice.
- (b) **Massage Establishment.** Any establishment having its place of business where any person, firm, association or corporation engages in or carries on, or permits to be engaged or carried, on any of the activities mentioned in Subsection (a) hereof.
- (c) **Massage Services.** The providing of a massage or massages by any person, firm, association or corporation.
- (d) **Masseur or Masseuse.** Any person who, for any consideration whatever, engages in the practice of massage as above defined.
- (e) **Employee.** Any and all persons other than masseurs or masseuses who render any service for the licensee and who receive compensation directly from the licensee but have no physical contact with customers or clients.
- (f) **Persons.** Any individual, copartnership, firm, association, joint stock company, corporation or any combination of individuals of whatever form or character.
- (g) **Licensee.** The operator of a massage establishment.

#### SEC. 7-6-2 LICENSE REQUIRED.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, upon any premises in the City of Osseo, the operation of a massage establishment as herein defined without first having obtained a license from the City Clerk-Treasurer which shall be issued upon written application and which shall be subject to cancellation as hereinafter provided.

**SEC. 7-6-3 APPLICATION AND FEE.**

- (a) Every applicant for a permit to maintain, operate or conduct a massage establishment shall file an application in triplicate, under oath, with the City Clerk-Treasurer upon a form provided by the City and pay a fee of Two Hundred Dollars (\$200.00) to the City who shall issue a receipt which shall be attached to the application filed with the Clerk-Treasurer and the Chief of Police. The City Clerk-Treasurer shall forthwith refer copies of such application and all additional information to the Building Inspector and Fire Inspector. These officials shall, within thirty (30) days, inspect the premises proposed to be operated as massage establishment and make recommendations to the Common Council concerning compliance with City Ordinances. After review by the Common Council pursuant to Sec. 7-6-5, the Clerk-Treasurer shall notify the applicant as to whether his application has been granted, denied or held for further investigation or corrective action. The period held for corrective action or additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. At the conclusion of such period or such longer period if agreed to, the Clerk-Treasurer shall advise the applicant in writing as to whether the application has been granted or denied. If the application is denied, the Clerk-Treasurer shall advise the applicant in writing of the reason for such denial.
- (b) The failure or refusal of the applicant to give any information relevant to the investigation of the application within a reasonable time, or the refusal or failure of the applicant to appear at any reasonable time and place for examination under oath regarding said application, or the refusal of the applicant to submit to or cooperate with any inspection required by this Section shall be grounds for denial of the application.

**SEC. 7-6-4 APPLICATION FOR LICENSE FOR MASSAGE ESTABLISHMENT.**

The application for a license to operate a massage establishment shall set forth the services to be administered and the proposed place and facilities thereof. In addition thereto, any applicant for a license, which shall be the sole proprietor, if a sole proprietor applicant, a partner, if a partnership applicant, and the designated agent, if a corporate applicant, shall furnish the following information:

- (a) Written proof that each individual is at least eighteen (18) years of age.
- (b) Current residential addresses.
- (c) Whether the individual has had any license denied, revoked or suspended elsewhere for a massage establishment, the reason therefor, and the business activity of occupation of the individual subsequent to each suspension, revocation or denial.
- (d) Satisfactory proof that the applicant has been a resident of the State of Wisconsin for at least one (1) year and of the county for at least ninety (90) days.

**SEC. 7-6-5 LICENSE.**

- (a) Upon receipt of the recommendations of the respective agencies and with the information contained in the application, together with all additional information provided therein, the Common Council may issue, after receipt of the recommendations of the respective City departments and public hearing, a license to maintain, operate or conduct a massage establishment, unless the Council finds:

## Massage Establishments

- (1) That the operation of the massage establishment as proposed by the applicant, if permitted, would not comply with the applicable laws of the State of Wisconsin and the City, including but not limited to the building, health, planning, housing, fire prevention and zoning codes of the City.
  - (2) That the applicant or any other person who shall be directly or indirectly engaged in the management and operation of the massage establishment has been convicted of a felony.
  - (3) That the operation of the massage establishment as proposed by the applicant, if permitted, would violate the provisions of this Chapter.
- (b) The license provided herein shall be for a period of one (1) year from date of application, unless sooner suspended or revoked. Such license must be renewed annually.

