

# Licensing and Regulation

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# Chapter 1

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## Licensing of Dogs and Regulation of Animals

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## Sec. 7-1-1 Dog and Cat License Required; Definitions

- (a) **License Required.** It shall be unlawful for any person in the City of Adams to own, harbor or keep any dog or cat for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) **Owner.** 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.** 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.** Any canine, regardless of age or sex.
  - (4) **Cat.** 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.** Mammals, reptiles and birds.
  - (7) **Cruel.** 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.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) **Pet.** 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 Dogs and Cats

- (a) **Rabies Vaccination.** The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian within thirty (30) days after the dog or cat reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or cat or brings the dog or cat into the City of Adams after the dog or cat has reached four (4) months of age, the owner shall have the dog or cat vaccinated against rabies within thirty (30) days after the dog or cat is brought into the City unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have the dog or cat revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Section 95.21(2), Wis. Stats.

- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog or cat against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog or cat is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog or cat at all times, but this requirement does not apply to a dog or cat during competition or to a dog or cat securely confined indoors. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog or cat which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

### Sec. 7-1-3 Issuance of Dog and Cat Licenses

- (a) It shall be unlawful for any person in the City of Adams to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of Section 174.05 through Section 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
- (b) The owner of any dog or cat more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog or cat becomes five (5) months of age, pay a license tax and obtain a license.
- (c) The license year shall commence January 1 and end December 31. License Fees are established by resolution adopted pursuant to section 2-2-19 by the Common Council.

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- (d) Upon payment of the required license tax and upon presentation of evidence that the dog or cat is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Clerk-Treasurer shall complete and issue to the owner a license for such dog or cat 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.
- (e) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (f) The fact that a dog or cat is without a tag attached to the dog or cat by means of a collar shall be presumptive evidence that the dog or cat is unlicensed. Any City law enforcement or humane officer shall seize, impound or restrain any dog or cat for which a dog or cat license is required which is found without such tag attached.
- (g) 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, therefore.

*State Law Reference:* Section 174.053, Wis. Stats.

## **Sec. 7-1-4 Late Fees**

The City Clerk- Treasurer shall assess and collect a late fee from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog or cat reached licensable age. Said late fee shall be charged in addition to the required license fee by resolution adopted pursuant to section 2-2-19 by the Common Council.

## **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 Cats 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 animal control or law enforcement 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 animal control or law enforcement 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 Adams to own, harbor or keep any dog, cat, or other animal, reptile, bird or insect which:
  - (1) Habitually pursues any vehicle upon any public street, alley, or highway in the City.
  - (2) Assaults or attacks any person or destroys property.
  - (3) Is at large within the limits of the City.
  - (4) Habitually barks, howls, cries, or makes noises which annoy any person or persons. (See Section 7-1-11.)
  - (5) Kills, wounds, or worries any domestic animal.
  - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (7) Repeatedly breaks from leash or enclosure and trespasses or defecates upon property other than on which the animal, bird, reptile, or insect is kept.
  - (8) In the case of a dog or cat, is unlicensed.
- (b) **Dangerous Animals, Birds, Reptiles, Fish, or Insects.**  
A dangerous animal, bird, reptile, fish, or insect is one which, meets any or all of the conditions described in (a) above, or:
  - (1) is tied or confined in such a manner as to prevent utility personnel from reading meters;



- (2) is tied or confined in such a manner as to allow the animal, bird, reptile, fish, or insect to interfere, threaten, or menace neighbors or the passing public.

The owner of a Dangerous Animal, Bird, Reptile, Fish, or Insect shall immediately provide proof to the City Police Department that they have corrected the violation. If action has not been taken to correct the violation, each day thereafter will be considered a subsequent violation and a fine imposed. In addition, upon the second violation, such animal must be removed from the City of Adams until such time that the owner provides proof to the Police Department or Animal Control Officer or City Council that they are in compliance with each of the following conditions and specifications:
- (3) Any dangerous animal, bird, reptile, fish, or insect shall be securely confined indoors, or, if kept outdoors, shall be kept in a securely enclosed and locked pen or structure adequate to confine it and located upon the premises of its owner. Any such pen or structure shall have secure sides and a secure top and, if it has no bottom secured to the sides, the bottom is such that the animal, bird, reptile, fish, or insect cannot dig under the sides. Such pen or structure shall provide any such animal, bird, reptile, fish, or insect with adequate space and protection from the elements and shall be maintained in a clean and sanitary condition.
- (4) The owner of a dangerous animal, bird, reptile, fish, or insect shall, for the purpose of identifying it, provide a color photograph of it to the Police Department or Animal Control Officer or City Council. Such color photograph shall have been taken within the last twelve (12) months.
- (5) The owner of a dangerous animal, bird, reptile, fish, or insect shall notify the Police, Animal Control Officer, or City Council within twenty-four (24) hours if their animal, bird, reptile, fish, or insect is loose or missing, if it has attacked or wounded a human being or other living creature, or if it has been sold, leased, given away, died, or if custody has been transferred to another person for more than forty-eight (48) hours. If such animal, bird, reptile, fish, or insect has been sold, leased, given away, or custody has been so transferred, the owner shall provide the Police, Animal Control Officer, or City Council with the name, address, and telephone number of the new owner, lessee, or custodian who shall be required to comply with the conditions of this section if the animal, bird, reptile, fish, or insect is kept within the City of Adams. If the owner of a dangerous animal, bird, reptile, fish, or insect moves it to a different location, such owner shall notify the proper authorities within twenty-four (24) hours of the time of the move. If the new location is within the City of Adams, the owner shall notify the City Police Department. If the new location is in a different municipality, the owner shall notify the local law enforcement agency in that Municipality.
- (6) The Police, Animal Control Officer, or City Council shall have the right to inspect at any time the enclosure in which any dangerous animal, bird, reptile, fish, or insect is kept.
- (7) Leash and Muzzle.

No person shall permit a dangerous animal, bird, reptile, fish, or insect to go outside its pen unless it is securely leashed with a leash no longer than four (4) feet in length. No person shall permit such creature to be kept on a chain, rope, or other type of leash outside its pen unless the owner or a member of the owner's family who is at least 18 years of age is in physical control of the leash. Such creatures may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous creatures on a leash outside their pen must be muzzled with a muzzling device sufficient to prevent such creature from biting persons or other creatures.

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- (8) Any person owning a dangerous dog that has bitten, assaulted, or attacked another person, or which has killed or wounded a domestic animal or pet shall provide to the Police Department, proof of liability insurance providing coverage for property damage or personal injury caused by the dangerous dog. Such liability insurance shall be currently in effect and shall provide coverage, on an “occurrence” basis, in the amount of at least \$100,000.00 single limit, per occurrence.
- (c) **Vicious Creatures.** It shall be unlawful to own, keep, harbor, act as custodian for, or permit to remain on or about any premises within the City of Adams any vicious creature as defined in this section. A vicious creature shall be defined as one who bites, or otherwise injures, a person in unprovoked circumstances. “Unprovoked circumstances” shall be deemed to exist where the person bitten or injured is not interfering with the creature’s eating, sleeping, or regular activities, or otherwise threatening, or intimidating the creature. Any vicious creature shall be deemed a public nuisance. The owner or custodian of a vicious creature shall be subject to an action for forfeiture; in addition, the City Attorney may bring an action seeking the abatement of the nuisance. Abatement shall consist of having the vicious creature humanely put to death, or, in the alternative, having the vicious creature safely relocated outside of the City of Adams.
- (d) **Exceptions.**
  - (1) No creature shall be deemed or declared dangerous or vicious if the threat, wound, injury, or damage was caused by any person who, at the time, was assaulting the creature or its owner or the owner’s family, or trespassing on the or damaging the property of the owner, or can be shown to have done so in the past.
  - (2) No creature, which at the time of the acts under question, was responding to pain, injury, or threat, or was protecting itself, its pen, its offspring, its owner or its owner’s property shall be found to be a dangerous or a vicious creature.
  - (3) This section shall not have application to any dog owned by federal, state, or local law enforcement agencies.
  - (4) No animal shall be found to be dangerous or vicious solely because it is a particular breed.
- (e) **Noisy Creatures.** It shall be unlawful for any person to keep any creature which habitually barks, howls, yelps, squeals, cries or makes other sounds which cause great discomfort to their neighbors who are of ordinary sensibilities. Such creatures are hereby declared to be a public nuisance. A creature is considered to be in violation of this section when two (2) formal, written complaints are filed with the City Police Department within a four (4) week period.
- (f) **Animals Running at Large.**
  - (1) No person having in his possession or ownership any animal, bird, reptile, fish, or insect shall allow the same to run at large within the City. The owner of any such creature, whether licensed or unlicensed, shall keep the creature tied or otherwise confined in an enclosed structure so as not to allow said creature to interfere with neighbors or the passing public, or properly trained not to stray from the owner’s property. Any creature running at large unlicensed and required by state law or City Ordinance to be licensed shall be seized and impounded by an Animal Control Officer or law enforcement officer.
  - (2) A creature 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.

