

TITLE 7

Licensing and Regulation

Chapter 1	Licensing of Dogs and Regulation of Animals
Chapter 2	Fermented Malt Beverages and Intoxicating Liquor
Chapter 3	Cigarette Licenses; Soda Water Beverages
Chapter 4	Transient Merchants
Chapter 5	Regulation and Licensing of Fireworks
Chapter 6	Street Use Permits
Chapter 7	Adult-Oriented Establishments
Chapter 8	Junk and Junk Dealers
Chapter 9	Amusement Parks and Transient Public Entertainment
Chapter 10	Licensees to Pay Local Claims; Appellate Procedures

CHAPTER 1

Licensing of Dogs and Regulation of Animals

7-1-1	Dog Licenses Required; Definitions
7-1-2	Rabies Vaccination Required for License
7-1-3	Issuance of Dog and Kennel Licenses
7-1-4	Late Fees
7-1-5	Rabies Quarantine
7-1-6	Restrictions on Keeping of Dogs, Cats, Fowl and Other Animals
7-1-7	Impoundment of Animals
7-1-8	Dogs and Cats Restricted on Cemeteries and Town Park
7-1-9	Duty of Owner in Cases of Dog or Cat Bite
7-1-10	Injury to Property by Animals
7-1-11	Barking Dogs or Crying Cats
7-1-12	Sale of Rabbits, Chicks or Artificially Colored Animals
7-1-13	Providing Proper Food and Drink to Confined Animals
7-1-14	Providing Proper Shelter
7-1-15	Neglected or Abandoned Animals
7-1-16	Cruelty to Animals and Birds Prohibited
7-1-17	Penalties

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

- (a) **License Required.** It shall be unlawful for any person in the Town of Waukesha to own, harbor or keep any dog for more than five (5) months of age after July 1, of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
 - (1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog, or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the-dog or cat within the meaning of this Section.
 - (2) "At large" means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
 - (3) "Dog" shall mean any canine, regardless of age or sex.
 - (4) "Cat" shall mean any feline, regardless of age or sex.
 - (5) "Neutered" as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
 - (6) "Animal" means mammals, reptiles and birds.
 - (7) "Cruel" means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
 - (8) "Law Enforcement Officer" has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
 - (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
 - (10) "Pet" means an animal kept and treated as a pet.

State Law Reference: Sections 174.05 through 174.10, Wis. Stats.

SEC. 7-1-2 RABIES VACCINATION REQUIRED FOR LICENSE.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Waukesha after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Town stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number,

the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Town.

- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).
- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

SEC. 7-1-3 ISSUANCE OF DOG AND KENNEL LICENSES.

- (a) **Dog Licenses.**
 - (1) It shall be unlawful for any person in the Town of Waukesha to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
 - (2) The owner of any dog more than five (5) months of age on January 1, of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
 - (3) The minimum license tax under this Section for spayed females or neutered males and for unspayed or unneutered animals (see Section 16-1-1).
 - (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Town Treasurer or his/her deputy shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Treasurer or his/her deputy shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
 - (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).

- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any Town law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached. Each day that any dog within the Town of Waukesha continues to be unlicensed constitutes a separate offense for which a separate penalty applies.
 - (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Treasurer or his/her deputy upon application therefor.
- (b) **Kennel Licenses.**
- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax (see Section 16-1-1). Upon payment of the required kennel license tax and, if required by the Town Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Town Treasurer or his/her deputy shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel. A kennel license may only be issued in a residential-zoned district following issuance of a conditional use permit under the Town zoning code.
 - (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog, during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel, unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

State Law Reference: Sec. 174.053, Wis. Stats.

SEC. 7-1-4 LATE FEES.

The Town Treasurer shall assess and collect a late fee from every owner of a dog five (5) months of age or over (see Section 16-1-1) if the owner failed to obtain a license prior to April 1, of each year, or, within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

SEC. 7-1-5 RABIES QUARANTINE.

- (a) **Dogs and Cats Confined.** If a district or neighborhood is quarantined for rabies, all dogs and cats within the Town 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 Town Clerk shall promptly post in at least three (3) public places in the Town notices of quarantine.

- (b) **Exemption of Vaccinated Dog or Cat from Town 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 Town 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. A law enforcement, humane or animal control 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 may kill a dog or cat only as a last resort if the owner agrees. 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. A law enforcement, humane or animal control 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. A law enforcement, humane or animal control 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 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 Town, 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 Town, 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 Town 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 Town of Waukesha to own, harbor or keep any dog, cat, fowl or other animal which:
- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Town.
 - (2) Assaults or attacks any person or destroys property.
 - (3) Is at large within the limits of the Town.
 - (4) Habitually barks or howls to the annoyance of 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) In the case of a dog, is unlicensed.
- (b) **Vicious Dogs and Animals.**
- (1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction

- of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the law enforcement authorities.
- (2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (c) **Animals Running at Large.**
- (1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Town Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.
- (2) A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.
- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (e) **Animal Feces.** The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to deposit on any street, alley or other public or private property, unless such matter is immediately removed therefrom by said owner or person in charge. This Section shall not apply to a person who is visually or physically handicapped.

SEC. 7-1-7 IMPOUNDMENT OF ANIMALS.

- (a) **Animal Control Agency.**
- (1) The Town of Waukesha 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 Town of Waukesha 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 law enforcement or humane- officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, 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/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Town for any damages it sustains for improper or illegal seizure.
- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Town, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his/her possession. If within seven (7) days after such notice the owner

does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for fourteen (14) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by motion of the Town Board. No animal shall be released from the pound without being properly licensed if so required by state law or Town 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) **Town Not Liable for Impounding Animals.** The Town and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

SEC. 7-1-8 DOGS AND CATS RESTRICTED ON CEMETERIES AND TOWN PARK.

No dog or cat shall be permitted in any public cemetery or the Town Park. Every dog specially trained to lead blind or hearing impaired 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 a law enforcement, humane or animal control officer and shall keep such dog or cat confined for not less than fourteen (14) days or for such period of time as a law enforcement, humane or 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 or humane officer upon demand for examination.

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 thereon.

SEC. 7-1-11 BARKING DOGS.

No owner or keeper of any dog shall permit or allow the dog to excessively bark, yelp, or howl so as to annoy or disturb any neighbor or neighborhood. In the event the Town receives two or more complaints regarding activities which violate this paragraph within any 60-day period of time, it shall be presumed that the activities complained of sufficiently annoy or disturb the complaining neighbors or neighborhood, and that those activities violate the provisions of this ordinance.

SEC. 7-1-12 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: Sec. 948.11, Wis. Stats.

SEC. 7-1-13 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: Sec. 948.13, Wis. Stats.

SEC. 7-1-14 PROVIDING PROPER SHELTER.

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
 - (1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
 - (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
 - (1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
 - (2) Shelter from inclement weather.
 - a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

- b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
 - (1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
 - (2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

State Law Reference: Sec. 948.14, Wis. Stats.

SEC. 7-1-15 NEGLECTED OR ABANDONED ANIMALS.

- (a) **Neglected or Abandoned Animals.**
 - (1) No person may abandon any animal.
 - (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
 - (3) If the owner or custodian is unknown and cannot, With reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
 - (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
 - (5) Section 948.16, Investigation of Cruelty Complaints, and Sec. 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 not 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 Town or any animal control agency with whom the Town 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. 7-1-16 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.

