

**TITLE 7**

## Licensing and Regulation

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**CHAPTER 1**

## Licensing of Dogs and Cats; Regulation of Animals

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**SEC. 7-1-1 DOG AND CAT LICENSES REQUIRED; DEFINITIONS; ADOPTION OF STATUTES.**

- (a) **License Required.** It shall be unlawful for any person in the City of Ladysmith to own, harbor or keep any dog or cat for more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) "Owner" shall mean any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of three (3) 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 by leash, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
  - (3) "Dog" shall mean any canine, regardless of age or sex.
  - (4) "Cat" shall mean any feline, regardless of age or sex.
  - (5) "Neutered" 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, but does not include a conservation warden appointed under [Sec. 23.10, Wis.Stats.](#)
  - (9) "Farm Animal" means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (10) "Pet" means an animal kept and treated as a pet.
  - (11) "Leash" means a cord, thong or chain not more than ten (10) feet in length by which a dog or cat is controlled by the person accompanying it.
  - (12) "Kennel" means a shelter for a dog or cat or both or an establishment for the breeding or boarding of dogs or cats or both.
  - (13) A menacing animal is one that growls, snarls, bares teeth, or displays other aggressive actions that threaten the immediate safety of humans or other domestic animals.
- (c) **Incorporation of Statutory Regulation.** [Sections 174.01 through 174.12 of the Wisconsin Statutes](#), and such sections as may hereafter be amended and/or renumbered, are hereby incorporated by reference with respect to restraining action against dogs, the imposition of forfeitures for violations of such regulations and other regulations of dogs imposed under this Code, and the impoundment and subsequent delivery, treatment and disposition of dogs, provided, however, that this Section shall not be construed to restrict or limit any authority heretofore granted to the Police Department with respect to the regulation of dogs and shall not operate to reduce any forfeitures or other penalties which might otherwise be imposed under this Code.

*State Law Reference: [Sections 174.05 through 174.12, Wis. Stats.](#)*

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

- (a) **Rabies Vaccination.** The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian within thirty (30) days after the dog or cat reaches five (5) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or cat or brings the dog or cat into the City of Ladysmith after the dog or cat has reached five (5) months of age, the owner shall have the dog or cat vaccinated against rabies within thirty (30) days after the dog or cat is brought into the City unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog or cat shall have the dog or cat revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination. The certificate of vaccination shall meet the requirements of [Section 95.21\(2\)\(b\), Wis. Stats.](#)
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog or cat against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the City stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog or cat, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the City.

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

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

- (a) **Dog and Cat Licenses.**
  - (1) It shall be unlawful for any person in the City of Ladysmith to own, harbor or keep any dog or cat more than five (5) months of age without complying with the provisions of [Sec. 174.05 through Sec. 174.09](#), *Wis. Stats.*, relating to the listing, licensing and tagging of the same.
  - (2) The owner of any dog or cat more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog or cat becomes five (5) months of age, pay a license tax and obtain a license.
  - (3) The minimum license tax under this Section for spayed females or neutered males shall be included in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. The minimum fee for unspayed or unneutered animals shall also be found in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. The license year shall commence January 1 and end December 31. A penalty shall be assessed upon any license tax not paid before March 1st of the license year, which penalty can be found in the fee schedule. *Ord. 2010-10 adopted 5/6/2010.*
  - (4) Upon payment of the required license tax and upon presentation of evidence that the dog or cat is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the City Treasurer shall complete and issue to the owner a license for such dog or cat containing all information required by state law. The City Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
  - (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in Section 7-1-2(e).
  - (6) The fact that a dog or cat is without a tag attached to the dog or cat by means of a collar shall be presumptive evidence that the dog or cat is unlicensed. Any City law enforcement or humane officer shall seize, impound or restrain any dog or cat for which a dog or cat license is required which is found without such tag attached.
  - (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the City Treasurer upon application therefor.
- (b) **Kennel Licenses.**