## Sec. 7-1-7 Impoundment of Animals

(a) **Animal Control Agency.**

- (1) The City of Adams 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 Adams 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 animal control or law enforcement 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 alleging the facts regarding the violation.

(c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or animal control 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. 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, plus the actual cost of boarding the animal for each day or fraction thereof the dog or cat has been so impounded. Owners of unlicensed dogs or cats shall also obtain a dog or cat license prior to release of an impounded animal. 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 Animals Restricted on Public Grounds and Cemeteries

Unless specifically prohibited and posted, no dog or cat shall be permitted in any public playground, school grounds, public park, beach, or swimming area within the City unless such dog or cat is on a leash and under control. Dogs and cats are prohibited from being in cemeteries. 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 Chief of Police and shall keep such dog or cat confined for not less than ten (10) days or for such period of time as the animal control officer shall direct. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement, health, or humane officer upon demand for examination.

*(Amendment of Subsection 7-1-8 adopted by the Council November 17, 2008 by Ordinance No. 08-2008)*

## **Sec. 7-1-10 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. 7-1-11 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) complaints of record (written or verbal) are filed with the law enforcement officer within a four (4) week period.

## **Sec. 7-1-12 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 kemp*i).
- (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, 91<sup>st</sup> 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 an 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.** Except for state-licensed game farms, 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 (Papoi), Mandrillus).
  - (4) Bears (Ursidae)
  - (5) Bison (Bison).
  - (6) Cheetah (Acinonyx jubatus).
  - (7) Crocodilians (Crocodilia), thirty (30) inches in length or more.
  - (8) Constrictor snakes, six (6) feet in length or more.
  - (9) Coyotes (Canis latrans).
  - (10) Game Cocks and other fighting birds.
  - (11) Hyenas (Hyaenidae).
  - (12) Jaguars (Panthera onca)
  - (13) Leopards (Panthera pardus).
  - (14) Lions (Panthera leo).
  - (15) Lynxes (Lynx).
  - (16) Ostriches (Struthio).
  - (17) Pumas (Fells concolor); also known as cougars, mountain lions and panthers.
  - (18) Sharks (class Chondrichthyes).
  - (19) Snow leopards (Panthera uncia).
  - (20) Tigers (Panthera tigris).
  - (21) Wolves (Canis lupus).
  - (22) Poisonous insects.
  - (23) No horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens, poultry or any animal raised for fur-bearing purposes.
- (d) **Exceptions: Pet Shops.** The prohibition of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a State-licensed game farm; 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.

## **Sec. 7 -1-13 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. 7-1-14 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. 7-1-15 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. 7-1-16 Neglected or Abandoned Animals**

- (a) **Neglected or Abandoned Animals.**
  - (1) No person may abandon any animal.
  - (2) Any law enforcement or animal control 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. 7-1-17 Cruelty to Animals and Birds Prohibited**

- (a) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of his duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) **Use of Poisonous and Controlled Substances.** No person may expose any pet animal to any known poisonous substance or controlled substance listed in Sec. 161.14, Wis. Stats., whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) **Use of Certain Devices Prohibited.** No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: a bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points
- (e) **Shooting at Caged or Staked Animals.** No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

## **Sec. 7-1-18 Limitation on Number of Dogs and Cats**

- (a) **Purpose.** The keeping of a large number of dogs and cats within the City of Adams 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 or cats 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.
  - (3) **Cat.** Any feline, regardless of age or sex
- (c) **Number Limited.** No family shall own, harbor or keep in its possession more than two (2) dogs nor more than eight (8) cats on any residentially zoned lot without the prior approval of the Common Council except that a litter of pups or cats or a portion of a litter may be kept for not more than twelve (12) weeks from birth. If more than one (1) family resides on a residential lot, then only a total of two (2) 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. Residents over the limit of eight (8) cats at time of passage and publication shall be given three (3) months to dispense of the cats over the limit.



## **Sec. 7-1-19 Animal Feces**

It shall be unlawful for any person to cause or permit any animal, specifically including, but not limited to, dogs, horses, and cats, to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. Any person causing or permitting a dog, horse, or cat to be on property not owned or possessed by such person shall immediately remove all excrement of such dog, horse, or cat to a receptacle located upon property owned or possessed by such person. No person shall permit their dog or other animal to excrete feces upon public rights-of-way or in any park in the City. This Section shall not apply to a person who is visually or physically handicapped.

## **Sec. 7-1-20 Trapping of Animals**

- (a) In the interest of public health and safety, it shall be unlawful for any person, in or on City owned land within the City of Adams to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps which capture and hold an animal in an alive and unharmed condition.
- (b) This Section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal.
- (c) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.
- (d) This Section shall not apply to trapping on private property.
- (e) Nothing in this Section shall prohibit or hinder the City of Adams or its employees or agents from performing their official duties.

## **Sec. 7-1-21 Penalties**

- (a) Except as provided in (b) below, anyone who violates any provision of Title 7 – Chapter 1 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Fifty Dollars (\$50) and not more than Three Hundred Dollars (\$300) for the first offense and not less than Two Hundred Dollars (\$200) and not more than Five Hundred Dollars (\$500) or any subsequent offenses.
- (b) 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 subject to a forfeiture of not less than One Hundred Dollars (\$100) nor more than One thousand Dollars (\$1,000.00)

*(Amendment of Subsection 7-1-21 adopted by the Council November 18, 2002 by Ordinance No. 17-2002A) (Amendment of CHAPTER 1, SECTION 1(a), 7-1-2(a), (b), AND (c), 7-1-3(a), (b), (d), AND (e), 7-1-4, 7-1-6 (a) (8), 7-1-7 (c), 7-1-11, 7-1-18 (a), (b), AND (c), AND CREATING TITLE 7, CHAPTER 1, SECTION 18 (b) (3) adopted by the Council on August 21, 2006 by Ordinance No. 02-2006)*



## Chapter 2

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### Fermented Malt Beverages and Intoxicating Liquor

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

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## **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", "Principal Business", "Legal Drinking Age", "Premises", "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 liquor 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 premises.
  - (1) **Reserved Retail "Class B" Intoxicating Liquor License.** A reserved retail "Class B" intoxicating liquor license shall have the meaning established by 1997 Wisconsin Act 27.
- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's Fermented malt beverage license, when issued by the 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, container or bottles. Such license may be issued after July 1<sup>st</sup>. The license shall expire on the following June 30<sup>th</sup>.

(d) **Class “B” Fermented Malt Beverage Retailer’s License.**

- (1) **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 per centum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1<sup>st</sup>. the license shall expire on the following June 30<sup>th</sup>.
- (2) **Application.** Class “B” licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class “B” license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this chapter. Except as provided in Sec. 125.31, Wis. Stats., Class “B” licenses may not be issued to brewers or fermented malt beverages wholesalers.

(e) **Temporary Class “B” Fermented Malt Beverage License.**

- (1) **License.** As provided in Sec. 125.26(1) and (6). Wis. Stats., temporary Class “B” fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges, or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such is valid for dates as approved by Clerk/Treasurer.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association 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 temporary Class “B” license of only (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of ten (10) days prior to the proposed days of the event for events of more than three (3) 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)(1) cont. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk/Treasurer together with the appropriate license fee for each day for the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and date of license validity. The application shall be filed a minimum of ten (10) days prior to the proposed days of the event for events of more than three (3) consecutive days. If the application is for a license to be used in a park, the applicant shall specify the main point of the sale facility.
- (g) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Clerk/Treasurer under the authority of the 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.
- (h) **Retail Class "C" License.**
- (1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
  - (2) A Class "C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
  - (3) A Class "C" license may be issued to a person qualified under Sec. 1253.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
  - (4) A "Class C" license shall particularly describe the premises for which it is issued.
- (i) **Provisional Retail License.** The City Clerk may issue a provisional retail license to an applicant for a Class "A", Class "B", "Class A", "Class B", or "Class C" license, which authorizes only the activity allowed by the type of license applied for. A provisional retail license may be issued only upon the Clerk's determination that the applicant qualifies for the type of license applied for and upon payment of both the fee for the provisional retail license and the cost of publication for the type of retail license applied for. Only one provisional retail license may be issued to an applicant per calendar year for each type of license. A provisional retail license may be revoked by the Clerk for any fraud, misrepresentation or incorrect statement in the application. Otherwise it expires 60 days after issuance or upon issuance or denial by the Common Council of the Class "A", Class "B", "Class A", "Class B", or "Class C" license, whichever occurs sooner.

*Cross Reference: Section 7-2-17.*

## Sec 7-2-5 License Fees

There shall be the following classes of licenses which, when issued by the City Clerk/Treasurer under the authority of the Common Council after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this code of Ordinances and Chapter 125, Wis. Stats.