### SEC. 7-6-6 CONSTRUCTION AND MAINTENANCE REQUIREMENTS FOR MASSAGE ESTABLISHMENTS.

Any massage establishment as defined herein shall construct its facilities and maintain same in accordance with the following regulations:

- (a) All massage parlors and all restrooms used in connection therewith shall be constructed of materials and maintained so that they are impervious to moisture, bacterial, mold or fungus growth.
- (b) Shower rooms must be finished in tile or equal material with proper floor drains.
- (c) Each massage establishment shall have a janitor's closet which shall be provided for the storage of cleaning supplies.
- (d) Floors, walls and equipment in massage parlors, restrooms and in bathrooms used in connection therewith must be kept in a state of good repair and sanitary at all times. Linens and other materials shall be stored at least six (6) inches off the floor. Sanitary towels, washcloths, cleaning agents and toilet tissue must be available for each customer.
- (e) Individual lockers shall be made available for use by each customer. Such lockers shall have a separate key for locking.
- (f) Doors on massage rooms shall not be locked, but shall contain an adequate door latch for privacy. All massage rooms shall be clearly identified by door plates or signs.
- (g) Each massage establishment shall have approved fire extinguishers and fire exits designed by fire exit signs.
- (h) If any provision of this Section is inconsistent with a comparable and applicable provision of the building code, the provision of the building code shall govern to the extent of such inconsistency.
- (i) The establishment shall permit inspection of the premises at any time during business hours by Building Inspectors, Fire Inspectors and law enforcement officers.
- (j) Entrance doors during business hours shall be open to the public the same as any other business.

### SEC. 7-6-7 PERMIT FOR MASSEUR OR MASSEUSE.

Any person who engages in the practice of massage as herein defined shall file an application for a permit as a masseur or masseuse, which application shall be filed with the City Clerk-Treasurer upon the form provided by the City and shall pay a nonrefundable filing fee of Twenty-five Dollars (\$25.00) for the original application and Twenty-five Dollars (\$25.00) for each renewal application to the City.

**SEC. 7-6-8 APPLICATION FOR MASSEUR OR MASSEUSE.**

The application for a permit for a masseur or a masseuse shall contain the following:

- (a) Name and residence.
- (b) Social Security number.
- (c) Written evidence that the applicant is at least eighteen (18) years of age.
- (d) The applicant shall further undergo a physical examination and present the written results thereof for contagious and communicable diseases which shall include a test or tests which will demonstrate freedom from tuberculosis, and each test shall have been made by a licensed physician and all laboratory tests shall be in licensed laboratories. The applicant shall then present a certificate with the results of each such examination signed by a licensed physician, stating that the person examined is either free from any contagious or communicable disease or is incapable of communicating any such disease to others. Each applicant shall undergo the physical examination provided herein and present to the City Clerk-Treasurer the certificate required herein prior to the commencement of employment and at least once each twelve (12) months thereafter.

**SEC. 7-6-9 ISSUANCE OF PERMIT FOR MASSEUR OR MASSEUSE.**

- (a) The City Clerk-Treasurer shall direct the issuance of a permit for a masseur or masseuse upon receipt of completed application and upon receipt of certificate of examination stating that the person examined is either free from any contagious or communicable disease or is incapable of communicating any such disease to others.
- (b) Said permit is subject to cancellation if the applicant has failed to provide all of the information required by this Chapter or has provided fraudulent information.
- (c) Each permit for a masseuse, pursuant to this Chapter, and any renewal shall be for a one (1) year term and shall be displayed by the permit holder while engaged in his or her employment.

**SEC. 7-6-10 HOURS OF OPERATION.**

No massage establishment in the City shall be permitted to remain open for any purpose between 1:00 a.m. and 8:00 a.m. except during that period of the year for which the standard of time is advanced under the Wisconsin Statutes when the premises shall be closed between 2:00 a.m. and 8:00 a.m.