- (1) Any person who keeps or operates a kennel may, instead of the license tax for each dog or cat 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 for a kennel of twelve (12) or fewer dogs or cats and an additional fee for each dog or cat in excess of twelve (12) which license fee has been established in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* Upon payment of the required kennel license tax and, if required by the Common Council, if dogs or cats over five (5) months of age are currently immunized against rabies, the City Treasurer shall issue the kennel license and tags equal to the number of dogs and cats authorized to be kept in the kennel.
- (2) The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog or cat over five (5) months old and kept by the owner or keeper under a kennel license. This requirement does not apply to a show dog or cat during competition or to a dog or cat securely confined indoors or to a dog or cat securely confined in a fenced area. These tags may be transferred from one dog or cat to another within the kennel whenever any dog or cat is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog or cat for which it is issued at all times. This requirement does not apply to a show dog or cat during competition or to a dog or cat securely confined indoors. No dog or cat bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog or cat 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 City Treasurer may assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog or cat five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or cat, or if the owner failed to obtain a license on or before the dog or cat reached licensable age. Said late fee shall be charged in addition to the required license fee.

#### **SEC. 7-1-5 RABIES QUARANTINE.**

- (a) **Dogs and Cats Confined.** If the Health Officer or Humane Officer determines that a dog or other domestically owned animal found in the City is infected with rabies or hydrophobia, the Mayor may, upon written advice of the Health Officer or Humane Officer that the public safety and general welfare require it, order that all dogs and cats be muzzled. If a district is quarantined for rabies, all dogs and cats within the City shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The City Clerk shall promptly post in at least three (3) public places in the City notices of quarantine.
- (b) **Exemption of Vaccinated Dog or Cat from City Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the City quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
  - (1) Quarantine or sacrifice of dog or cat. An officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

- (2) **Sacrifice of other animals.** An officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (d) **Suspected Infections.** Any person who shall suspect that any dog or domestically owned animal within the City is infected with rabies or hydrophobia shall report his or her suspicion to the Police Department, describing the dog or domestically owned animal and giving the name of the owner, if known.
- (e) **Quarantine of Dog or Cat.**
- (1) **Delivery to isolation facility or quarantine.** The Police Department or Humane Officer must order the quarantine of any domestic animal when there is evidence that it has bitten any person. If there is proof that the animal has a current rabies vaccination, it can then be quarantined at the owner's home for a period of ten (10) days, otherwise unvaccinated or stray domestic animals must be confined and isolated under the supervision of a licensed veterinarian, to determine whether or not the animal is infected with rabies. Three veterinary exams are required within those ten days, regardless of vaccination status. If the animal is owned, the owner is responsible for all costs involved at the isolation facility. If the owner of the animal cannot be determined, the expense of the examination and confinement will be borne by the City. The dog or other domestically owned animal will be released after the ten (10) day confinement period only after determination that it is free from rabies. Any dog or other animal found to be infected with rabies shall be surrendered to the Police Department upon demand.
- (2) **Health risk to humans.** If a dog, cat or other domestic animal is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian or trained individual 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 or trained individual certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
- (3) **Risk to animal health.**
- a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.
- b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- (4) **Sacrifice of a dog or cat exhibiting symptoms of rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (f) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes

the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the City, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.

- (g) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the City, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (h) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination. If the owner is unknown, the county is responsible for these expenses.

Cross Reference: Section 7-1-9.