At the time of filing said application(s), an annual fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk. Said fees shall be established by resolution of the Common Council.:

- (a) **Class “A” Fermented Malt Beverages Retailer’s License.** The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class “B” Fermented Malt Beverage Retailer’s License.** The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class “B” Fermented Malt Beverage License.** The fee for a license shall be per event.
- (d) **Temporary Class “B” Wine License.** The fee for a license shall be per event.
- (e) **Fermented Malt Beverage Wholesaler’s License.** The fee for a license shall be an annual fee.
- (f) **“Class “A” Intoxicating Liquor Retailer’s License.** The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (g) **“Class B” Intoxicating Liquor Retailer’s License.** The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (h) **“Class C” Wine License.** The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (i) **Reserved Retail “Class B” Intoxicating Liquor License.** The initial annual fee for this license shall be Ten Thousand (\$10,000.00) Dollars, plus the fee as set by subsection 7-2-5(g) of this Code. When and if such licensee renews the reserve license, the fee for regular “Class B” intoxicating liquor as set forth in subsection 7-2-5(g) of this Code, shall apply. Any future applicant for a reserved license for a premises which had previously been operating under a reserved “Class B” license, but is not a renewal, shall pay the fee set by this subsection for the initial reserved license issued to the applicant, with the fee for renewal licenses issued to that applicant to revert to the fee for regular retail “Class B” intoxicating liquor licenses.
- (j) **License Fees.** Provisional retail license (§ 125.185, Wis. Stats.): The fee for a license shall expire 60 days after issuance.

## 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 Secs. 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 applications shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The City Clerk/Treasurer shall publish each application for a Class “A”, Class “B”, “Class A”, “Class B” or “Class C” license. There is no publication requirement for temporary “Class B” picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary “Class B” picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any license, 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.** Retail intoxicating liquor and fermented malt beverage licenses issued by the Common Council shall be limited in number to the quota prescribed by state law.

## Sec 7-2-7 Qualifications of Applicants and premises

- (a) **Residence Requirements.** A retail Class “A” or Class “B” fermented malt beverage or “Class A” or “Class B” intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail “Class B” intoxicating liquor license shall be issued to any person who does not have or to who is not issued a Class “B” retailer’s 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.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
  - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec 125.04(1)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2, the requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.



- (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 transfer 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 Sec. 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) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold's a seller's permit) before they may be issued a license.
- (g) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a "Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
- (h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to the premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
  - (1) A hotel
  - (2) A restaurant, whether or not it is a part of or located in any mercantile establishment.
  - (3) A combination grocery store and tavern.
  - (4) A combination sporting goods store and tavern in towns, villages, and fourth-class cities.
  - (5) A combination novelty store and tavern.
  - (6) A bowling alley or recreation premises.
  - (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B " license or permit.

## Sec. 7-2-8 Investigation

The City Clerk/Treasurer shall notify the Chief of Police, Fire Inspector 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) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.
- (b) 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.
- (c) Consideration for the granting or denial of a license will be based on:
  - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats;
  - (2) The financial responsibility of the applicant;
  - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
  - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

## **Sec. 7-2-10 Granting of License**

- (a) 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. The full license fee shall be charged for the whole or fraction of any year.
- (b) If the Common Council denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(11)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.
- (c) Subject to the restrictions set forth in this Code and Wisconsin Statutes, pursuant to authority granted in Sec. 125.26, Wis. Stats., the Chief of Police of the City of Adams is authorized to issue temporary Class "B" fermented malt/beverage licenses under subsection 125.26(6) , Wis. Stats.

## **Sec. 7-2-11 Transfer and Lapse of License**

- (a) In accordance with the provisions of Sec. 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 re-issuance 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 corporation holder of a license is for any reason replaced, the licensee shall give the City Clerk/Treasurer written notice of said replacement, the reasons therefore 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.

## **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.

## **Sec. 7-2-14 Conditions of License**

All retail Class "A", Class "B", "Class A" and "Class 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 they 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 offences.

- (b) **Employment of Minors.** No retail “Class A., Class “A, “Class B”, Class “B”, or “Class C” 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 A”, Class “A”, “Class B”, Class “B”, or “Class C” license, at all times the licensee, members of the licensee's immediate 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 alcohol beverages to customers. No person other than the licensee shall serve alcohol beverages in any place operated under a “Class A”, Class “A”, “Class B”, Class “B”, “Class C” 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 A”, “Class B” and “Class C” liquor licenses issued under this Chapter. No “Class A”, “Class B” or “Class C” license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class “A”, Class “B”, “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.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” liquor, wine 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.
- (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 Exhibition.** 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 public 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 public 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 warrant less searches of licensed premises.

(l) **Abandonment or Insufficient Use of Licensed Premises**

- (1) **Abandonment or Loss of Use of Licensed Premises.** Any Licensee holding a license to sell alcohol beverages who abandons such business, or loses the right to use such licensed premises, shall forfeit any right or preference he/she may have to the holding of, or renewal of, such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Common Council.
- (2) **Minimum License Use Requirement.** All persons issued a license to sell alcohol beverages in the City of Adams 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 described premises for at least one hundred fifty (150) days during the term 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. Upon a showing of unique hardship, the Common Council may modify this requirement upon the request of the Licensee.

## Sec. 7-2-15 Closing Hours

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

(a) **Class "B" licenses.**

- (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may 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.

- (b) **Carryout Hours.** Between 12:00 midnight and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a Class "A" license, fermented malt beverages in original unopened packages, containers or bottles or for consumption away from the premises. Between 12:00 midnight and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a Class "B" license, fermented malt beverages in original unopened packages, containers or bottles or for consumption away from the premises. Between 9 p.m. and 8 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" license, intoxicating liquor in original unopened packages, containers or bottles for consumption away from the premises. Between 12:00 midnight and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class B" license, intoxicating liquor in original unopened packages, containers or bottles for consumption away from the premises

State Law Reference: Sec. 125.32(3) (b), 125.32(3) (am), 125.68(4) (b), 125.68(4) (c) (3)

## Sec. 7-2-16 Restrictions on Temporary Fermented Malt Beverage or Wine licenses

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 Adams, except through the issuance of a Temporary Class Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Common Council in accordance with Wisconsin Statutes and as set forth in this Section. A temporary Class "B" Fermented Malt Beverage License or Temporary "Class C" Wine license authorizing the sale and consumption of beer and/or wine on City-owned property or privately-owned property may be authorized by the common Council provided 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 Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary 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 persons without proper identification.
- (c) **Fencing.** If necessary due to the physical characteristics of the site, the Common Council may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
- (d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine 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) **Waiver.** The Common Council may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the City of Adams. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1

## Sec. 7-2-17 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 4, of this code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.

- (b) **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 losing 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 license 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.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

## **Sec. 7-2-18 Non-Alcohol Events for Underage Persons on Licensed Premises**

The presence of underage persons on a licensed premises as provided under Sec. 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" or "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.

## **Sec. 7-2-19 through 7-2-29 Reserved for Future Use.**

## **Article B: Operator's License**

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### **Sec. 7-2-30 Operator's License Required**

- (a) **Operator's. Licenses;** "Class A", Class "A" "Class B", Class "B", or "Class C" Premises. Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a "Class A", Class "A", "Class B", Class "B" or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any alcohol beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18 Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve alcohol beverages in any place operated under a "Class A", Class "A" "Class B", Class "B", or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.
- (b) **Use by Another Prohibited.**
- (1) No person may allow another to use his or her "Class A", Class "A" "Class B", Class "B", or "Class C" license or permit to sell alcohol beverages.
  - (2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

State Law Reference: Secs. 125.17, 125.32, 125.68, Wis. Stats

### **Sec. 7-2-31 Procedure Upon Application**

- (a) The City Clerk/Treasurer 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.
- (b) All applications are subject to an investigation by Chief of Police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the City Clerk approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation.

### **Sec.7-2-32 Duration**

New and renewal licenses issued under the provisions of this Chapter shall be valid for a period of one (1) or two (2) years and shall expire on the thirtieth (30th) day of June of each year.

- (a) **Fee** A fee for new, renewal, provisional and temporary licenses are established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk to cover the cost of processing said application. Said fees shall be established by resolution of the Common Council.

*(Amend. of Title 7, Chapter 2, Section 32 of the Code of Ordinances of the City of Adams, WI by Council on May 19, 2008, Ord. 04-2008) (Amend Title 7, Chapter 2, Section 32 and 32(a) of the Code of Ordinances of the City of Adams, WI by Council on January 4, 2010 by Ord. No.29-2009) (Amend 7-2-32 of the Code of Ordinance of the City of Adams, WI by Council on July 15, 2019) ) (Amendment of Subsection 7-2-31(a) and (b) adopted by Council on February 1, 2021 by Ord. No. 01-2021)*



- (b) **Provisional License.** The City Clerk/Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty days (60) after its issuance or when an operator's license is issued to the holder, whichever is sooner. The City Clerk- Treasurer may, upon receiving an application for a temporary provisional license issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. 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.
- (c) **Temporary License.** The Clerk/Treasurer may issue a temporary operator's license, at no fee, provided that:
  - (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
  - (2) No person may hold more than one (1) license of this kind per year.
  - (3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

## **Sec.7-2-33 Reserved for Future Use**

## **Sec.7-2-34 Issuance or Denial of Operator's Licenses**

- (a) After the City Clerk/Treasurer approves the granting of an operator's license, the City Clerk/Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) If the application is denied by the Chief of Police, the City Clerk/Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Common Council in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Council's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
  - (1) If, upon reconsideration, the Board again denies the application, the City Clerk/Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) Consideration for the granting or denial of a license will be based on:
  - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
  - b. The financial responsibility of the applicant;

- c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
- d. Generally, the applicant's fitness for the trust to be reposed.
  - (1) If a licensee is convicted of an offense substantially related to the licensed activity, the Common Council may act to revoke or suspend the license.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Common Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license" for a period of one (1) year or more.