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

SEC. 7-1-17 PENALTIES.

- (a) Any person violating Sections 7-1-13, 7-1-14, 7-1-15 and 7-1-16, shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the Town Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Chapter.
- (b)
 - (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or Chapter 174, Wis. Stats., shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
 - (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (c) Any person who violates Sections 7-1-6 through 7-1-12 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.

CHAPTER 2

Fermented Malt Beverages and Intoxicating Liquor

Article A Fermented Malt Beverages and Intoxicating Liquor

- 7-2-1 State Statutes Adopted
- 7-2-2 Definitions
- 7-2-3 License Required
- 7-2-4 Classes of Licenses
- 7-2-5 License Fees
- 7-2-6 Application for License
- 7-2-7 Qualifications of Applicants and Premises
- 7-2-8 Investigation
- 7-2-9 Approval of Application
- 7-2-10 Transfer and Lapse of License
- 7-2-11 Numbering of License
- 7-2-12 Posting Licenses; Defacement
- 7-2-13 Conditions of License
- 7-2-14 Closing Hours
- 7-2-15 Revocation and Suspension of Licenses; Non-Renewal
- 7-2-16 Non-Alcohol Events for Underage Persons on Licensed Premises
- 7-2-17 through 7-2-29 Reserved for Future Use

Article B Operator's License

- 7-2-30 Operator's License Required
- 7-2-31 Procedure Upon Application
- 7-2-32 Duration
- 7-2-33 Operator's License Fee; Provisional License
- 7-2-34 Issuance or Denial of Operator's Licenses
- 7-2-35 Training Course
- 7-2-36 Display of License
- 7-2-37 Revocation of Operator's License
- 7-2-38 through 7-2-39 Reserved for Future Use

Article C Penalties

- 7-2-40 Penalties

ARTICLE A

Fermented Malt Beverages and Intoxicating Liquor

SEC. 7-2-1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

SEC. 7-2-2 DEFINITIONS.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "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 Town Clerk under the authority of the Town Board, 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 Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (d) **Class "B" Fermented Malt Beverage Retailer's License.**
 - (1) License. A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, to be consumed upon the premises where sold. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
 - (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) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Town Clerk under authority of the Town Board, 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.
- (f) **Retail "Class C" Licenses.**
 - (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. 125.04(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 municipality's quota prohibits the municipality 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.

SEC. 7-2-5 LICENSE FEES.

There shall be the following classes of licenses which, when issued by the Town Clerk under the authority of the Town Board 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.:

- (a) **Class "B" Fermented Malt Beverage License.**
 - (1) The annual fee for this license shall be (see Section 16-1-1). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. 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.
 - (2) A Class "B" fermented malt beverages license may also be issued to bona fide clubs, 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 and at a meeting of the post. The fee for the license shall be (see Section 16-1-1).
- (b) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be (see Section 16-1-1).
- (c) **"Class B" Intoxicating liquor Retailer's License.** The annual fee for this license shall be (see Section 16-1-1). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (d) **Licenses for Country Clubs.** A Class "B" alcoholic beverage license shall be issued to any private country club heretofore licensed by the Secretary of Revenue pursuant to the provisions of Sec. 176.05(4)(a), Wis. Stats. The sale of alcoholic beverages pursuant to such license shall be subject to the provisions of Ch. 125, Wis. Stats., and any provision of this Chapter inconsistent with the provisions of Ch. 125, Wis. Stats., shall not be applicable to licenses issued to a private country club as provided herein.
- (e) **"Class B" Reserve Liquor License Fee.** The initial fee for this license, which is established in accordance with the provisions of Wis. Stats. 125.51, shall be \$10,000.00, and the annual renewal fee shall be \$400.00. (See Section 16-1-1)

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 Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The Town Clerk shall publish each application for a Class "A", Class "B", "Class A" or "Class B" or "Class C" license. The application shall be published once in the official Town 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 licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **License Quotas.** Retail intoxicating liquor licenses issued by the Town Board 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, or their agents, who are citizens of the United States and who have been residents of the State of Wisconsin and Waukesha County 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 whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** 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(a)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 Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in 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 a seller's permit) before they may be issued a license.
- (g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms of enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (h) **Residential Areas.** No "Class B" fermented malt beverage license may be issued for any premises where forty percent (40%) or more of the property fronting on both sides of the same street in the same block whereon the premises is located is used for residence purposes if a written objection is filed with the Town Clerk signed by owners of more than eighty percent (80%) of such residence property.
- (i) **Off-Street Parking Facilities.** No "Class B" intoxicating liquor license shall be issued for any premises unless said premises provides off-street parking stalls equal in number to fifty percent (50%) of the number of patrons which said premises may lawfully accommodate. This

restriction shall not apply in the case of renewal licenses issued for premises licensed as of the date of the enactment of this Subsection.

- (j) **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, 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.
- (k) **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 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.
 - (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.
- (l) **Use Separation.** Buildings or building units operating under a retail Class A, Class B, or Class C license shall not have direct access for the public from a connecting building or building unit. Common foyers with separate entrances into the building or building units are acceptable.

SEC. 7-2-8 INVESTIGATION.

The Town Clerk shall notify the Town Constable, 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. A records check may also be requested from the Sheriff's Department. These officials shall furnish to the Town Clerk in writing, who shall forward to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

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 Town 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 Town.

- (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 Town Board, the Town Board 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 Board, 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 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 Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is established in Section 16-1-1 Fees. Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, 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 Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the Municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

SEC. 7-2-11 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 Town Clerk shall affix to the license his or her affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

SEC. 7-2-12 POSTING LICENSES; DEFAACEMENT.

- (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. 7-2-13 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 Town 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 Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B" or 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 fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B" or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.

- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "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 main 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" or "Class B" liquor or fermented malt beverage or "Class C" wine 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 Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Exposes any portion of the female breast at or below the areola thereof; or
 - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

Annotation: See Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S. Ct. 774 (1970); and State v. Erickson, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

SEC. 7-2-14 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 or Class "B" fermented malt beverage license or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. 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) **Prohibited Sales.**
 - (1) The sale of intoxicating liquor by bottle or other container for consumption off the licensed off the licensed premises shall be prohibited.
 - (2) The sale of fermented malt beverages by bottle, can, pack or other container for consumption off the licensed premises shall be prohibited.

SEC. 7-2-15 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 Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town 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. 7-2-16 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 Town Clerk 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 nonalcohol 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 Town Clerk during normal working hours. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Town in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed canceled 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 Town 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 Town 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. 7-2-17 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.

ARTICLE B

Operator's License

SEC. 7-2-30 OPERATOR'S LICENSE REQUIRED.

- (a) **Operator's Licenses; Class "A", 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 "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 fermented malt 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 fermented malt beverages in any place operated under a Class "A", Class "B" or "Class C" license or permit unless he or she has an operator's license or 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" or Class "B" 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 and 125.32, Wis. Stats.

SEC. 7-2-31 PROCEDURE UPON APPLICATION.

- (a) The Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Town.
- (b) All applications are subject to an investigation by law enforcement authorities 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. These authorities may 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 authorities may recommend, in writing, to the Town Board approval or denial of the application. If the authorities recommend denial, the authorities shall provide, in writing, the reasons for such recommendation.

SEC. 7-2-32 DURATION.

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

SEC. 7-2-33 OPERATOR'S LICENSE FEE; PROVISIONAL LICENSE.