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

- (a) **Restrictions.** It shall be unlawful for any person within the City of Ladysmith to own, harbor or keep any dog or cat which:
  - (1) Habitually pursues any vehicle upon any public street, alley or highway in the City.
  - (2) Assaults or attacks any person as described in Subsection (b) or destroys property.
  - (3) Is at large within the limits of the City.
  - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-12.)
  - (5) Kills, wounds or worries any domestic animal.
  - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (7) In the case of a dog, is unlicensed.
- (b) **Vicious Dogs and Animal.** *Ordinance 2001-12 Adopted September 24, 2001.*
  - (1) For the purposes of enforcing this Section, an animal shall be deemed as being of a vicious disposition if, unprovoked, it bites, injures, kills or attacks a human being or domestic animal on public or private property.
    - a. No animal may be declared vicious if death, injury or damage is sustained by a person who, at the time such was sustained, was committing a trespass of the dwelling upon premises occupied by the owner of the animal or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime or violating or attempting to violate an Ordinance which protects persons or property.
    - b. No animal may be declared vicious if death, injury or damage was sustained by a domestic animal, which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the animal.
    - c. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.
    - d. No animal may be declared vicious for acts committed by said animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.
  - (1) The Rusk County Humane Officer or any Law Enforcement Officer, after conducting an investigation into circumstances surrounding an “unprovoked” animal attack is hereby empowered to declare the subject animal as vicious. The owner or keeper of an animal declared vicious will be served personally or by certified mail with return receipt with an order declaring the animal vicious. Any animal owner or keeper aggrieved by said order may petition the Animal Shelter Board for a review of the order in accordance with the procedure set forth herein. Upon receipt of the petition of the aggrieved owner or keeper, the Animal Shelter Board shall schedule a hearing at the next regular meeting of the Animal Shelter

- Board. In the event that the petition is received within seven (7) days of the next regular meeting, the hearing shall be scheduled at the next monthly meeting. The hearing shall be conducted in conformance with existing rules regarding administrative hearings. After the hearing, the owner or keeper of the animal shall be notified in writing of the determination. If a determination is made that the animal is vicious, the owner or keeper shall comply with the provisions of subsection (3) below in accordance with a time schedule established by the Humane Officer, Law Enforcement Officer or Animal Shelter Board, but in no case more than thirty (30) days from the date of determination.
- (2) The owner or keeper of any animal declared vicious under subsection (2) above shall comply with the following requirements.
- a. While on the property of the owner or keeper, a vicious animal must be securely confined indoors or in a securely closed and locked pen or structure designed to prevent the entry of young children and designed to prevent the animal from escaping. The pen or structure must be constructed with chain link fencing on all four sides (three sides if attached to a permanent structure), be imbedded in the ground no less than two feet, or have a concrete pad for the bottom or be securely leashed/strapped to an immovable object with the owner or keeper being physically present and within eyesight of the animal at all times.
  - b. While off the owner's or keeper's premises, the vicious animal must be muzzled and restrained by a substantial leash/chain not exceeding four (4) feet in length and under control of a responsible person. The muzzle must be constructed and worn in a manner that will not cause injury to the animal or interfere with vision or respiration, but must prevent biting of any person or animal.
  - c. All owners or keepers of vicious animals shall display, in prominent places on their premises and near all entrances to the premises, signs and letters of not less than two (2) inches using the words "WARNING – VICIOUS ANIMAL". A similar sign is required to be posted on the kennel or pen in which the animal is kept or restrained.
  - d. No person may sell or transfer possession of a vicious animal to another person without first notifying the person to whom the vicious animal is being sold or transferred, of the fact that such animal has been declared a vicious animal and of any requirements imposed upon the sale and/or transfer of the animal. No person may sell or transfer possession of a vicious animal to another person without first notifying the Humane Officer thereof, in writing, at least three (3) days prior to the sale or transfer of such animal.
- (3) No animal declared vicious shall be allowed off the owners or keepers premises other than provided in this section. Any animal declared vicious, and off the owner's or keeper's premises, unrestrained and/or at-large, other than provided in this section, may be seized by any person and, upon delivery to the Humane Officer, Animal Shelter or other authority, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious disposition of said animal, by testimony under oath reduced to writing, be euthanised by proper authorities.
- (4) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined towards attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (c) **Dogs Running at Large.**
- (1) It shall be unlawful for the owner or keeper of any dog to permit or suffer such dog to be at large, which shall mean that it is off the premises of its owner or keeper and upon any public street or alley, any school ground, any public park or upon any other public or private property without the permission of the owner of the property, provided, however, that a dog shall not be deemed to be at large if:
    - a. It is attached to a leash not more than ten (10) feet in length which is of sufficient strength to restrain it, and the leash is held by a person competent to govern it of at least ten (10) years of age and preventing it from annoying or worrying pedestrians or