### **Sec. 7-2-35 Training Course**

- (a) Except as provided in Subsection (b) below, the City Clerk/Treasurer may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board, or unless the applicant fulfills one of the following requirements:
  - (3) The person is renewing an operator's license.
  - (4) (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
  - (3) Within the past two (2) years, the person has completed such a training course.
- (b) The City Clerk/Treasurer may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) The City Clerk/Treasurer may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection (a).

### **Sec. 7-2-36 Display of License**

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or be in his possession or carry a license card.

### **Sec. 7-2-37 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. 7-2-38 through Sec. 7-2-39 Reserved for Future Use.**

## **Article C: Penalties**

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### **Sec. 7-2-40 Penalties**

- (a) Forfeitures for violations of Secs. 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 Adams, 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 Adams, 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 Adams.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.



# Chapter 3

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## Cigarette and Soda Water Licenses

- [7-3-1](#)      **Cigarette Licenses**
- [7-3-2](#)      **Soda Water Licenses**
- [7-3-3](#)      **(Non-Issuance of License)**
- [7-3-4](#)      **Penalties**

### Sec. 7-3-1 Cigarette Licenses

- (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 therefore, 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 therefore, 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 the City Clerk-Treasurer, at the time of filing said application(s), a fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk. Said fees shall be established by resolution of the Common Council.
- (c)    **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale a cigarette paper or cigarette wrappers or any substitute therefore 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: Sec. 134.65, Wis. Stats.

### Sec. 7-3-2 Soda Water 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, soda water 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 therefore, 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 licenses 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, at the time of filing said application(s), a fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk. Said fees shall be established by resolution of the Common Council.
- (c)    **Issuance and Term of license.** Licenses for the sale, exchange, barter; disposition of, or giving away or keeping for sale of soda water 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: Sec. 66.0433(2), Wis. Stats.

*(Amend Section 7-3-1(b) of the Code of Ordinances of the City of Adams, WI by Council on 1-4-99 by Ord. No.1-99)(Amend Title 7, Chapter 3, Section 1(b) & 2(b) of the Code of Ordinances of the City of Adams, WI is hereby amended by the Council on January 4, 2010 Ord. No. 25-2009).*

### **Sec. 7-3-3**

No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.

### **Sec. 7-3-4 Penalties**

- (a) Forfeitures for violations of Sec. 66.0433(2) and 134.65 of the Wisconsin Statutes, adopted by reference in Section 7-3-1 and 7-3-2 of the Code of Ordinances of the City of Adams, 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 Adams, 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 Adams.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

*(Amendment of Subsection 7-3-3 is renumbered to 7-3-4 – Penalties. Amendment of Subsection 7-3-3 of the CODE OF ORDINANCES OF THE CITY OF ADAMS, WISCONSIN IS HEREBY CREATED and adopted by the Council November 7, 1994 by Ordinance No. 17-94) (Amendment created 7-3-2 adopted by Council on May 2, 1994 by Ordinance 5-94)*

# Chapter 4

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## Direct Sellers

<a href="#"><u>7-4-1</u></a>	Registration Required
<a href="#"><u>7-4-2</u></a>	Definitions
<a href="#"><u>7-4-3</u></a>	Exemptions
<a href="#"><u>7-4-4</u></a>	Registration
<a href="#"><u>7-4-5</u></a>	Investigation
<a href="#"><u>7-4-6</u></a>	Appeal
<a href="#"><u>7-4-7</u></a>	Regulation of Direct Sellers
<a href="#"><u>7-4-8</u></a>	Revocation of Registration
<a href="#"><u>7-4-9</u></a>	Regulation of Flea Markets

### Sec. 7-4-1 Registration Required

It shall be unlawful for any direct seller to engage in direct sales within the City of Adams without being registered for that purpose as provided herein.

### Sec. 7-4-2 Definitions

In this Chapter:

- (a) **Direct Seller.** 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.** 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.** The City of Adams Clerk/Treasurer or Deputy Clerk/Treasurer.
- (f) **Person.** 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;
- (c) 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;
- (d) 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;
- (e) 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;
- (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods;
- (g) 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;
- (h) 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; it is intended to include any employee, officer, agent or member of any local charitable organization having a local group or association.
- (i) 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.
- (j) Any non-profit organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property, or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvas, or in public places for a charitable, religious, patriotic, or philanthropic purpose shall be exempt provided there is filed a sworn application in writing on a form to be furnished by the City Clerk which shall give the following information:
  - (a) Name and purpose of the cause for which permit is sought.
  - (b) Names and addresses of the officers and directors of the organization.
  - (c) Period during which solicitations are to be carried on.
  - (d) Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.



Upon being satisfied that such non-profit organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the Clerk shall issue a permit without charge to such organization, association or corporation and shall furnish all of its members, agents or representatives conducting solicitation credentials in writing stating the name of the organization, name of agent and purpose of solicitation.

## **Sec. 7-4-4 Registration**

- (a) **Registration Information.** 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) **Identification and Certification.** 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) **Registration Fee.**
- (1) At the time of filing the application, a fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk to cover the cost of investigating and processing such application. Said fees shall be established by resolution of the Common Council. Each and every member of a group must file a separate registration form.
  - (2) The applicant shall sign a statement appointing the City Clerk/Treasurer his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

- (3) 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 Police Department for an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
- (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.
- (4) A direct seller shall carry his license while engaged in licensed activities and shall display his license upon demand by any police officer of the City of Adams.

### **Sec. 7-4-8 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.

### **Sec. 7-4-9 Flea Markets**

- (a) Definitions: For purposes of this Subchapter, the following words and phrases shall have the following definitions:
  - (1) Flea Market: Any sale, open to the public, conducted on any single lot or parcel in the C-1 or C-2 zoning districts, at which three (3) or more Transient Merchants participate, for the purpose of selling, at retail, new or used goods or services.
  - (3) Goods: The statutory definition for “goods” provided in Section 402.105 Wis. Stats. is incorporated herein by reference.
  - (4) Transient Merchant: See definition at (Sec. 7-4-2(a)).
- (b) Flea Market Permit Procedure: No Flea Market shall be conducted in the City unless the owner or occupant of the property upon which the Flea Market is to be conducted, first applies for and receives a Permit as provided herein.
  - (1) Application: Applicants for Permits shall complete and return to the Clerk an application form containing the following information:
    - (a) The name, address and telephone number of the owner of the land where the Flea Market is to be conducted.
    - (b) The name, address and telephone number of the occupant of the land where the Flea Market is to be conducted (if different from the Owner).

- (c) The names and addresses of the owners and occupants of adjacent properties. For purposes of this section, “adjacent property” shall include property located directly across any street or alley.
  - (d) The dates during which the Flea Market shall be open.
  - (e) The estimated number of Direct Sellers at the Flea Market.
  - (f) A drawing showing the following items:
    - (1) Size of the property.
    - (2) Location and size of buildings on the property.
    - (3) Adjacent streets, alleys and exits to and from the property.
    - (4) Proposed area for customer parking.
    - (5) Proposed location for booths and stands of Direct Sellers.
- (2) Fee: At the time the application form is returned to the Clerk, a nonrefundable fee shall be paid to the Clerk. The amount of the fee shall be set from time-to-time by resolution of the Common Council.
- (3) Plan Commission: Upon the satisfactory preparation and execution of the application and payment of the fee, the Clerk shall refer the application to the Plan Commission, which shall review the application, the site, existing and proposed structures, neighboring uses, parking areas, driveway locations, highway access, traffic patterns and all other factors deemed relevant to the conducting of a Flea Market on the premises. After its review, the Plan Commission shall determine if the Flea Market meets the standards set forth below, and based upon said standards, shall make a recommendation to the Council that the Flea Market either be approved or disapproved. If the Plan Commission approves the Flea Market, it may attach various conditions to its approval. If disapproved, the Plan Commission shall state the reasons for disapproval. Notice shall be given to the Applicant and the owners and occupants of adjacent properties of any meeting of the Plan Commission at which the Flea Market application shall be discussed. The Plan Commission shall act on the application within 30 days after it is filed with the Clerk. If the Plan Commission fails to act within 30 days, the application should be forwarded to the Common Council without the Plan Commission’s recommendation.
- (4) Common Council: The Plan Commission’s decision shall be referred to the Council, which may take immediate action or conduct additional study and review. Within thirty (30) days after the referral the Common Council shall either approve or disapprove of the application based upon compliance with the following standards. If approved, the Council may attach various conditions to its approval.
- (5) Standards: Before approving any Flea Market, the Plan Commission and the Council shall find and determine that:
  - (a) The Flea Market is consistent with the purpose, spirit and intent of the Zoning Ordinance, and is in conformity with any adopted Master Plan.
  - (b) The Flea Market is accessible from public roads and sidewalks that are adequate to carry the vehicular and pedestrian traffic that can be expected to be generated.
  - (c) The Flea Market has adequate parking.
  - (d) The Flea Market location does not create a traffic hazard or traffic congestion.
  - (e) The Flea Market is in fundamental harmony with existing surrounding uses, and it will not cause an economic hardship to surrounding businesses.
- (6) Conditions: When the Plan Commission or the Council approves a Flea Market Permit, the Commission or the Council may attach various conditions and restrictions upon the establishment, maintenance and operation of the Flea Market, in addition to those

proposed by the Applicant or this Chapter. Such conditions may include, but are not limited to, location of booths, parking restrictions, merchant restrictions, set back requirements, hours of operation, etc. (Sections 3, 4, 5 & 6 affect newly created site(s) after ordinance passage)

- (7) Issuance of Permit: Upon approval by the Common Council, the Clerk shall issue a Permit for a Flea Market, which shall contain any conditions placed thereon by the Council. Such permits shall be valid for the period requested in the Application, but in any event, no longer than one (1) year.