**SEC. 7-6-11 ENFORCEMENT AND PENALTIES.**

- (a) **Interference.** No person shall prevent, resist or interfere with any of the officers or employees of the City in the entering of any premises or the carrying out of their duties as City officials or employees.
- (b) **Penalties.** Any person violating any provision of this Chapter, including those provisions of the Wisconsin Statutes or any other materials which are incorporated by reference, shall suffer one (1) or all of the following penalties; provided, however, that in no case shall the forfeiture imposed for a violation of any provision of this Chapter exceed the maximum fine for the same offense under the laws of the State of Wisconsin.
  - (1) Any license or permit issued pursuant to this Chapter may be suspended by the Police Chief without hearing for not more than thirty (30) days.

## Massage Establishments

- (2) Any license or permit issued pursuant to this Chapter may be suspended more than thirty (30) days or revoked by the Council after allowing the licensee or permittee a hearing on notice.
- (3) Any license or permit issued pursuant to this Chapter may be suspended or revoked by a court of competent jurisdiction upon conviction of an ordinance violation.
- (4) Any person who shall violate any provisions of this Chapter shall be subject to the general penalty provisions of this Code of Ordinances as provided in Section 1-1-7.

## CHAPTER 7

### Regulation and Licensing of Fireworks

#### 7-7-1 Regulation of Fireworks

#### SEC. 7-7-1 REGULATION OF FIREWORKS

- (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.
  - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
  - (12) A device that emits smoke with no external flame and does not leave the ground.
  - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
  - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (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 officer of the Clerk-Treasurer.
- (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.

## Regulation and Licensing of Fireworks

- (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)(j), Wis. Stats.

## Regulation and Licensing of Fireworks

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## CHAPTER 8

### Street Use Permits

#### 7-8-1 Street Use Permits

#### SEC. 7-8-1 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-Treasurer 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 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-Treasurer and shall be filed with the City Clerk-Treasurer. 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) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Common Council gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **Review by Chief of Police and Street Commissioner.** Before any application for a Street Use Permit is considered by the Common Council, the application shall be reviewed by the Street Commissioner 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.
- (e) **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 in excess of six (6) hours.
- (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Common Council may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (f) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee of Twenty-five Dollars (\$25.00).
- (g) **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 accompanied 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 Osseo, 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 Osseo 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 Osseo shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for longer than six (6) hours 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.

- (h) **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 Osseo. The applicant may be required to furnish a performance bond prior to being granted the permit.

- (i) **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 Osseo. 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 9

### Garage Sales

7-9-1 Garage Sales

#### SEC. 7-9-1 GARAGE SALES.

- (a) **Hours.** Garage sales shall be conducted between 7:30 a.m. and 8:00 p.m. Each sale shall last no longer than four (4) consecutive days.
- (b) **Signs.**
  - (1) Garage sale signs may not have an area more than six (6) square feet with a maximum of two (2) faces. Garage sale signs shall identify the location of the sale and must be located off of the City right-of-way.
  - (2) No garage sale sign may be located on utility poles, traffic control devices or on property or the adjoining right-of-way of property the owner of which has not given explicit permission for its location.
  - (3) No garage sale sign shall be displayed more than one (1) day before the sale or one (1) day following the sale.
  - (4) No more than one (1) garage sale sign may be located at the sale site and no more than four (4) garage sale signs may be located off the site, except that two (2) signs are permitted on corner lots, one (1) facing each street.
- (c) **Definitions.** The following definitions are applicable to this Section:
  - (1) Garage Sale. All general sales open to the public, conducted from or on a residential premises, for the purpose of disposing of personal property, including but not limited to all sales entitled rummage, lawn, yard, porch, room, backyard, patio or garage sale.
  - (2) Personal Property. Property which is owned, utilized and maintained and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