- trespassing on private property or trespassing on public property where dogs are forbidden; or
- b. It is properly restrained within a motor vehicle.
- (2) In addition to enforcement by law enforcement officers, any adult person alone or together with other adults may seek relief from dogs at large by a complaint to the Police Department setting forth the specific date and approximate time a dog of a particular owner was observed by them to be at large. The Police Department shall notify the owner of that dog, in writing, of the alleged violation and the provisions of this Section. If the petitioner(s) subsequently observe that same dog to be at large, he (they) may submit a written petition to the City Attorney's office for commencement of prosecution to obtain compliance with this Section. Such written petition shall contain the following:
- a. Name and address of complainant(s).
  - b. Description of dog(s) and address of owner.
  - c. Dates and times violations were noted.
  - d. Date reported to Police Department.
- (3) It shall be unlawful for any person to permit a dog to run at large by opening any door or gate of any premises or loosen any restraining device or otherwise entice any dog to leave any place of confinement.
- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of [Sec. 174.02, Wis. Stats.](#), relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (e) **Regulation of Cats.** Any person who owns, harbors or keeps any cat over the age of five (5) months within the City shall:
- (1) Have such cat vaccinated against rabies and continue with such vaccinations at yearly intervals to ensure that the cat is effectively immunized against rabies at all times.
  - (2) Not permit any cat to be at large; any police officer, animal control officer or the Health Officer may seize and cause to be impounded any cat found at large.
  - (3) Comply with [Chapter 174, Wis. Stats.](#), as though said Statutes were equally applicable to cats. These aforementioned Statutes and regulations are to apply to the listing, licensing and tagging of such cats. The license fee for cats shall be the same as for dog licenses.
  - (4) Not feed any feral or abandoned cat, either intentionally or by leaving where it can be accessed by any feral or abandoned cat any substance from which a cat might gain nutrition. *Ord. 2018-01A adopted on 2/26/2018.*
- (f) **Menacing Animals.** The Rusk County Humane Officer may declare an animal to be a menace in the city limits, following an investigations that begins when the LPD or Humane Officer receives two written complaints from different households within a four week period, reporting that an animal has acted in a menacing manner toward them or another domestic animal. The Humane Officer will investigate the complaints and will determine if the animal poses an immediate threat of personal harm to humans or domestic animals. If the animal is declared to be a menace, the owners of the animal will have to abide by the following restraint rules or remove the animal from city limits.
- (1) Restraint Rules of a menacing animal:
    - a. The animal may be securely confined indoors, or
    - b. the animal may be securely leashed or chained outside if an adult family member is physically present on the property, or
    - c. The animal may be kept in a kennel or fenced in area. Fencing must be a minimum of 8' in height. Kennel height may be lower if the top of the kennel is securely covered. Both must be securely closed to prevent the entry of young children and designed to prevent the animal from escaping.
    - d. "Beware of Animal" signs must be on display near all entrances to the premises and on any kennel or fenced in area where the animal is kept. The letters in the sign must be a minimum of two inches tall.
  - (2) The owner of an animal that has been declared a menace will have 14 days to be compliant and must remain in compliance even if appealing the declaration. Failure to be in compliance may result in a citation issued every day that this ordinance is being violated. There will be



no “grandfather clause”. This ordinance applies to all and every animal living within the Ladysmith City Limits. Any animal owner aggrieved by said declaration may petition the Animal Control Board for a review of the declaration in accordance with the procedure set forth herein. Upon receipt of the written petition of the aggrieved owner, the Animal Control Board shall schedule a hearing at the next regular meeting of the Animal Control Board. In the event that the petition is received within seven days of the regular meeting, the hearing shall be scheduled at the next monthly meeting. The hearing will be conducted in conformance with the existing rules of the County regarding administrative hearings. After the hearing, the owner or keeper of the animal shall be notified in writing of the Board’s determination.