- (8) Revocation of Permit

- (a) A Flea Market Permit may be revoked by the City if the Applicant made any material omission or materially inaccurate statement in the application for a permit; violated any provision of this subchapter before or after issuance of the permit; or was convicted of any crime or ordinance or statutory violation which is directly related to the Applicant's fitness to operate a Flea Market.
- (b) Prior to revocation of a Flea Market Permit, the City shall provide the permit holder with notice thereof and the basis for the potential revocation. A hearing shall subsequently be held before the Common Council, at which the permit holder shall be given the opportunity to respond to the revocation notice. After hearing all the pertinent facts and the arguments of all interested persons, the Council shall decide whether the Permit is to be revoked.

- (c) Flea Market Regulations

- (1) Hours: All Flea Markets shall be conducted between the hours of 8:00 a.m. and 9:00 p.m.
- (2) Sidewalks and Streets: No Flea Market shall impede the free use of sidewalks and streets by pedestrians and vehicles.
- (3) Noise: No Flea Market shall make any loud or unnecessary noises contrary to Ordinance 11-2-6 nor use any sound amplifying device to attract customers.
- (4) Litter: No Flea Market shall allow or cause rubbish or litter to accumulate on adjacent public or private property.
- (5) Signs: All signs must conform with Chapter 13 and to the following:
- (a) Flea Market signs may not be erected earlier than 24 hours prior to the start of the sale.
- (b) Flea Market signs must be removed within 2 hours after the close of the market on the last day of the market.
- (6) Fees: At the time of filing the application, a fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk to cover the cost of processing such application. Said fees shall be established by resolution of the Common Council.



# Chapter 5

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## 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 Adams 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 a mobile home outside a mobile home park in the City of Adams.

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





### Regulation and Licensing of Fireworks

#### 7-6-1 Regulation of Fireworks.

#### **Sec. 7-6-1 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) A person requesting a permit for sale of fireworks must complete an application for a sellers permit from the City Clerk of the City of Adams. A request for a permit must include the following information and comply with the following requirements.
    - a. The name, address and contact phone number of the permit holder.
    - b. A description of the permanent or temporary structure to be used for the storage and sale of the fireworks.

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- c. The kind of fireworks which will be sold under this permit.
    - d. The dates and location of permitted sales.
    - e. Name and address and consent of the owners of the real estate upon which the fireworks will be sold.
  - (2) Storage and Handling
    - a. A fire extinguisher is required at all locations where fireworks are sold and stored.
    - b. Posting of no smoking signs must be in place. Smoking is prohibited where fireworks are stored or handled.
    - c. No fireworks may be stored within fifty (50) feet of a public assemblage, occupied dwelling or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
    - d. Contact must be made with the Fire Chief on the location and storage of fireworks 48 hours prior to the sale of the fireworks.
  - (3) The seller who has been issued a permit for sale of fireworks within the City of Adams shall post a sign at all entry/exit doors clearly displaying a notice of the use of fireworks within the City of Adams. The sign shall have the following information:
    - a. Per Section 7-6-1 (C), (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 of Adams as designated by the Common Council. Use of fireworks within the City of Adams without a permit could result in a citation and substantial forfeiture.
  - (4) Licenses issued for the sale of fireworks may not be transferred or assigned without the consent of the Common Council, and no licensee may use a site other than the site licensed pursuant to the application of the license.
  - (5) The Fire Chief, Chief of Police shall have the right to suspend or revoke any licenses issued hereunder as it sees fit to protect the public interest or safety. If a license is suspended or revoked, the licensee shall be entitled to a hearing before the Common Council within 10 days of the suspension or revocation. A request for a hearing shall be in writing.
  - (6) The Common Council may place conditions in the issuance of licenses hereunder as it sees fit to protect the public interest and safety.”
- (c) **Use.**
- (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Mayor or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
  - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
    - a. The City, except that City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
    - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations.
    - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.

- d. The possession or use of explosive or combustible materials in any manufacturing process.
  - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
  - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
- (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
- a. A public authority.
  - b. A fair association.
  - c. An amusement park.
  - d. A park board.
  - e. A civic organization.
  - f. An agricultural producer for the protection of crops from predatory birds or animals
- (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) **Bond.** The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the City 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.
  - (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.

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- (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.
- (f) **Sale.** No person shall sell or give away within the City of Adams any fireworks except those permitted in Subsection (a).

# Chapter 7

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## Street Use Permits

### 7-7-1 Street Use Permits

#### Sec. 7-7-1 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 Common Council 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 Director of Public Works.** Before any application for a Street Use Permit is considered by the Common Council, the application shall be reviewed by the Director of Public Works and Chief of Police for their recommendation as to the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.

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- (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.** A fee as established by resolution adopted pursuant to section 2-2-19 shall be paid to the City Clerk to cover the cost of processing. Said fees shall be established by resolution of the Common Council.
- (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 Adams, hereby consent to the \_\_\_\_\_ recreational or business use of this street between the hours of \_\_\_\_\_ and \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, for the purpose of \_\_\_\_\_ and do hereby consent to the City of Adams 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 Adams 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 Adams. 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 Adams. 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.
- (j) **All Terrain Vehicle Permit.**
  - (1) Before any application for a Street Use Permit is considered for the use of an all terrain vehicle for the purpose of snow removal, the application shall be approved by the Street Superintendent and the Chief of Police.
  - (2) All terrain vehicles used for the removal of snow shall be equipped with flashing amber light that is visible from 360 degrees. The maximum speed for all terrain vehicle operation in the City of Adams shall be 10 miles per hour. Operators shall be 16 years of age or older and if required, to have a safety certificate issued by the Wisconsin Department of Natural Resources for ATV operation. Operating headlamps and tail lamps are required. A safety vest must be worn during operation of an all terrain vehicle while being operated on City streets. All traffic laws shall be followed during the operation of an all terrain vehicle while being operated on City streets. Removal and placement of snow shall be followed in accordance with section 6-2-7 of the code of ordinances.
  - (3) Operation of an all terrain vehicle will be prohibited on Main Street (State Highway 13). All terrain vehicles may cross Main Street in a direct manner. All terrain vehicles may be used to clear snow adjacent to the Main Street (Highway 13)
  - (4) Each application for a Street Use Permit for the Operation of an All Terrain Vehicle shall be accompanied by a fee of \$10.00. Permits shall be valid for one year from issue date. The permit may be revoked at the discretion of the Chief of Police if in his opinion the operation is done in an unsafe manner. There will be no refund if the permit is revoked under this order.





# Chapter 8

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## Regulation of Nonmetallic Mining

<a href="#"><u>7-8-1</u></a>	<b>Statutory Provisions Adopted</b>
<a href="#"><u>7-8-2</u></a>	<b>Definitions</b>
<a href="#"><u>7-8-3</u></a>	<b>Existing Nonmetallic Mining Operations</b>
<a href="#"><u>7-8-4</u></a>	<b>Exempt Activities</b>
<a href="#"><u>7-8-5</u></a>	<b>Permit Required for Nonmetallic Mining</b>
<a href="#"><u>7-8-6</u></a>	<b>Permit Revocation</b>
<a href="#"><u>7-8-7</u></a>	<b>Blasting and/or Rock Crushing</b>

### Sec. 7-8-1 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. 7-8-2 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.

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- (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. 7-8-3 Existing Nonmetallic Mining Operations**

This nonmetallic mining reclamation Chapter shall apply to any portion of a nonmetallic mining site, including un-reclaimed portions of a site which were mined prior to the effective date of this Chapter.