## **CHAPTER 10**

### **Dance Licenses**

#### **7-10-1 Dance License Required**

#### **SEC. 7-10-1 DANCE LICENSE REQUIREMENTS.**

- (a) **License Required.** No person shall conduct a dance to which the public is admitted, or conduct, establish or manage any public dance hall or pavilion within the City of Osseo without first securing a license from the Common Council and shall pay therefor the sum of Fifty Dollars (\$50.00) for each dance.
- (b) **Supervision.** All dances shall be under the supervision of the Chief of Police or some other person appointed by the Council.
- (c) **Hours.** All dances shall end not later than 2:00 a.m.
- (d) **Mixed Establishments.**
  - (1) The owner of any premises operated under a Class B liquor or Class B malt beverage license may obtain a dance license on proper application to the City Clerk-Treasurer for the sum of Fifty Dollars (\$50.00).
  - (2) The owner of any restaurant located within the municipal boundaries of the City of Osseo may obtain a "Dine and Dance" license upon proper application to the City Clerk-Treasurer for the sum of Fifty Dollars (\$50.00) per annum.



## CHAPTER 11

### Regulation of Nonmetallic Mining

7-11-1	Statutory Provisions Adopted
7-11-2	Definitions
7-11-3	Existing Nonmetallic Mining Operations
7-11-4	Exempt Activities
7-11-5	Permit Required for Nonmetallic Mining
7-11-6	Permit Revocation
7-11-7	Blasting and/or Rock Crushing

#### SEC. 7-11-1 STATUTORY PROVISIONS ADOPTED.

This Chapter is adopted pursuant to Section 66.038, Wis. Stats., which is adopted by reference and made a part of this Chapter as if fully set forth herein.

#### SEC. 7-11-2 DEFINITIONS.

As used in this Chapter:

- (a) **Environmental Pollution** has the meaning specified under Sec. 144.01(3), 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 such as stone, sand and gravel, fill material and nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc, related operations or activities such as excavation, grading or dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals and related processes such as crushing, screening, scalping, dewatering and blending.
- (c) **Nonmetallic Mining Refuse** means waste soil, rock, mineral, liquid, vegetation and other waste material resulting from a nonmetallic mining operation. This term does not include merchantable 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 roads or haulageways.
- (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 soil 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.

#### **SEC. 7-11-3 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. 7-11-4 EXEMPT ACTIVITIES.**

This nonmetallic mining reclamation Chapter shall not apply to the following activities:

- (a) Excavations or grading by a person solely for domestic use at his or her residence.
- (b) Excavations or grading conducted for highway construction purposes 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 Sections 144.80 to 144.94, 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 Sections 144.435 to 144.445, Wis. Stats., or a hazardous waste disposal facility under Sections 144.60 to 144.74, Wis. Stats., but a nonmetallic mining reclamation ordinance may apply to activities related to solid or hazardous waste disposal which are conducted at a nonmetallic site separate from the solid or hazardous waste disposal facility such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.

#### **SEC. 7-11-5 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 Fifty Dollars (\$50.00), 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-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The Clerk-Treasurer 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 (1-1/4) 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. 66.122, 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. 7-11-6 PERMIT REVOCATION.

If any permit is revoked, cancelled, 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. 7-11-7 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 Ch. IND 5, Explosives and Blasting Agents, 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 therefor 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-Treasurer. All applications for permits hereunder shall be signed by the applicant and filed with the City Clerk-Treasurer at least sixty (60) days prior to the licensing period. The City Clerk-Treasurer shall immediately refer all applications for permits hereunder to the City Engineer. The City Clerk-Treasurer 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) Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Osseo as a party insured in the amount of Five Hundred Thousand Dollars (\$500,000.00) for damage to property, and Five Hundred Thousand Dollars (\$500,000.00) for injury to one (1) person and One Million Dollars (\$1,000,000.00) for injury to more than one (1) person caused by the blasting.