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

- (a) **Animal Control Agency.**
  - (1) The City of Ladysmith may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
  - (2) The City of Ladysmith does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any police or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the City, assaults or attacks any person, is at large within the City, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the City for any damages it sustains for improper or illegal seizure.
- (c) **Claiming Animal; Disposal of Unclaimed Animal.** After seizure of animals under this Section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall give notice to the local radio station. If within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being impounded has bitten a person, the animal shall be retained in the Animal Shelter for ten (10) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Common Council. In the alternative, animal control or humane agencies serving the City may provide notice pursuant to their operating procedures and state law. No animal shall be released from the pound without being properly licensed if so required by state law or City Ordinance.
- (d) **Sale of Impounded Animal.** If the owner doesn't reclaim the animal within seven (7) days, the animal warden may sell the animal to any willing buyer.
- (e) **City Not Liable for Impounding Animals.** The City and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

#### **SEC. 7-1-8 DOGS AND CATS RESTRICTED ON CEMETERIES AND OTHER GROUNDS.**

No dog or cat shall be permitted in any public cemetery. Every dog specially trained to lead blind persons shall be exempt from this Section. No person shall walk a dog or permit any dog to be on public or private school grounds unless express permission from those in control of the school grounds have been secured.

#### **SEC. 7-1-9 DUTY OF OWNER IN CASE OF DOG OR CAT BITE.**

Every owner or person harboring or keeping a dog or cat who knows that such dog or cat has bitten any person shall immediately report such fact to the Police Department or Health officer and shall keep such dog or cat confined pursuant to the requirements of Section 7-1-5. The owner or keeper of any such dog or cat shall surrender the dog or cat to a law enforcement or humane officer upon demand for examination.

#### **SEC. 7-1-10 ANIMAL FECES.**

- (a) **Dog Litter Nuisance.** It shall be unlawful for any person in immediate control of any dog to permit fecal matter which is deposited by such dog while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any public property, and it shall be solely the responsibility of the person in control of said dog to immediately, after deposit, remove all fecal matter and dispose of the same. Any person owning or having control of a dog on any property, public or private, which is not owned or occupied by such person shall promptly remove excrement left by such dog and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person. This Section shall not apply to a person who is visually or physically handicapped. Any person causing or permitting a dog to be on any property, public or private, not owned or occupied by such person shall have in his or her immediate possession a device or object suitable for removal of excrement and a depository for the transmission of excrement to the property owned occupied by such person.
- (b) **Complaints.** Any adult person alone or together with other adults may seek relief from dog fecal matter deposits as described in Subsection (a) above by a complaint to the Police Department in the same manner and procedure as set forth in Section 7-1-6(c)(2).

#### **SEC. 7-1-11 INJURY TO PROPERTY BY ANIMALS.**

It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.

#### **SEC. 7-1-12 BARKING DOGS OR CRYING CATS.**

It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog, animal or cat is considered to be in violation of this Section when written complaints from two (2) or more adults are filed with the Police Department within a four (4) week period. No prosecution shall be commenced except upon the request of the Police Department, following written petition signed by two (2) or more adult persons.

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

(a) **Protected Animals.**

- (1) Possession and Sale of Protected Animals. It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonia mydas*), or Mexican ridley turtle (*lepidochelys kempfi*).
- (2) Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
- (3) Regulating the Importation of Certain Birds. No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.