### **Sec. 7-8-4 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. 7-8-5 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 City 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. 7-8-6 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. 7-8-7 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 therefore 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) **Certificate of Insurance.** Each application for a blasting permit shall be accompanied by a Certificate of Insurance identifying the City of Adams 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:  
  
$$\text{Energy ratio} = 0.5 = 10.823 f^2 A^2 \text{ where: } f = \text{frequency in cycles per second,}$$
$$A = \text{amplitude or displacement in inches}$$
  
  
$$\text{Energy ratio} = .274 V^2 \text{ (V = resultant particles velocity expressed in inches per second)}$$

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- (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 City 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 non-renewal or revocation and shall have an opportunity to be heard before the Common Council.

### Regulation and Licensing of Amusement Arcades

<a href="#"><u>7-9-1</u></a>	<b>Definitions</b>
<a href="#"><u>7-9-2</u></a>	<b>Amusement Arcade License</b>
<a href="#"><u>7-9-3</u></a>	<b>Hours of Operation for Amusement Arcades</b>
<a href="#"><u>7-9-4</u></a>	<b>General Requirements for Amusement Arcades</b>
<a href="#"><u>7-9-5</u></a>	<b>License Revocation</b>

#### Sec. 7 -9-1 Definitions

- (a) **Amusement Arcade** means any premises or arcade operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building whose primary purpose or object of its existence or operation is that of providing "amusement devices" to the public at retail, and/or any premises operated by any organization, whether incorporated or not, which is the owner, lessee, or occupant of a building the majority of whose gross receipts are derived from the providing of "amusement devices" to the public at retail or where six (6) or more amusement devices are located.
- (b) **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 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, jukebox or other coin operated music machine or a mechanical children's amusement riding device.

#### Sec. 7-9-2 Amusement Arcade License

- (a) **License Required.** No person, firm or corporation shall operate or keep an amusement arcade as defined herein, without having obtained and posted on the premises in plain view, a license to operate such arcade. Application shall be made to the City Clerk/Treasurer on the form provided by such office, accompanied by an application fee of Five Dollars (\$5.00) which shall cover the cost of processing the application and shall be non-refundable. The application shall set forth the following information:
  - (1) The name and address of the applicant, or, if a partnership, the name and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.

- (2) The name and addresses of the owners of the amusement devices to be located on the licensed premises, if such owners are different from that of the applicant. If the owners of the amusement devices is a partnership, the names and addresses of all the partners, or, if a corporation, the names and addresses of the principal officers and registered agent thereof.
  - (3) A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
  - (4) A site plan of the premises to be licensed which shall include the proposed landscaping for the subject premises, and all the improvements, parking and driveway areas, and landscaping located on property adjacent to and within twenty (20) feet of the property lines of the premises to be licensed.
  - (5) If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
  - (6) Such application shall also contain such additional information, as the City deems necessary to assist it in determining the qualifications of the applicant for such license.
- (b) **Inspection.** The City Clerk/Treasurer shall notify the Chief of Police and Building Inspector of each new application for license and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Chief of Police and Building Inspector shall furnish to the Common Council in writing 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.
- (c) **Public Hearing.** The application shall be forwarded to the Common Council which shall hold a public hearing prior to the granting or denial of any amusement arcade license. In reviewing each application, the Common Council shall find:
- (1) That the establishment, maintenance, or operation of an amusement arcade at the location requested will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  - (2) That the proposed amusement arcade will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
  - (3) That the establishment of the amusement arcade will not impede the normal orderly development and improvement of the surrounding property for uses permitted in the district.
  - (4) That adequate measures have been or will be taken to maintain good order surrounding the location thereof.
- (d) **Issuance of License; Term.** The City Clerk/Treasurer shall issue a license upon approval of the application by the Common Council upon the payment by the applicant of an annual license fee of Five Dollars (\$5.00). All licenses issued herein shall be for one (1) year ending on the 30th day of June and shall not be transferable.



**Sec. 7-9-3 Hours of Operation for Amusement Arcades**

- (a) No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of electronic amusement devices to the public at retail between the hours of 10:00 p.m. and 10:00 a.m.
- (b) No premises for which an amusement arcade license has been issued shall be permitted to remain open for the offering of amusement devices to the public at retail between the hours of 10:00 p.m. and 3:00 p.m. on any day in which school is in regular session.
- (c) For the purpose of this Section, the term public school or parochial school shall be any institution providing learning facilities for Grades K through 12.

**Sec. 7-9-4 General Requirements for Amusement Arcades**

The following general requirements shall apply to all amusement arcades licensed in accordance with this Chapter:

- (a) All amusement arcades shall have an adult supervisor on the premises at all times in which the game room is open to the public.
- (b) Every amusement arcade shall provide an adequate area and number of bicycle racks for the orderly parking of bicycles, which area shall be separate from a required vehicle parking stall and shall be so located as to not occupy any portion of a public sidewalk or to otherwise obstruct pedestrian passage to and from the premises.
- (c) Game rooms licensed herein shall comply with all other building, fire code, and applicable City laws and regulations.
- (d) All arcades shall post rules of nonacceptable patron conduct.

**Sec. 7 -9-5 License Revocation**

Licenses may be revoked by the Common Council after notice and public hearing, in the event an amusement arcade's location or operation fails to conform to standards provided in this Chapter, or violates any other provision of this Code of Ordinances.



# Chapter 10

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## Licensees to Pay Local Claims; Appellate Procedures

### 7-10-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures

#### **Sec. 7-10-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures.**

- (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 Adams:
  - (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 City 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 City 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 may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.

# Chapter 11

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## Licensing of Taxicabs and Taxicab Drivers

[7-11-1](#) Taxicabs and Taxicab Drivers; Licenses Required

[7-11-2](#) Penalties

### Sec. 7-11-1 Taxicabs and Taxicab Drivers; License Required

- (a) **Taxicab -Defined.** The term taxicab as used herein shall include all vehicles carrying passengers for hire for which public patronage is solicited, excepting such vehicles as operate on established routes and regulated by the Public Service Commission of Wisconsin.
- (b) **Taxicab License.** No taxicab shall be operated upon the streets of this City until a license thereof shall have been obtained from the City Council or its designated agent.
- (c) **Application for License.** Application for license for taxicabs shall be made by the owner thereof upon blank forms to be furnished by the City Clerk. Such application shall contain the full name and address of the owner, the make, model and year of manufacture, the Wisconsin State License number for the current year, engine number, and factory number of the motor vehicle.
- (d) **Public Convenience and Necessity.** Whenever any applicant for a license shall have complied with all conditions and regulations relative to the filing of his application, the City Clerk shall forward said application to the City Council for a public hearing thereon to determine the public convenience and necessity. Notice of hearing shall be given to all persons interested including the owner of the vehicle, at least ten (10) days before the date set for such hearing. The kind of notice, place of hearing and all facts connected with or relating to such hearing shall be regulated by the City Council.
- (e) **Renewal.** A license issued hereunder shall expire on December 31 each year but shall be subject to renewal without a further determination of public convenience and necessity.
- (f) **License Fees.** At the time of filing the application, a fee as established by resolution adopted by the Common Council pursuant to section 2-2-19.
- (g) **Insurance.** No license to operate a taxicab shall be issued unless and until such time that the owner shall have filed with the City Clerk an insurance policy issued by an insurance company licensed to do business in the State of Wisconsin, and which insurance company must have a rate of "B Plus" or better, in the Best Insurance. Guide, providing insurance coverage for such taxicab (which must be specifically described in the policy) which policy of insurance shall provide as a minimum the following coverage limits:
  - a. **Liability for Personal Injury or Death:** \$125,000.00 per person
  - b. **Liability for Property Damage:** \$500,000.00 per occurrence
  - c. **Medical Payments:** \$125,000.00 per occurrence.
  - d. **Uninsured Motorists:** \$250,000.00 per occurrence,

which policy or policies shall insure said owner against his legal liability for damage to the property of others, including baggage, but excluding property of assured or the property hired or leased by the assured and for the bodily injury or death of others, except the employees of the assured engaged in the course of their employment resulting from the accident or collision, for which said owner or the operator of said vehicle would be liable on account of the liability imposed upon said owner or upon the operator of said vehicle for any acts of negligence of the said owner or of his agents or servants of any person operating said vehicle with the permission and consent of said owner. The said policy shall further provide that it cannot be cancelled until twenty (20) days' notice of such cancellation shall have been given by registered mail to the City Clerk. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate "all licenses issued for the taxicab covered by such insurance policy, unless another policy, as provided in this section, shall be provided and in effect at the time of such cancellation or termination. The owner of any taxicab, at the time of filing with the City Clerk that said insurance policy, shall at the same time file a receipted bill from the insurance agency or insurance company issuing the said policy showing that the premium for said policy for a one year period has been paid in full.

- (h) **Inspection.** No vehicle shall be licensed until it has been thoroughly and carefully examined by the Chief of Police or such person as he may designate, and found to be in a thoroughly satisfactory and safe condition for the transportation of passengers, clean, of good appearance, well painted, and that said vehicle complies with all the other provisions of this section. Such examination shall be made and a report filed with the City Clerk before the license is issued. If such examination and inspection shows that such vehicle does not comply with anyone or more of the provisions of this section, no license shall be issued.
- (i) **Register.** The City Clerk shall keep a register of the name of each person owning or operating any vehicle licensed under this section together with the license number and description, make, and the name and address of the insurance companies and the date of the expiration of such insurance and furnish the Chief of Police with a copy thereof. The records shall be open to the inspection of the public at all reasonable times.
- (j) **Revocation.** Licenses granted under this section may be suspended or revoked at any time by the City Council for any violations of any of the provisions of this section and also if the vehicle for which said license was issued shall not be of good appearance, clean and safe. Licenses suspended or revoked because the vehicle is not of good appearance, clean or safe shall not be reissued until the vehicle shall be put in good condition for use by the public to the satisfaction of the City Council.