- (a) **Fee.** The annual fee for an operator's license or provisional license shall be (see Section 16-1-1) for the term or part thereof, plus actual records check costs.
- (b) **Provisional License.** The Town Clerk may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Town Clerk 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 Town Board or who has had his operator's license revoked or suspended within the preceding twelve (12) months. The Town Clerk shall provide an appropriate application form to be completed in full by the applicant. The Town Clerk may revoke the provisional license issued if he or she discovers that the holder of the license made a false statement on the application.

SEC. 7-2-34 ISSUANCE OR DENIAL OF OPERATOR'S LICENSES.

- (a) After the Town Board approves the granting of an operator's license, the Town Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b)
 - (1) If the application is denied by the Town Board, the Town Clerk 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 Town Board 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 Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
 - (2) If, upon reconsideration, the Board again denies the application, the Town Clerk 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)
 - (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by 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.
- (2) If a licensee is convicted of an offense substantially related to the licensed activity, the Town Board 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 Town Board, the Town Board 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 Town Board, 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 Town Board 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:
 - (1) The person is renewing an operator's license.
 - (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 Town Board 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 Town Board 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.

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

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 Town of Waukesha, 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 Town of Waukesha, 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 Town of Waukesha.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

CHAPTER 3

Cigarette Licenses; Soda Water Beverages

- 7-3-1 Cigarette Licenses
- 7-3-2 Soda Water Beverages

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 therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the Town Clerk a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed with the Town Clerk and shall name the licensee and the place wherein he/she is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the Town Clerk a license fee per Section 16-1-1.
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the Town Clerk. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

State Law Reference: Sec. 134.65, Wis. Stats.

SEC. 7-3-2 SODA WATER BEVERAGES.

- (a) **Definitions.** Terms used in this Section mean as follows:
 - (1) Soda Water Beverage. All beverages commonly known as soft drinks, as soda water, carbonated or uncarbonated, or sweetened and flavored, and mineral and spring water, carbonated or uncarbonated, and not including strong, spirituous, vinous, malt, ardent or intoxicating liquor.
 - (2) Retailer. Any dealer who sells or offers for sale any soda water beverage authorized under this Section.
- (b) **License Required.** No person shall sell, barter, exchange, offer for sale, at wholesale or retail, or have in possession with intent to sell, at wholesale or retail, any soda water beverage without a license therefor as provided in this Section.
- (c) **Application for License.** Written application for a license under this Section shall be filed with the Town Clerk. Each applicant, at the time of filing his application, shall deposit with the Town Clerk the fee required for the license applied for. Application shall be made on printed forms to be furnished by the Town Clerk, which forms shall call for such information as may be required by the Town Board, and shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths. The Town Clerk shall keep a record of all applications, and shall issue all licenses granted by the Town Board under the provisions of this Section.

- (d) **License Fee and Term.** The annual fee for a soda water beverage license shall be per Section 16-1-1 for a full year and such license shall expire on June 30th of each year. All renewals of soda water beverage licenses shall require a fee per Section 16-1-1.
- (e) **Transfer of License.** Licenses granted under this Section shall designate the premises for which issued. In case of removal of the business of the premises designated to another location, the licensee shall give notice of such change of location, and the license shall be amended accordingly with no payment of an additional fee, provided the new premises are approved by- the Town Board. No such license, however, shall be transferred from one person to another.
- (f) **Posting License.** A license issued under this Section shall be posted in a conspicuous place on the licensed premises. No person shall post such license upon premises other than those mentioned in the application, nor knowingly deface or destroy such license, nor remove it without the consent of the license holder.

CHAPTER 4

Transient Merchants

7-4-1	Registration Required
7-4-2	Definitions
7-4-3	Exemptions
7-4-4	Registration
7-4-5	Investigation
7-4-6	Appeal
7-4-7	Regulation of Transient Merchants
7-4-8	Revocation of Registration

SEC. 7-4-1 REGISTRATION REQUIRED.

It shall be unlawful for any transient merchant to engage in direct sales within the Town of Waukesha without being registered for that purpose as provided herein.

SEC. 7-4-2 DEFINITIONS.

In this Chapter:

- (a) **Transient Merchant** means any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of the State of Wisconsin.
- (b) **Permanent Merchant** means any person 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 the Town; or
 - (2) Has continuously resided in the Town and now does business from his residence.
- (c) **Merchandise** shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization** shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Clerk** shall mean the Town Clerk of the Town of Waukesha, or his/her designee.
- (f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

SEC. 7-4-3 EXEMPTIONS.

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

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any person selling Wisconsin agricultural products which the person has grown;
- (d) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Town Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business within a five (5) mile radius of the Town for at least one (1) year prior to the date complaint was made.
- (k) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) This Chapter does not apply to transient merchants while doing business at special events authorized by the Town Board.
- (m) Minors under eighteen (18) years of age who are residents of the Town of Waukesha.

SEC. 7-4-4 REGISTRATION.

- (a) **Registration Information.** Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Clerk which shall require the following information:
 - (1) Name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association or corporation that the transient merchant 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 merchandise offered and any services offered;

- (6) Proposed method of delivery of merchandise, 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, towns, 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 Town;
 - (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 offense and the place of conviction.
- (b) **Identification and Certification.** Applicants shall present to the Town Clerk for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration and Investigation Fee.**
- (1) At the time of filing applications, a registration fee (see Section 16-1-1) shall be paid to the Town Clerk to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form.
 - (2) The applicant shall sign a statement appointing the Town Clerk or his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
 - (3) Upon payment of said fees, the signing of said statement and Town Board approval, the Town Clerk shall register the applicant as a transient merchant 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.
- (d) **License; Fees.** Except as provided by Section 7-4-3, no person shall conduct any activity as a transient merchant without a license. Every applicant for a license shall pay a license fee as follows:
- (1) Annual License. The fee for an annual license shall be (see Section 16-1-1) which shall be paid to the Town Clerk. Such license shall be for a calendar year and shall expire on December 31, following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if it is issued on or after July 1, of any year.
 - (2) Daily License. The daily license fee shall be (see Section 16-1-1) per day which shall be paid to the Town Clerk. The license shall set forth the exact days on which such business may be carried out.
 - (3) License Fee Waiver. The Town Board may waive the fees for charitable organizations.

SEC. 7-4-5 INVESTIGATION.

- (a) Upon receipt of each application, the Town Clerk may refer it to the Town Constable, Sheriff's

Department, or other appropriate law enforcement agency, for an investigation of the statements made in such registration, said investigation to be completed within seven (7) days from the time of referral.

- (b) The Town Clerk shall refuse to register the applicant and issue a permit 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 Town Board or, if none has been adopted, under the provisions of Secs. 68.07 through 68.16, Wis. Stats.

SEC. 7-4-7 REGULATION OF TRANSIENT MERCHANTS.

(a) Prohibited Practices.

- (1) A transient merchant 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 transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise 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 merchandise.
- (3) No transient merchant 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 transient merchant 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 transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.

- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise 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 transient merchant takes a sales order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

SEC. 7-4-8 REVOCATION OF REGISTRATION.