(d) **Renewals.** All requests for renewals of permits hereunder shall be made at least sixty (60) 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 =  $10.823 f^2 A^2$  where: f = frequency in cycles per second,  
A = amplitude or displacement in inches

Energy ratio = .274 V<sup>2</sup> (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-Treasurer. The original copy of this blasting log shall be filed with the Clerk-Treasurer 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: Ten Dollars (\$10.00) per blasting period.
  - (2) Gravel crushing operations using portable or fixed crushing equipment less than thirty (30) days per year: Ten Dollars (\$10.00) 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 cancelled, revoked, rescinded and terminated.
- (h) **Enforcement.** Before renewal of any license issued under this Section is refused or any license is revoked, cancelled, rescinded or terminated, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal or revocation and shall have an opportunity to be heard before the Common Council.

## CHAPTER 12

### Miscellaneous Business Licenses

- 7-12-1 Transient and Temporary Public Entertainments
- 7-12-2 Coin-Operated Machines

#### SEC. 7-12-1 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 therefor as hereinafter provided.
- (2) This Section does not require a license for the giving of fairs, lectures, concerts, exhibitions or entertainments of a scientific, historical, political, literary or musical character for humane, religious, charitable or scientific purposes.

(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 shows, circuses, exhibitions, carnivals and vaudeville.

(c) **Application.** Application for carnival licenses shall be made by the applicant to the Common Council in writing at least ten (10) days before the planned event and all of the information regarding insurance, etc., shall be filed within ten (10) days and referred to the Council for examination of the qualifications, character and reputation of the applicant and into the desirability of permitting the carnival to operate, show or exhibit in the City.

(d) **Requirements.**

- (1) **Insurance Required.** No license shall be granted unless the applicant therefor shall have filed with the Clerk-Treasurer a public liability insurance policy in a sum as set by the Clerk-Treasurer from time to time, 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.

- (2) **License Fees Required.** No permit shall be issued unless the applicant shall pay a permit fee for the operation or maintenance of the public entertainment as follows:

Carnivals -- Twenty-five Dollars (\$25.00).

Circuses -- Twenty-five Dollars (\$25.00).

Public Entertainment -- Ten Dollars (\$10.00) per day, Twenty-five Dollars (\$25.00) per week.

All public entertainments listed in Subsection (b) shall be exempt from any license fee if sponsored by a nonprofit organization.

- (3) **Posting of License.** Such permits when issued shall be prominently displayed while the carnival is in operation.

- (4) **Inspection of Mechanical Devices.** The applicant shall indicate the date of the last State inspection of rides, merry-go-rounds and other mechanical

## Miscellaneous Business Licenses

devices. 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.

- (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. Revocations or suspensions may be appealed to the Common Council.

### SEC. 7-12-2 COIN-OPERATED MACHINES.

- (a) No person or corporation shall operate or maintain, within the City of Osseo, any coin-operated vending machine, amusement device or any cigarette machine for the sale of cigarettes without first having obtained a license to operate or maintain such machine as hereinafter provided. "Amusement device" means any table, platform, mechanical device or apparatus operated or intended to be operated for amusement, pleasure, test of skill, competition or sport, the use or operation of which is conditioned upon payment of a consideration either by insertion of a coin or token in a slot or otherwise. Such amusement device shall include, but not be limited to, devices commonly known as baseball, football, basketball, hockey, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin operated or not). Such definition does not include a bowling alley, juke box or other coin-operated music machine or a mechanical children's amusement riding device.
- (b) All licenses shall be issued by the City Clerk-Treasurer upon application made to the City Clerk-Treasurer in writing stating the type of machine and place or location where the same is to be operated and the period of time to be covered by the license. All licenses to be issued only upon the approval of the Common Council. All licenses shall expire on June 30th of each year.
- (c) The fee for licenses issued under provisions of this Section shall be Five Dollars (\$5.00) per year for each machine or unit operated. Fees for licenses issued for less than full-year periods shall be paid at the rate of One Dollar (\$1.00) for each month of operation thereof.



## 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 Osseo:
  - (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 Chapters 1 and 5.
- (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, 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 Clerk-Treasurer'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-Treasurer 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

## **Licensees to Pay Local Claims; Appellate Procedures**

may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.