When a taxicab license is revoked or cancelled as herein provided, it shall be the duty of the City Clerk to immediately notify the owner to cease at once to operate the vehicle for which the license has been revoked as a taxicab.

- (k) **Suspension.** All licenses to operate taxicabs issued to any person as provided by this section shall be suspended automatically for a period of fifteen (15) days upon said person, his agents, servants or employees being convicted of a violation of any of the provisions of this section.
- (l) **Taxicab Regulations.**

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- (1) **License Non-Transferable.** Licenses issued or granted under this section shall be non-assignable and non-transferable.
  - (2) **Identification Required.** The serial number of said licenses shall be printed or painted on each side and on the rear of each taxicab, in figures at least two (2) inches high and 1/4 inch wide, at a point not lower than 1/2 the height of the taxicab. The name of the owner of each taxicab shall be printed on both sides and rear of each cab in like letters.
  - (3) **Fares to be Posted.** Each taxicab shall have a card on which shall be printed in plain legible figures the fares charged, posted in a conspicuous place inside the cab in plain sight of passengers.
  - (4) **Not to Pick Up Passengers Between Point of Origin and Destination.** No person operating, owning or controlling any vehicle licensed hereunder shall stop to pick up any passenger at any point between the point of original pickup "and the destination of the original passenger unless consented to by said passenger.
  - (5) **Inspection by Chief of Police.** The Chief of Police shall have the authority at all time to inspect taxicabs, drivers, and the quality of service of taxicab owners and drivers.
  - (6) **Condition of Cars - Reported Periodically.** The brakes, horn, lights and tires of every motor vehicle used for hire under this section shall be examined and tested as to sufficiency at least once every ninety (90) days by a reliable garage keeper who shall furnish a certificate as to the examination of said motor vehicle, and the sufficiency of it's brakes, horn, lights and tires, which certificate shall be filed in the office of the City Clerk.
  - (7) **Drivers to be Licensed.** No person licensed hereunder shall employ as a driver of any taxicab any person other than a driver duly licensed under this section.
  - (8) **Picture I.D.** To be obtained annually on a form approved by the Chief of Police and to be displayed within passenger's view at all times.
- (m) **Fraud in Obtaining License.** No person shall give any false information or practice any fraud, misrepresentation, or subterfuge to secure a license hereunder. (n) Taxicab Drivers' Permits.
- (1) **Requirements.** Every person driving a taxicab must be licensed as such and each applicant for a driver's permit must fulfill the following requirements:
    - a. Be at least 18 years of age.
    - b. Be of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of the vehicle. A certificate filed not more than six (6) months old from a reputable physician certifying that the applicant is free from any physical condition which may make him an unsafe or unsatisfactory driver.
    - c. Be able to speak, read, and write the English language plainly.
    - d. Be clean in dress and person and not addicted to the use of intoxicating liquors or habit-forming drugs.
    - e. Produce on forms to be provided by the City Clerk, through the Chief of Police, affidavits of his good character from two (2) reputable citizens of the City who have known him personally and observed his conduct frequently during one (1) year next preceding the date of his application, and also a further written letter of reference from the applicant's last employer.
    - f. Fill out upon a blank form to be provided by the City Clerk, through the Chief of Police, a statement giving his full name, including his full first name, his residence or places of residence for three (3) years previous to his moving to his present address, his age, race, height, color of eyes and hair, place of birth, length of time he has resided in City, whether a citizen of the United States, place of previous

employment, whether he has ever been convicted of a felony or a misdemeanor, whether he has ever been previously licensed as a driver or chauffeur, and if so, when and by what authority, whether his license has ever been revoked or suspended, and if so, for what cause, which statement must be signed and sworn to be the applicant and filed with the City Clerk and kept as a permanent record. Such application must have endorsed upon it the approval or disapproval of the Chief of Police and the recommendation of the City Council.

- g. Each applicant for a driver's permit under the provisions of this section shall be examined by a person designated by the Chief of Police as to his knowledge and his compliance with all provisions of this chapter, and the traffic regulations, and if the result of this examination be unsatisfactory he shall be refused a permit.
- (2) ***Fee.*** The fee for a driver's permit shall be a fee as established by resolution adopted by the Common Council pursuant to section 2-2-19.
- (3) ***Record of City Clerk.*** There shall be kept by the City Clerk a complete record of each permit issued to a driver and of all renewals, suspensions, and revocations thereof, which record shall be kept on file with the original application of the driver for a permit.
- (4) ***Revocation and Suspension.*** A driver's permit may be suspended or revoked at any time for a violation of any provision of this section, or for any cause deemed sufficient by the City Council, or the judge of any court in which such driver is convicted of any offense, and the driver thereupon shall be forthwith be forwarded to the City Council. If the penalty is suspension of permit, the permit will be returned to the driver at the expiration of the period for which the suspension is made. A second suspension for the same reason, or a third suspension for any cause shall automatically revoke the driver's permit. A driver whose permit has once been revoked may again be licensed as a driver in the City, providing a new permit is granted by the City Council. Where a permit has been suspended or revoked by the court, or a judge thereof, the approval of such court or judge shall be necessary for the restoration of or reissue of such permit. Where any driver's permit shall be suspended or revoked by the City Council the Chief of Police shall immediately be notified thereof.
- (5) ***Drivers to Report Accidents.*** Every driver of a taxicab shall report to the Police Department immediately after the happening thereof, any accident involving any injury to persons or damage to property where in his vehicle is involved.
- (6) ***Fraud in Obtaining License.*** No person shall give any false information or practice any fraud, misrepresentation, or subterfuge, to secure a license.

## Sec. 7-11-2 Penalties

- (a) Any person who shall violate any provision of Chapter 11 of Title 7, as created by Section 1 of this Ordinance shall be subject to the general penalties for Municipal Code violations as specified in Section 1-1-7 of this Code of Ordinances of the City of Adams, Wisconsin.



# Chapter 12

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## Adult Oriented Establishments

<a href="#">7-12-1</a>	Definitions
<a href="#">7-12-2</a>	License
<a href="#">7-12-3</a>	Application for License
<a href="#">7-12-4</a>	Standards for Issuance of License
<a href="#">7-12-5</a>	Fees
<a href="#">7-12-6</a>	Display of License or Permit
<a href="#">7-12-7</a>	Renewal of License or Permit
<a href="#">7-12-8</a>	Revocation of License
<a href="#">7-12-9</a>	Physical Location of Adult-Oriented Establishment
<a href="#">7-12-10</a>	Responsibilities of the Operator
<a href="#">7-12-11</a>	Administrative Procedure and Review
<a href="#">7-12-12</a>	Exclusions
<a href="#">7-12-13</a>	Penalties and Prosecution

## Sec. 7-12-1 Definitions

- (a) **Definitions.** For the purpose of this ordinance, the following words and phrases shall mean:
- (1) Adult-oriented establishment shall include, but is not limited to, adult stores, adult motion picture theaters, adult mini-motion picture establishments, adult cabaret, tattoo establishments or body piercing establishments, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. Adult-oriented establishments also includes Live Sex Act Businesses.

- (2) Adult store means an establishment having as its stock in trade, for sale, rent, or inspection books, films, video cassettes, magazines or other periodicals, or sexual tools/toys/paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas as defined below. In addition, adult store means other venues that have facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live performances, for observation by patrons therein.
- (3) Adult motion picture theater means an enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.
- (4) Adult mini-motion picture theater means an enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.
- (5) Adult cabaret means a cabaret which features topless dancers, strippers, male or female impersonators, or similar individuals.
- (6) Council means the Council of the enacting municipality
- (7) Adult entertainment means any exhibition of any motion pictures, live performance, display or dance of any type which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities or specified anatomical areas, as defined below, or the removal of articles of clothing or appearing partially or totally nude. Adult entertainment establishments are those in which the predominant business or attraction is the offering to customers of activities or material which is intended to provide sexual stimulation or sexual gratification. Adult entertainment establishments are also those that are distinguished by an emphasis on, or the advertising or promotion of, employees or agents engaging in specified sexual activities or displaying specified anatomical areas.
- (8) Operators mean any person, partnership or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (9) Specified Sexual Activities means simulated or actual:
  - a. Showing of human genitals in a state of sexual stimulation or arousal;
  - b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
  - c. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (10) Specified anatomical areas means:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola;
  - b. Human male genitals in a discernible turgid state, even if opaquely covered.