- (a) Registration may be revoked by the Town Board 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 re representation in the course of engaging in direct sales, violated any provision 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 or pursuant to Section 7-4-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

CHAPTER 5

Regulation and Licensing of Fireworks

7-5-1 Regulation of Fireworks

SEC. 7-5-1 REGULATION OF FIREWORKS

- (a) **Definition.** Fireworks means anything manufactured, processed, or packaged for exploding, emitting sparks, or combustion which does not have another common use including:
- (1) Firecrackers;
 - (2) Blank cartridges;
 - (3) Toy pistols, cannons, toy canes, or cannons in which explosives are used, including caps containing more than one-quarter grain of explosive mixture;
 - (4) Display wheels;
 - (5) Torpedoes;
 - (6) Sky rockets;
 - (7) Roman candles;
 - (8) Aerial salutes;
 - (9) American or Chinese bombs, or other fireworks of like construction;
 - (10) Any fireworks containing any explosive or flammable compound, or which contain nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or any compound containing any of the same or other such explosives, except as provided herein.
- (b) **Prohibitions.** No person shall possess or use fireworks, or sell, expose, or offer for sale any fireworks within the Town, except as authorized by any permit under this section, unless such possession or use has been authorized by a permit issued under the terms of this section.
- (c) **Public Displays.** Nothing herein contained shall prohibit the use of fireworks for fireworks displays given by a public authority, a fair association, an amusement park, a park board, a civic organization or a group of resident or nonresident individuals or an agricultural producer for the protection of crops from predatory birds or animals that have been granted a permit for such display or protective use by the Town Board, and permits issued for crop protection shall state the type of fireworks to be used for such purpose, and the owner or lessee of said land upon which said fireworks are installed shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (d) **Application for Permits for Fireworks Displays.** Application by organizations sponsoring fireworks displays shall be submitted at least fifteen (15) days in advance of the date set for the display to the Town Clerk and shall contain the following:
- (1) The address and exact location of the fireworks display.
 - (2) The date and time of the display.
 - (3) The name of the organization sponsoring the display and the person responsible for arrangements.
 - (4) The name of the organization and the person in charge of firing the fireworks display and the person responsible for recovery of unfired fireworks.
 - (5) A permit fee of (see Section 16-1-1 Fees).

(e) **Issuance and Denial of Permits.**

- (1) The applicant shall file a certificate of insurance with the application issued by an insurance company licensed to do business in the State of Wisconsin in the minimum amount of Five Hundred Thousand Dollars (\$500,000.00), which certificate of insurance will provide for the payment of all claims that may arise by reason of the injury to persons or property from the handling, use or discharge of fireworks under the permit. The policy of insurance shall cover any claim made against the Town by any person injured by such fireworks display and shall provide that the Town or any person may bring an action on such policy of insurance in the person's own name who may be injured to recover damages that the person has sustained. The policy of insurance shall be approved by the Town Attorney before filing with the Town Clerk. Premises where display will be held shall be inspected by the Town Fire Inspector.
- (2) The application shall be approved by the Town Board before the permit is issued.

- (f) **Prohibited Locations.** No permit shall be granted for any display of fireworks where the discharge, failure to fire, faulty firing, or fallout of any fireworks or other objects would endanger persons, building structures, forests or brush, nor in any case where the point at which aerial fireworks are to be fired is less than two hundred (200) feet, or ground fireworks are to be fired at less than one hundred fifty (150) feet from the nearest permanent building, public highway or thoroughfare, railroad, or other means of travel, or fifty (50) feet from the nearest above ground telephone or telegraph line, tree or other overhead obstruction. In no case shall the display be fired within five hundred (500) feet of an occupied school, theater, church, hospital or similar institution.
- (g) **Automatic Denial.** Failure to provide the information requested or the certificate of insurance in the amount required shall be sufficient cause for the Town Board to deny said permit.

State Law Reference: Sec. 167.10, Wis. Stats.

CHAPTER 6

Street Use Permits

7-6-1 Street Use Permits

SEC. 7-6-1 STREET USE PERMITS.

- (a) **Purpose.** The streets in possession of the Town are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Town Board 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 Town 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 Town Clerk and shall be filed with the Town Clerk. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Town Board 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) **Denial of Street Use Permit.** An application for a Street Use Permit may 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 Town.
 - (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 eight (8) 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 Town Board 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.
- (e) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee (see Section 16-1-1 Fees). The applicant shall be responsible for obtaining state-approved barricades from a private firm that supplies such equipment and pay the cost thereof.

- (f) **Consent to Issuance of Street Use Permit.** In addition to the fee required by the previous Subsection, each application for a Street Use Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, shall be 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 Town of Waukesha, hereby consent to the recreational or business use of this street between the hours of _____ and on _____, the _____ day of _____, 19 ____, for the purpose of and do hereby consent to the Town of Waukesha 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 Town of Waukesha, attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for longer than eight (8) 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.

- (g) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town 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 Town of Waukesha. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (h) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by law enforcement officers 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 Town of Waukesha. Law enforcement officers have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

CHAPTER 7

Adult-Oriented Establishments

7-7-1	Definitions
7-7-2	License Requirements
7-7-3	Application for License
7-7-4	Standards for Issuance of License
7-7-5	Renewal of License or Permit
7-7-6	Revocation of License
7-7-7	Physical Layout of Adult-Oriented Establishment
7-7-8	Responsibilities of the Operator
7-7-9	Administrative Procedure and Review
7-7-10	Exclusions
7-7-11	Penalties and Prosecution

SEC. 7-7-1 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Adult-Oriented Establishment.** Shall include, but is not limited to, "adult bookstores," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which public patrons or members are invited or admitted and 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 purpose 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.
- (b) **Adult Bookstore.** An establishment having as its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals 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, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, including adult oriented films, movies or live performances, for observation by patrons therein.
- (c) **Adult Motion Picture Theater.** 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.
- (d) **Adult Mini-Motion Picture Theater.** 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.
- (e) **Adult Cabaret.** A cabaret which features topless dancers, strippers, male or female impersonators, or similar entertainers.
- (f) **Board.** The Town Board for the Town of Waukesha, Wisconsin.

- (g) **Adult Entertainment.** 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.
- (h) **Operators.** Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- (i) **Specified Sexual Activities.** Simulated or actual:
 - (1) Showing of human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
 - (3) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (j) **Specified Anatomical Areas.**
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola;
 - (2) Human male genitals in a discernible turgid state, even if opaquely covered.

SEC. 7-7-2 LICENSE REQUIREMENTS.

- (a) Except as provided in Section 7-7-4 below, no adult-oriented establishment shall be operated or maintained in the Town of Waukesha without first obtaining a license to operate issued by the Town of Waukesha Town Board.
- (b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) All adult-oriented establishments existing at the time of the original passage of this Chapter (July 13, 1989) must submit an application for a license within ninety (90) days of the original passage of this Chapter. If an application is not received within said ninety (90) day period, then such existing adult-oriented establishment shall cease operations.

SEC. 7-7-3 APPLICATION FOR LICENSE.

- (a) Any person, partnership or corporation desiring to secure a license shall make application to the Town Clerk. The application shall be filed in triplicate with and dated by the Town Clerk.
- (b) The application for a license shall be upon a form provided by the Town Clerk. An applicant for a license, who is interested 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 twenty-one (21) 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 percent (5%) of the stock in said corporation and all officers and directors of the corporation.

- (c) Within twenty-one (21) days of receiving an application for a license the Town Clerk shall notify the applicant whether the application is granted or denied.
- (d) Whenever an application is denied, the Town Clerk shall advise the applicant in writing of the reasons for such action. 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 Town Board. The Town Board shall provide a written determination whether to grant the license within five (5) days of the public hearing.
- (e) Failure or refusal of the applicant to give any information relevant to the investigation of the application of 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 Chapter shall constitute an admission by the applicant that he/she- is ineligible for such license and shall be grounds for denial thereof by the Town Clerk.