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

- (c) **Wild Animals; Prohibition on Keeping.** It shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any of the following animals, reptiles or insects:

- (1) All poisonous animals and reptiles including rear-fang snakes.
- (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); orangutans (*Pongo*); ans-siamangs (*Symphalangus*).
- (3) Baboons (*Papoi*, *Mandrillus*).
- (4) Bears (*Ursidae*).
- (5) Bison (*Bison*).
- (6) Cheetahs (*Acinonyx jubatus*).
- (7) Crocodilians (*Crocodflia*), thirty (30) inches in length or more.
- (8) Constrictor snakes, six (6) feet in length or more.
- (9) Coyotes (*Canis latrans*).
- (10) Deer (*Cervidae*); includes all members of the deer family; for example, whitetailed deer, elk, antelope and moose.
- (11) Elephants (*Elephas* and *Loxodonta*).
- (12) Game cocks and other fighting birds.
- (13) Hippopotami (*Hippopotamidae*).
- (14) Hyenas (*Hyaenidae*).
- (15) Jaguars (*Panthera onca*).
- (16) Leopards (*Panthera pardus*).
- (17) Lions (*Panthera leo*).
- (18) Lynxes (*Lynx*).
- (19) Monkeys, old world (*Cercopithecidae*).
- (20) Ostriches (*Struthio*).

- (21) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
  - (22) Rhinoceroses (*Rhinocero tidae*).
  - (23) Snow leopards (*Panthera uncia*).
  - (24) Tigers (*Panthera tigris*).
  - (25) Wolves (*Canis lupus*).
  - (26) Poisonous insects.
  - (27) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code. *Ord. 2016-02 adopted 3/14/2016.*
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of a veterinarian for treatment; the Rusk County Animal Shelter; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; zoological gardens; if:
- (1) Their location conforms to the provisions of the zoning ordinance of the city.
  - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
  - (3) Animals are maintained in quarters so constructed as to prevent their escape.
  - (3) No person lives or resides within one hundred (100) feet of the quarters in which the animals are kept.
- (e) **Feeding of Deer Prohibited.** It shall be unlawful for any person to place any feed such as salt, minerals, grain, fruit, vegetable material, sunflower seeds, deer suckers, or any other type of feed, on any public or private property for the purpose of enticing whitetail deer into any specific area of anyone's property in the City of Ladysmith, except as provided in paragraph (c) herein.
- (1) There shall be a rebuttable presumption that either of the following acts are for the purpose of feeding whitetail deer:
    - a) The placement of salt, minerals, grain, fruit, vegetable material, sunflower seeds, deer suckers in an aggregate quantity of greater than one-half gallon at the height of less than six feet off the ground.
    - b) The placement of salt, minerals, grain, fruit, vegetable material, sunflower seeds, deer suckers in an aggregate quantity of greater than one-half gallon in a drop feeder, automatic feeder or similar device regardless of the height of the salt, minerals, grain, fruit, vegetable material, sunflower seeds, deer suckers.
  - (2) This section shall not apply to the following situations:
    - a) Naturally growing grain, fruit or vegetable material, including gardens and residue from lawns, or gardens and other vegetable materials maintained as a mulch or compost pile.
    - b) Unmodified commercially purchased bird feeders or their equivalent.
    - c) Deer feeding may be authorized on a temporary basis by the Common Council for specific purposes determined by the Common Council.
  - (3) Any person who violates any provision of this ordinance and is found guilty shall be subject to penalty as outlined in the provisions of the Municipal Code of Ordinances.  
*Ord.2008-08 adopted 9/22/08*

#### **SEC. 7-1-14 SALE OF RABBITS, CHICKS OR ARTIFICIALLY COLORED ANIMALS.**

- (a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise colored artificially.
- (b) (1) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.
- (2) No retailer, as defined in [Sec. 100.30\(2\)\(g\), Wis. Stats.](#), may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two (2) months of age,