- (11) Tattoo establishment means the premises where a tattooist applies a tattoo to another person.
- (12) Tattooist means a person who tattoos another person at that person=s request.
- (13) Tattoo, as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.
- (14) Live Sex Act means any act whereby one or more persons engage in live conduct which involves Specified Sexual Activities
- (15) Live Sex Act Business means any business in which one or more persons may view, or may participate in, a live sex act for a consideration.
- (16) Consideration means the payment of money or the exchange of any item of value for (1) the right to be taken to or enter the business premises or any portion thereof; or (2) the right to remain on the business premises, or any portion thereof; or (3) the right to purchase any item permitting the right to enter, or remain on, the business premises, or any portion thereof; or (4) the right to a membership permitting the right to enter, or remain on, the business premises, or any portion thereof.

## **Sec. 7-12-2 License**

- (a) Except as provided in subsection (d) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the enacting municipality without first obtaining a license to operate issued by the enacting municipality.
- (b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) All adult-oriented establishments lawfully in operation when this ordinance is passed must submit an application for a license within ninety days of the passage of this ordinance. If an application is not received within said ninety day period, then such existing adult-oriented establishment shall cease operations.
- (e) There shall be a limit of one (1) license issued and utilized at any one time in the City. If and when the existing licensee retires that license or does not renew his or her license, said license shall be deemed revoked and be available for the next approved applicant/location.

### **Sec. 7-12-3 Application for License**

- (a) Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application shall be filed in triplicate with and dated by the City Clerk. A copy of the application shall be distributed by the Clerk to the local Police Department, the County Clerk and to the applicant.
- (b) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license interested directly in the ownership or operation of the business shall furnish the following information under oath:
  - (1) Name and address;
  - (2) Written proof that the individual is at least eighteen (18) years of age;
  - (3) The address of the adult-oriented establishment to be operated by the applicant;
  - (4) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five (5%) percent of the stock in said corporation and all officers and directors of the corporation.
- (c) Within twenty-one days of receiving an application for a license, the Clerk shall notify the applicant whether the application is granted or denied or whether a single thirty (30) day extension is needed for procedural matters such as publication, public hearings, notice, quorum and the like.
- (d) When an application is denied, the City Clerk shall advise the applicant in writing of the reasons therefore. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Council, as hereinafter provided.
- (e) Failure or refusal of the applicant to give any information relevant to the investigation of the application or his/her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his/her refusal to submit to or cooperate with any investigation required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

### **Sec. 7-12-4 Standards for Issuance of License**

- (a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
  - (1) If the applicant is an individual:
    - a. The applicant shall be at least eighteen years of age;
    - b. The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application or have been convicted of a felony that is substantially related to the activity the applicant is requesting a license to engage in.

- (2) If the applicant is a corporation:
  - a. All officers, directors and stockholders required to be named under Sec. (3)(b) shall be at least eighteen years of age.
  - b. No officer, director or stockholder required to be named under Section (3)(b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application or have been convicted of a felony that is substantially related to the activity the applicant is requesting a license to engage in.
- (3) If the applicant is a partnership, joint venture or any other type or organization where two or more persons have a financial interest:
  - a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
  - b. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application or have been convicted of a felony that is substantially related to the activity the applicant is requesting a license to engage in.

### **Sec. 7-12-5 Fees**

- (a) A license fee of \$1000.00 shall be submitted with the application for a license. If the application is denied, one-half (2) of the fee shall be returned.

### **Sec. 7-12-6 Display of License or Permit**

- (a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

### **Sec. 7-12-7 Renewal of License or Permit**

- (a) Every license issued pursuant to this ordinance will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the County Clerk, the Local Police Department and to the operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- (b) A license renewal fee of \$1000.00 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (2) of the total fees collected shall be returned.
- (c) If the local Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

## **Sec. 7-12-8 Revocation of License.**

- (a) The Council shall revoke a license for any of the following reasons:
- (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (2) The operator or any employee or agent of the operator violates any provision of this ordinance or any rule or regulation adopted by the Council pursuant to this ordinance; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The operator becomes ineligible to obtain a license.
  - (4) An unpaid cost or fee required to be paid by this ordinance.
  - (5) Any intoxicating beverage is served on the premises of the adult-oriented establishment without a valid license therefore.
  - (6) The Council, before revoking or suspending any license or permit, shall give the operator at least ten days' written notice of the charges against him, and the opportunity for a public hearing before the Council, as hereinafter provided.
  - (7) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
  - (8) Any person or entity licensed as an operator whose license is revoked shall not be eligible to receive a license for two (2) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license.

## **Sec. 7-12-9 Physical Location of Adult-Oriented Establishment.**

- (a) Every adult oriented establishment shall be at least 500 feet from the closest private residence and area zoned residential and at least 2000 feet from any church, other place of religious worship, park, school, Childcare, playground, play field, or where children normally congregate.

## **Sec. 7-12-10 Responsibilities of the Operator.**

- (a) Every act or omission by an employee or agent constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- (b) Any act or omission of any employee or agent constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (c) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as or adult store product defined herein.
- (d) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (e) The operator shall maintain at least 50 foot candles of light in the public portions of the establishment, including aisles, at all times. If a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth or booths, room or cubicle adjoining an aisle, at no time shall there be less than 50 foot candle, as measured from the floor of illumination in said aisle. There shall be no closed booths or rooms which are not open and in the line of site of the rest of the establishment.
- (f) The operator shall insure compliance of the establishment and its patrons with the provisions of this ordinance.

### **Sec. 7-12-11 Administrative Procedure and Review**

- (a) The Adams County and City Codes and Wisconsin Statutes shall govern the administrative procedure and review regarding the granting, denial, renewal, and non-renewal, revocation or suspension of a license.

### **Sec. 7-12-12 Exclusions**

- (a) All private schools, and public schools as defined in Wis. Stat. Chap. 115, are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

### **Sec. 7-12-13 Penalties and Prosecution**

Any person who shall violate any provision of this ordinance or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his license is revoked, shall be subject to penalty as follows:

- (a) First Offense. Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not less than \$500 nor more than \$1000.00 together with the cost of prosecution and a penalty assessment as provided by Wis. Stat. sec. 165.87, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County jail until such forfeiture and costs are paid, but not exceeding 90 days.

- (b) Second Offense. Any person found guilty of violating any ordinance on ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof forfeit not less than \$1000.00 nor more than \$1500.00 for each such offense, together with the costs of prosecution, and a penalty assessment as provided by Wis. Stat. sec. 165.87, and in default of payment of such forfeiture and cost shall be imprisoned in the County jail until such forfeiture and costs or prosecution are paid, but not to exceed 6 months.
- (c) Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in the Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- (d) Execution Against Defendant's Property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the City, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.



# Chapter 13

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## Regulating Room Tax

### 7-13-1 Regulation Room Tax

#### Sec. 7-13-1 Room Tax.

- (a) **Definitions.** For the purpose of this ordinance, the following words and phrases shall have the following meanings:
- (1) **Gross Receipts.** As defined in s. 77.51(4)(a), (b) & (c), Wis. Stats., insofar as applicable and s. DOR 11.05 & 11.48, Wis. Adm. Code.
  - (2) **Hotel or Motel.** As defined in s. 77.52(2)(a)1 a building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, such establishments as inns, motels, hotels, tourist homes and condominiums or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges & cabins & other building or group of buildings and which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanatoriums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
  - (3) **Shall.** “Shall” is always mandatory and not merely directory.
  - (4) **Transient.** As defined in s. 77.52(2)(a)1 any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodation available to the public.
- (b) **Imposition of Room Tax.** Pursuant to sec. 66.0615(lm), Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing at retail rooms, lodging or sites to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of accommodations. Such tax shall be at the rate of 5½% of the gross receipts from such retail furnishing of rooms, lodging or sites. Such tax shall not be subject to the selective sales tax imposed by sec. 77.52(2)(a)1., Wis. Stats.
- (c) **Distribution of Taxes Collected.** The proceeds of such tax when collected shall be apportioned at ½% to the accommodating business, then the remaining funds at 30% to the City for general administration expenses and the remaining 70% to the Adams County Chamber of Commerce for use in promoting, developing, stimulating, expanding and administering activities related to the convention and tourism business.

- (d) **Administration.** Collection and disbursement of the room tax shall be administered by the City Clerk/Treasurer. The tax imposed under this section is due and payable within 30 days of the end of each calendar quarter for which imposed. A tax return shall be filed with the City Clerk/Treasurer along with taxes due by those furnishing at retail such rooms and lodging on or before the same date on which the tax is due and payable. All quarterly returns shall be signed by the person required to file a return or his authorized agent, but need not be verified by oath.
- (e) **Interest on Late Taxes.** All late taxes under this section shall bear interest at a rate of 1% per month from the due date of the tax until the first day of the month following the month in which the tax is paid or deposited with the City Clerk/Treasurer.
- (f) **Issuance of Permit.** Every person furnishing rooms or lodging under subsection (2) for the purpose of identifying such business shall file with the City Clerk/Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the City Clerk/Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place of business and such other information as the City Clerk/Treasurer requires. The application shall be signed by the owner of a sole proprietor or by the person authorized to act on behalf of such applicant accompanied by a \$5.00 one-time only permit fee.