SEC. 7-7-4 STANDARDS FOR ISSUANCE OF LICENSE.

- (a) **Application Standards.** 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 twenty-one (21) years of age.
 - b. The applicant shall not have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
 - (2) If the applicant is a corporation:
 - a. All officers, directors and stockholders required to be under Section 7-7-3(b) shall be at least twenty-one (21) years of age.
 - b. No officer, director, or stockholder required to be named under Section 7-7-3(b) shall have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
 - (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
 - a. All persons have a financial interest in the partnership, joint venture or other type of organization shall be at least twenty-one (21) 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 provisions of this Chapter within five (5) years immediately preceding the date of the application.
- (b) **Location.** Adult-oriented establishments shall not locate within 1,000 feet of any residential zone or use, any public or private school, church, religious institution or any public park and shall not locate within 500 feet of any other adult-oriented establishment.
- (c) **Standards of Measurement.** The distances provided in subsection (b) shall be measured in a straight line without regard to intervening structures or objects from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult-oriented establishment to the nearest point of the parcel of property or land use district boundary relined from which the proposed land use is to be separated.
- (d) **Fees.** A license fee (see Section 16-1-1) shall be submitted with the application for a license.
- (e) **Display of license or Permit.** The license shall be displayed in conspicuous public place in the adult-oriented establishment.

Law Reference: City of Renton vs. Playtime Theaters, Inc., 475 U.S. 41, 106 S.Ct., 925, 89 L.Ed., 2d, 29 (1986) and Young vs. American Mini Theaters, 427 U.S. 50 96 S.Ct., 2440, 49 L.Ed., 2d, 310 (1976).

SEC. 7-7-5 RENEWAL OF LICENSE OR PERMIT.

- (a) Every license issued pursuant to this Chapter will terminate at the expiration of one (1) year from the date of issuance, unless revoked sooner, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Town 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 Town Clerk. The application for renewal shall be upon a form provided by the Town Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new adult-oriented establishment.
- (b) A license renewal fee (see Section 16-1-1) shall be assessed against the applicant who files for a renewal Less than sixty (60) days before the license expires.
- (c) In a zoning district in which a use licensed under this section is a nonconforming use under the zoning provisions of this code, no location or premises for which a license has been issued shall be used as an adult-oriented establishment for one year following the date the nonrenewal of the license takes effect. For purposes of this paragraph a nonrenewal of a license takes effect when the licensed premises ceases operations as an adult-oriented establishment.

SEC. 7-7-6 REVOCATION OF LICENSE.

- (a) The Board shall revoke a license or permit 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 of the operator, violates any provision of this Chapter or any rule or regulation adopted by the Town Board pursuant to this Chapter; 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 Board 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 or permit.
 - (4) Any cost or fee required to be paid by this Chapter is not paid.
 - (5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.
- (b) The Board, before revoking or suspending any license or permit, shall give the operator at least ten (10) days' written notice of the charges against him, and the opportunity for a public hearing before the Board, as hereinafter provided. The Town Board shall provide a written determination whether to revoke or suspend the license or permit within five (5) days of the public hearing.
- (c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (d) Any operator whose license is revoked shall not be eligible to receive a license for one (1) year 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. In a zoning district in which a use licensed under this section is a nonconforming use under the zoning provisions of this code, no location or premises for which a license has been issued shall be used as an adult-oriented establishment for one year following the date the revocation of the license takes effect. For purposes of this paragraph a revocation of a license takes effect when the licensed premises ceases operations as an adult-oriented establishment.

SEC. 7-7-7 PHYSICAL LAYOUT OF ADULT-ORIENTED ESTABLISHMENT.

Any adult-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- (a) **Access.** Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed by any door, lock or other control-type devices.
- (b) **Construction.** Every booth, room or cubicle shall meet the following construction requirements:
 - (1) Each booth, room or cubicle shall be separated from the adjacent booths, rooms and cubicles and any non-public areas by a wall.
 - (2) Shall have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
 - (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - (5) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (c) **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

SEC. 7-7-8 RESPONSIBILITIES OF THE OPERATOR.

- (a) Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, 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 constituting a violation of the provisions of this Chapter 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 allow any minor to view adult entertainment as 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 ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than three (3) foot candle of illumination in said aisles, as measured from the floor.
- (f) The operator shall insure compliance of the establishment and its patrons with the provisions of this Chapter.

SEC. 7-7-9 ADMINISTRATIVE PROCEDURE AND REVIEW.

Ch. 68, Wis. Stats., codified in Title 4 of this Code of Ordinances, concerning contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

SEC. 7-7-10 EXCLUSIONS.

All private schools, and public schools, as defined in Ch. 115, Wis. Stats., located within the Town of Waukesha are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

SEC. 7-7-11 PENALTIES AND PROSECUTION.

- (a) Any person, partnership, or corporation who is found to have violated this Chapter shall be subject to a forfeiture as provided by Section 1-1-6 and shall result in the revocation of any license.
- (b) Each violation of this Chapter shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

CHAPTER 8

Junk and Junk Dealers

7-8-1	Junk Business Regulated
7-8-2	Definitions
7-8-3	Junk Business License
7-8-4	License and Fees
7-8-5	Location of Junk Business
7-8-6	Existing Junk Businesses
7-8-7	Accumulation of Junk
7-8-8	Burning of Junk
7-8-9	Junk Business Regulations
7-8-10	Revocation of License

SEC. 7-8-1 JUNK BUSINESS REGULATED.

It shall be unlawful for any person to engage in the junk business except in accordance with the provisions of this Chapter.

SEC. 7-8-2 DEFINITIONS.

Terms used in this Chapter have the following meaning:

- (a) **Junk.** Old iron, chain, brass, copper, tin, lead, other base metals, automobiles, trucks, trailers, or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper, waste paper, paper clippings, rags, rubber, glass or bottles, and all articles and things discarded as manufactured articles composed of or consisting of any one or more of the articles mentioned, including the industrial metal or scrap or other material commonly included within the term "junk."
- (b) **Junk Business.** The buying,, selling, gathering, delivering or storing of junk except as specifically provided in this Chapter.
- (c) **Junk Dealer.** A person who buys, sells, gathers, delivers or stores junk and maintains a yard or building thereof.
- (d) **Junk Yard.** An area where junk is delivered, bought, sold or gathered.

SEC. 7-8-3 JUNK BUSINESS LICENSE.

- (a) **Application.** No person shall operate a junk business in the Town without a license therefor. No license shall be granted unless the person desiring the same shall have paid to the Town Clerk the fee required and filed with the Town Clerk an application therefor, and shall contain the following information on blanks provided by the Town Clerk for that purpose:
 - (1) The full name and residence of the applicant; and in case of a firm or association, the full name and residence of the firm or association; and in case of a corporation, the full names and residences of the officers thereof.

- (2) The address and description of the premises for which the license is desired.
 - (3) A complete statement of the business to be carried on.
 - (4) An enumeration of the articles and merchandise to be handled on the premises and a statement as to whether the junk to be stored is combustible or incombustible.
 - (5) Such application shall also contain such other information as the Town Board may from time to time require.
 - (6) Each applicant for a license shall execute a permit granting the Town Board or any of its representatives permission to inspect and search the premises.
- (b) **False Statements.** Any false statement contained in such application shall automatically nullify any license issued pursuant thereto.
- (c) **Determination by Board.** No license shall be granted under this Chapter until and unless the Town Board shall in its discretion, by a vote of a majority of all members at a regular meeting or special meeting called for that purpose, have authorized the same. In considering such application, the Town Board shall take into account, among other things, the nature and development of surrounding property, the proximity of churches, schools, public buildings, or other places for public gathering, the health, safety and general welfare of the public, traffic volume, congestion and hazard at the location of the applicant's proposed place of business.
- (d) **Term.** All licenses issued hereunder shall expire on June 30 following the date of their issuance, unless sooner revoked for cause.
- (e) **Separate Licenses.** A separate license shall be required for each place of business and each shall particularly describe the premises for which issued.

SEC. 7-8-4 LICENSE AND FEES.

All applications for licenses shall be filed with the Town Clerk on or before April 30 of each year and shall be accompanied by the required fee for a Junk Business license (see Section 16-1-1).

SEC. 7-8-5 LOCATION OF JUNK BUSINESS.

No license shall be granted to conduct a junk business in any Residence District of the Town of Waukesha as defined under the Zoning Code of the Town.

SEC. 7-8-6 EXISTING JUNK BUSINESSES.

Any junk business which is being operated in the Town of Waukesha on July 12, 1963, may continue to operate within the limits in which such junk business is being operated and subject to the provisions of the Zoning Code of the Town, but shall obtain a license therefor.

SEC. 7-8-7 ACCUMULATION OF JUNK.

No person except a licensed junk dealer or junk peddler shall buy, collect, gather junk or shall allow the same to accumulate in any substantial amount in the Town.

SEC. 7-8-8 BURNING OF JUNK.

No burning of junk shall be done on any premises.

SEC. 7-8-9 JUNK BUSINESS REGULATIONS.

- (a) **Storage of Combustible Junk.** No combustible junk shall be stored in any building unless said building is approved by the Building Inspector and is a fireproof construction.
- (b) **Enclosure of Junk Yards.** Every junk yard shall be enclosed by an enclosure consisting of a solid fence to be approved by the Building Inspector of a height not less than eight (8) feet. Such fence shall be painted one color within thirty (30) days after construction and shall be maintained in a proper condition of repair at all times. Junk placed in any junk yard shall be so piled as to not rest against or project through or over the enclosure. It shall be unlawful to affix or display or to permit to be affixed or displayed upon such enclosure any picture, sign, bill, placard, pamphlet, notice or other thing for the purpose of advertising or notification.
- (c) **Record of Purchase.** A written record consisting of an accurate description and price of the goods, articles and things purchased, together with the name, age and residence of the seller shall be maintained by each junk business licensee. Such record shall be open to the Town Board or to any citizen whose property has been stolen and who demands inspection to assist in the discovery thereof.
- (d) **Purchase from Certain Persons.** No purchase shall be made from any child or children under eighteen (18) years of age or from any intoxicated persons or unknown persons.
- (e) **Rodents and Vermin.** Effective means for the elimination of the rodents and vermin commonly infesting junk areas shall be administered by a licensee hereunder.
- (f) **Garbage.** It shall be unlawful to store any garbage on the premises licensed hereunder.

SEC. 7-8-10 REVOCATION OF LICENSE.

Any license issued under this Chapter may be revoked at any time by the Town Board after a hearing, at which it has been found that the license holder has failed or refused to comply with this Chapter. Such hearing shall be held by the Town Board upon its own motion or upon the complaint in writing signed and verified by complainant. The complaint shall state the nature of the alleged failure to comply with this Chapter. A copy of the complaint, together with the notice of hearing shall be served upon the license holder not less than ten (10) days previous to the date of hearing. If the Town Board finds that the allegations of the complaint are true after a hearing held thereon as herein provided, the Board may revoke the license of such person.

CHAPTER 9

Amusement Parks and Transient Public Entertainment

7-9-1	Definitions
7-9-2	Permits Required
7-9-3	Qualifications for Amusement Park Permit
7-9-4	Application for Amusement Park Permit
7-9-5	Issuance of Amusement Park Permits
7-9-6	Amusement Park Operation
7-9-7	Revocation of Amusement Park Permit
7-9-8	Amusement Park Permits Assignment
7-9-9	Alcoholic Beverages Prohibited
7-9-10	Term of Permit and Fees
7-9-11	Location of Amusement Parks
7-9-12	Application for Transient Public Entertainment Permit
7-9-13	Issuance of Transient Public Entertainment Permit
7-9-14	Revocation of Transient Public Entertainment Permit
7-9-15	Transient Public Entertainment Permit Fees

SEC. 7-9-1 DEFINITIONS.

Terms used in this Chapter mean as follows:

- (a) **Amusement Park or Premises.** Any premises or building used or operated for public carnivals, the racing of animals or motor vehicles, the operation of open-air theaters, public dancing, and any other premises used or operated primarily for the purposes of providing amusement for the public, where permanent installations of any type or description are made on said premises to furnish such public entertainment except premises used for transient public entertainment. No intoxicating liquor shall be sold, given away or consumed on any premises where public dancing occurs.
- (b) **Transient Public Entertainment.** A circus show, road show or any other public entertainment conducted or held within a tent or tents or other temporary structure, or in the open air, where no permanent installations of any type or description are made on the premises to furnish such public entertainment.

SEC. 7-9-2 PERMITS REQUIRED.

No person shall use or operate any amusement park or transient public entertainment within the Town of Waukesha unless a permit therefor shall have been granted by the Town Board as herein provided.

SEC. 7-9-3 QUALIFICATIONS FOR AMUSEMENT PARK PERMIT.

No permit shall be granted to operate an amusement park within the Town to any person not of good moral character, a full citizen of the United States and of this state, and who has not resided in the State of Wisconsin for at least two (2) years prior to the date of application. No such permit shall be issued to

any person who has been convicted of an offense against the laws of the United States or of this state, punishable by imprisonment in the state prison or other penal institution as felonies, unless he has been duly pardoned, or who has been convicted of violating this Chapter. No permit shall be granted to any corporation, except a Wisconsin corporation maintaining its principal office and place of business in Waukesha County, and no permit shall be granted to such a corporation, any of its officers and directors of which could not procure a permit personally.

SEC. 7-9-4 APPLICATION FOR AMUSEMENT PARK PERMIT.

- (a) **Where Filed.** Application for amusement park permits Shall be filed with the Town Clerk and shall be subscribed and sworn to.
- (b) **Application Information.** The application shall set forth the following:
 - (1) Name, residence, address and business address of the applicant.
 - (2) The location of the amusement park with the legal description of the premises. No amusement park shall be located within five hundred (500) feet of any school.
 - (3) The applicant's right to use such premises, with copies of the instruments relied upon, giving the recording date thereof, if recorded.
 - (4) Whether or not the applicant is a citizen of the United States and of the State of Wisconsin, and the length of his citizenship and residence in the State of Wisconsin, and the length of his residence in the County of Waukesha, with the address or addresses resided at.
 - (5) The character of the business the applicant has been engaged in during two (2) years prior to the application.
 - (6) The name and address and occupational history of each person who will participate in operation of the amusement park.
 - (7) Whether the applicant will be present at and in continuous attendance while said amusement park is in operation.
 - (8) Whether the applicant or any person he proposes to have participate in the operation of said amusement park has ever been convicted of any misdemeanor or crime.
 - (9) Plans and specifications of the amusement park and all structures of any kind on, or to be erected on, the premises, including plans and specifications as to roadways and racetracks, if any, showing means of ingress and egress from and to the public highway, lighting, sanitary facilities and public water supply; and the proposed control of lighting equipment, noises, odors, dust, dirt and waste materials, so that they will not disturb the public peace, quiet, health, safety and welfare.
 - (10) A description of the nature of amusement to be presented to the public, including a statement of the time or times when it is proposed to use said premises for said amusement park purposes, including an estimate of number of patrons anticipated, number of cars, arrangements for parking and movement of the cars on the premises and off and on to the public highways, use and control of loudspeakers or other noise producing instrumentalities, a statement of the means and method for control of dust and odors, and the disposal of waste and garbage, and all other facts or information requested by the Town Board in reference to the proposed operation of said amusement park, to determine whether or not it would be detrimental to the public health, safety or welfare.
 - (11) A statement of the financial condition of applicant, the amount of investment contemplated, a statement that the applicant is in a position to provide public liability insurance in sums not less Five Hundred Thousand Dollars (\$500,000.00) for injury to any person, and in the sum of not less than One Million Dollars (\$1,000,000.00) for an accident, and property damage insurance in a sum of not less than Fifty Thousand (\$50,000.00), which public liability insurance shall name the Town of Waukesha as an additional insured.

(c) **Investigation.**

- (1) Upon submission of the application to the Town Board, it shall be referred by the Town Clerk to the Building Inspector, who shall investigate the amusement park and the plans for the use and operation of the amusement park, the sanitary facilities furnished or to be furnished for the public, the control of lights, noises, odors, dust, dirt, waste materials and who shall report to the Town Board the result of such investigation, together with his/her conclusion as to whether the amusement park provides, or will provide, the necessary facilities for the protection and preservation of the public health and welfare and whether the proposed amusement park complies, or will comply, with the Town Code and the laws of the State of Wisconsin and the building regulations of the Wisconsin Department of Commerce.
- (2) The Building Inspector shall also investigate the surrounding area where the amusement park is proposed to be located and the adequacy of parking facilities on the premises and whether or not the operation of the amusement park interferes, or would interfere, with the normal and proper use of any federal, state, county or Town highway in such manner as to jeopardize the public safety or unreasonably impedes, or would impede, the public use of such highways, or results, or would result, in the violation of any traffic safety regulation of the state or county, and shall report to the Town Board with reference to his/her investigation within thirty (30) days after referral to him/her by the Town Clerk.
- (3) The Town Board may require an investigation by the Waukesha County Sheriff's Department as to the character and record of the applicant or the officers thereof, and the persons engaged or to be engaged in the operation of the amusement park, and the Sheriff's Department shall report its findings to the Town Board before the Town Board takes any action in regard to the application for an amusement park permit.

SEC 7-9-5 ISSUANCE OF AMUSEMENT PARK PERMITS.

- (a) **Review of Reports.** Before acting upon any application, the Town Board shall review the application and instruments submitted therewith and the several reports required by Section 7-9-5.
- (b) **Hearing.** A public hearing on such application shall be held by the Town Board at a regular or special meeting thereof. Notice of the meeting shall be posted by the Town Clerk not less than ten (10) days before the time set for the hearing, in at least three (3) public places in the Town of Waukesha. The notice shall describe particularly the location of the proposed amusement park, the type of amusement proposed, shall give the names and address of the parties who are applying for such permit, and the time, and place for hearing upon the application.
- (c) **Determination.** In the event that the Town Board, upon consideration of the application, the several reports required, and all matters presented at the hearing, shall determine that the use or operation of the amusement park disturbs, or would disturb, the peace and quiet, or in any manner adversely affects, or would affect, the public health, safety, welfare or morals of the community or any portion thereof, it shall deny the application by formal action entered in the minutes of the Town Board. Otherwise, it shall approve and grant the application and shall authorize and direct the issuance of a permit by the Town Clerk.
- (d) **Insurance.**
 - (1) Before such permit shall be issued, the applicant shall file with the Town Clerk a policy or policies of public liability insurance, in a form to be approved by the Town Attorney, in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for injury to any person, and in the sum of not less than One Million Dollars (\$1,000,000.00) for an accident, and property damage insurance in a sum of not less than Fifty Thousand Dollars (\$50,000.00), which public liability insurance shall name the Town of Waukesha as an additional insured.

- (2) The Town Board may reduce the amount of such insurance coverage required in any year upon application of the permit holder and upon good cause shown. If such reduction is authorized, it shall be done by the Town Board upon a hearing before the existing permit expires and before the renewal of any such amusement park permit is considered by the Town Board.
- (3) The applicant shall file with the Town Clerk renewals of said liability insurance so that said liability insurance is in full force and effect at all times. Failure to renew said liability insurance when the same becomes due or file said policy or other written evidence of such renewal with the Town Clerk shall be cause for revocation of the amusement park license granted.

SEC. 7-9-6 AMUSEMENT PARK OPERATION.

No amusement park shall be used and operated in such manner as to disturb the public peace and quiet or affect adversely the health, safety, welfare or morals of the community, or any portion thereof, by, reason of excessive or uncontrolled noise, odors, dust, dirt or waste materials, or by reason of the hours of operation thereof, or for any other reason.

SEC. 7-9-7 REVOCATION OF AMUSEMENT PARK PERMIT.

- (a) Upon conviction of the holder of any amusement park permit for the violation of any provision of this Chapter or of any offense as is described in Section 7-9-3, the permit shall be revoked by resolution of the Town Board. No stay of execution shall operate as a continuance of the permit, but a reversal of the judgment of conviction upon appeal and the filing of the certified copy of said judgment of reversal with the Town Clerk shall operate as a reinstatement of the permit.
- (b) Any such permit shall be subject to revocation for cause by the Town Board at any time following a hearing at a regular or special meeting of the Town Board upon notice as given as prescribed by Section 7-9-5 and by service of a copy of such notice of hearing by personal service or by certified mail upon the holder of such permit at least ten (10) days before the hearing, upon determination of the Town Board that the manner of use or operation of the amusement park is such that an initial or renewal application for a permit therefor would not be granted or that a provision(s) of this Chapter have been violated.

SEC. 7-9-8 AMUSEMENT PARK PERMITS ASSIGNMENT.

No amusement park permit shall be assignable or inure to the benefit of any other than the person to whom the license was originally issued. Such permit shall not be transferable from one premise to another.

SEC. 7-9-9 ALCOHOLIC BEVERAGES PROHIBITED.

No permittee or any person shall sell or maintain for sale on any amusement park premises any form of alcoholic beverage, nor shall any permittee permit the sale, maintenance for sale or consumption of alcoholic beverages on the premises. No permittee shall allow any alcoholic beverages to be brought upon the premises by any person coming upon the premises.

SEC. 7-9-10 TERM OF PERMIT AND FEES.

The term of any amusement park permit shall extend from July 1 to July 1 of the following year. A permit fee (see Section 16-1-1) shall be charged for an amusement park permit. The initial fee shall be deposited with the Town Clerk at the time of issuance of the permit. The permit shall be dated as of July 1 and shall expire one (1) year from such date. The fee for any renewal of such permit shall be paid to the Town Clerk at the time that the application for renewal of such permit is filed with the Town Clerk (see Section 16-1-1). In the event that an amusement park permit is issued between July 1 and July 1 of each year, there shall be a pro-ration of such permit fee to July 1 of the following year. The Town Board may require a hearing for the renewal of such permit as provided in Section 7-9-7(b).

SEC. 7-9-11 LOCATION OF AMUSEMENT PARKS.

Location of amusement parks within the Town of Waukesha shall be permitted only within such areas in the Town of Waukesha included in the General Business District, Light Industrial District, and Heavy Industrial District as defined under the Zoning Code of the Town.

SEC. 7-9-12 APPLICATION FOR TRANSIENT PUBLIC ENTERTAINMENT PERMIT.

- (a) Application for a permit for transient public entertainment within the Town shall be filed with the Town Clerk; such application shall be in writing and set forth the following:
 - (1) Name, residence, address and business address of the applicant.
 - (2) Location of the premises upon which the entertainment is to be held within the Town.
 - (3) The applicant's right to use such premises, with copies of the instruments relied upon, as to such right to use the premises.
 - (4) A description of the nature of the transient public entertainment to be presented to the public and a statement of the time, or times, when it is proposed to conduct such entertainment, including an estimate of the number of patrons anticipated, the number of cars, arrangements for parking and movement of the cars on the premises and off and on to the public highways, use and control of loud speakers or other noise producing instrumentalities, a statement of the means and method for control of dust and odors and for the disposal of waste and garbage, and all other facts or information requested by the Town Board in reference to the proposed operation of the entertainment to determine whether or not it would be detrimental to the public health, safety or welfare.
 - (5) A statement of such facts as may be required to satisfy the Town Board that the applicant is in a position to furnish liability insurance in a minimum sum of Five Hundred Thousand Dollars (\$500,000.00) insuring any and all persons for injuries or property damage that may be caused to such person going upon the premises for such entertainment.
- (b) The Town Clerk shall immediately transmit the application for a permit to the Town Board for its consideration. The Town Board shall further investigate the application and the entertainment proposed to be offered and the site upon which entertainment is to be offered. It shall investigate the sanitary facilities furnished, or to be furnished, to the public, sources of drinking water and the arrangements made or to be made for the control of lights, noises, odors, dust and dirt, arrangements made or to be made for the disposal of waste materials and any other materials in connection with the operation of the entertainment and shall investigate all other matters in relation to the entertainment to be offered as it relates to the protection. and preservation of the public health, welfare and morals.

SEC. 7-9-13 ISSUANCE OF TRANSIENT PUBLIC ENTERTAINMENT PERMIT.

- (a) If the Town Board is satisfied that the site upon which a transient public entertainment is proposed to be offered to the public is suitable for that purpose, and that adequate parking facilities are provided off the highways for the patrons, and that the entertainment to be offered is not detrimental to the public health, welfare and morals of the community and the patrons attending the entertainment, and that adequate toilet facilities are furnished for the patrons, and that adequate provisions have been made for the disposal of garbage and waste materials, and that such entertainment will not cause a public nuisance, and that all of the other terms and provisions of this Chapter have been complied with, it shall grant a permit to the applicant upon payment of the fee provided.
- (b) If the Town Board is not satisfied that all of the requirements hereinabove set forth are met, it shall deny the application for such permit and shall notify the applicant within five (5) days of its denial of such application by certified mail or personal service of such notice of denial upon the applicant at the address stated upon the application for such permit. The Town Board shall state in its notice denying such application the reasons for denial thereof. The applicant shall have ten (10) days within which to petition the Town Board for a hearing upon the denial of such application. The Town Board shall, upon such application, hear the applicant and consider any testimony or evidence he/she wishes to offer in support of his/her application. If the Town Board is satisfied after such hearing that the applicant will comply with this Chapter relative to transient public entertainment, the Town Board may grant the permit upon such terms and conditions as the Town Board may require as the condition for granting such permit.
- (c) Prior to the granting of such permit, the applicant shall furnish the Town Board with satisfactory proof that public liability insurance will be in force and effect as to such transient public entertainment during all of the period that such entertainment is shown, in a minimum amount of Five million Dollars (\$5,000,000.00).
- (d) As a further condition of the granting of such permit, the Town Board may order and direct the applicant to pay the cost and expense for all policy protection upon the premises used for such transient public entertainment, necessary to preserve order and for the movement of traffic on and off of said premises. Such cost and expense shall be determined by the Town Board and paid at the time the permit is issued.

SEC. 7-9-14 REVOCATION OF TRANSIENT PUBLIC ENTERTAINMENT PERMIT.

The Town Board may revoke any permit issued for any transient public entertainment if, in its opinion, such entertainment as shown is detrimental to the public morals and welfare of the patrons thereof and to the community, or in the event the entertainment is conducted in such a manner so as to create a public nuisance by reason of excessive noise, odors, dust, dirt or waste materials or by reason of the hours of operation thereof, or by reason of the violation of any of the terms or provisions of this Chapter. In the event of such revocation, immediate notice thereof shall be given in writing to the applicant or person in charge of such entertainment, who shall cause the immediate suspension of all further showings of such entertainment until such time as the applicant satisfies the Town Board that the cause for revocation of the permit has been remedied.

SEC. 7-9-15 TRANSIENT PUBLIC ENTERTAINMENT PERMIT FEES.

- (a) A permit fee for transient public entertainment (see Section 16-1-1) shall be per day or any portion thereof that such entertainment is held in the Town. Such sum shall be deposited with the Town Clerk at the time of issuing the permit.
- (b) No refund of a permit fee shall be made if the permit is revoked for any of the causes specified in this Chapter, or if the permittee elects to suspend showing of such entertainment prior to the expiration of the permit.
- (c) The Town Board may, in its discretion, waive the payment of fees required for transient public entertainment, if such entertainment is offered by any fraternal, benevolent or religious society, and in that event such fraternal, benevolent or religious society shall assume and be liable for such entertainment so that the same does not conflict with the provisions of this Chapter.

CHAPTER 10

Licensees to Pay Local Claims; Appellate Procedures

- 7-10-1 Licensees Required To Pay Local Taxes, Assessments and Claims; Appellate Procedures
7-10-2 Duty of Clerk with Regard to Licenses

SEC. 7-10-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.

- (a) **Payment of Claims.** The Town shall not issue or renew any license to transact any business within the Town of Waukesha:
- (1) For any purposes for which taxes, assessments or other claims of the Town are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Town; or
 - b. Of any forfeiture resulting from a violation of any Town Ordinance.
- (b) **Exemption.** This Section shall apply to: licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapter 1.
- (c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearings.** 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 Sec. 125.12, Wis. Stats., as amended from time to time, and Town ordinances.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Town Board or its assignee shall notify the applicant in writing of the Town'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 Town Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Town Board shall conduct a hearing with respect to the matter. At the hearing, both the Town 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 Town Board determines the applicant shall not be entitled, to renewal pursuant to Subsection (a), the application for renewal shall be denied.
- (e) **Appeals.** Where an individual, business or corporation wishes to appeal the Town Board'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 Town Clerk that the matter be referred to the Town Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Town Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

SEC. 7-10-2 DUTY OF CLERK WITH REGARD TO LICENSES.

The Town Clerk shall be charged with the administration of all ordinances relating to licenses unless otherwise designed by the Town Board.