- in any quantity less than six (6), unless the purpose of selling these animals is for agricultural, wildlife or scientific purposes.
- (c) No person may raffle, give as a prize or premium or use as an advertising device living chicks, ducklings, other fowl, rabbits, or any other live animal. *Ord. 2004-07 adopted 08-23-04.*

*State Law Reference: Sec. 951.11, Wis. Stats.*

#### **SEC. 7-1-15 PROVIDING PROPER FOOD AND DRINK TO CONFINED ANIMALS.**

- (a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
- (b) The food shall be sufficient to maintain all animals in good health.
- (c) If potable water is not accessible to the animals at all times, it shall be provided daily and in sufficient quantity for the health of the animal.

*State Law Reference: Sec. 951.13, Wis. Stats.*

#### **SEC. 7-1-16 PROVIDING PROPER SHELTER.**

- (a) **Proper Shelter.** No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) **Indoor Standards.** Minimum indoor standards of shelter shall include:
- (1) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
  - (2) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) **Outdoor Standards.** Minimum outdoor standards of shelter shall include:
- (1) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals.
  - (2) Shelter from inclement weather.
    - a. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
    - b. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) **Space Standards.** Minimum space requirements for both indoor and outdoor enclosures shall include:
- (1) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  - (2) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) **Sanitation Standards.** Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.

*State Law Reference: Sec. 951.14, Wis. Stats.*

**SEC. 7-1-17 NEGLECTED OR ABANDONED ANIMALS.**

- (a) **Neglected or Abandoned Animals.**
- (1) No person may abandon any animal.
  - (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
  - (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within five (5) days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
  - (4) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (b) **Injured Animals.** No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the City or any animal control agency with whom the City has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

*State Law Reference: Sections 951.15, Wis. Stats.*

**SEC. 7-1-18 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.**

- (a) **Acts of Cruelty Prohibited.** No person except a police officer or health or humane officer in the pursuit of his duties shall, within the City, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) **Leading Animal From Motor Vehicle.** No person shall lead any animal upon a City street from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (1) **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. 961, 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. *Sec. 951.06 Wis. Stats.*
- (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. *Sec. 951.07 Wis. Stats.*
- (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. 951.09 Wis. Stats.*

**SEC. 7-1-19 TRAPPING OF ANIMALS.**

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

#### **SEC. 7-1-20 DOGNAPPING AND CATNAPPING.**

No person may take the dog or cat of another from one place to another without the owner's consent or cause such a dog or cat to be confined or carried out of the City or held for any purpose without the owner's consent. This Section does not apply to law enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted herein.

#### **SEC. 7-1-21 VEHICLE ACCIDENTS.**

The operator of any vehicle involved in an accident resulting in injury to or death of a dog, cat or other animal which appears to be a pet shall immediately notify the Police Department or an animal control agency whose jurisdiction extends into the City.

#### **SEC. 7-1-22 DISPLAY OF BIRDS IN FOOD ESTABLISHMENTS.**

No person shall sell or display birds of the Psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are so enclosed as to prevent any possible contamination of the food or drink.

#### **SEC. 7-1-23 KEEPING OF BEES.**

- (a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises within the corporate limits of the City unless the bees are kept in accordance with the following provisions:
  - (1) No hive, stand or box where bees are kept shall be located closer than twenty (20) feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.
  - (2) If bee colonies are kept within fifty (50) feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than five (5) feet high, shall be installed and maintained along said exterior boundary. Said barrier may be either a natural planting or artificial.
  - (3) Fresh, clean watering facilities for bees shall be provided on the said premises.
  - (4) The bees and equipment shall be kept in accordance with the provisions of the state statutes.
  - (4) A conditional use permit shall first be obtained pursuant to the City Zoning Code.
- (b) Nothing in this Section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

#### **SEC. 7-1-24 KEEPING OF CHICKENS**

- (a) It shall be unlawful for any person to keep chickens upon any premises within the corporate limits of the City unless the chickens are kept in accordance with the following provisions:



- 1) No person shall keep any rooster or other fowl.
- 2) No person shall own, harbor or keep in his or her possession more than six (6) hens per any lot.
- 3) Commercial slaughtering of any fowl is prohibited.
- 4) Hens shall be provided with a covered enclosure and kept in a covered or fenced enclosure all the time. The enclosure shall be at least four (4) square feet per hen. Distance of enclosure to nearest habitable structure on adjoining properties shall be no closer than twenty-five (25) feet and no closer than ten (10) feet to any lot line. A scaled site plan is required.
- 5) **Permit Required.** The owner of any chicken more than eight (8) weeks of age shall annually, and on or before the date the hen became eight weeks of age, obtain a permit. Notice and opportunity to object shall be provided to all abutting property owners and residents for new applicants. Proof of registration with the State of Wisconsin-Livestock Premises Registration is required.
- 6) **Fees.** Permit/Application annual fee is Five Dollars (\$5.00) for up to 6 chickens. Permits are valid from January 1 to December 31. Permits purchased after January 1 in any given calendar year will also expire December 31 of that year. Fees will not be prorated.
- 7) **Poultry Litter Disposal.** Poultry litter will be disposed properly.
- 8) All chicken feed must be kept in airtight containers that are inaccessible and out of the reach of wild animals and shall be stored in vermin-proof containers.

(b) **Complaints.**

- 1) Complaints are filed with and addressed by the Police Department.  
*Ord. 2016-05 adopted 5/23/2016.*

**SEC. 7-1-25 PENALTIES.**

- (a) Any person violating Sections 7-1-15, 7-1-16, 7-1-17, 7-1-18, 7-1-19, 7-1-20, 7-1-21, 7-1-22, 7-1-23 and 7-1-24 shall be subject to a forfeiture of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00). This Section shall also permit the City Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of this Ordinance.
- (b)
  - (1) Anyone who violates Sections 7-1-1, 7-1-2, 7-1-3, 7-1-4 and 7-1-5 of this Code of Ordinances or [Chapter 174, Wis. Stats.](#), shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for the first offense and not less than One Hundred Dollars (\$100.00) and not more than Four Hundred Dollars (\$400.00) for any subsequent offenses.
  - (2) An owner who refuses to comply with an order issued under Section 7-1-5 to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisoned not more than sixty (60) days or both.
- (c) Any person who violates Section 7-1-6 through 7-1-14 of this Code of Ordinances shall be subject to a forfeiture of not less than Twenty-five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00) for the first violation and not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00) for subsequent violations.

**CHAPTER 2**

## Fermented Malt Beverages and Intoxicating Liquor

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**ARTICLE A**

## Fermented Malt Beverages and Intoxicating Liquor

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

The provisions of [Ch. 125, Wis. Stats.](#), 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.

- (a) 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](#).
- (b) In addition, the following definitions shall be applicable:
- (1) Business. All lawful activity contemplated to be conducted on the licensed premises at the time such license was issued.
  - (2) Operate or Be Operated. The conducting of business, during all such times of the day in which such business is normally conducted, and shall mean that such business is open for business to the general public during such times.

#### 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 whatsoever, 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 [Secs. 125.27, 125.28 and 125.51, Wis. Stats.](#)

#### SEC. 7-2-4 CLASSES OF LICENSES.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. 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 City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percent 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) **Temporary Class "B" Fermented Malt Beverage License.**
- (1) **License.** Temporary Class "B" fermented malt beverage licenses, when issued by the City Clerk under authority of the Common Council as provided for in [Sec. 125.26\(6\), Wis. Stats.](#), may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Common Council.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of four (4) days prior to the meeting of the Common Council at which the application will be considered for events of more than five (5) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.
- (f) **Temporary "Class B" Wine License.**
- (1) **License.** Notwithstanding [Sec. 125.68\(3\), Wis. Stats.](#), temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under [Sec. 125.26\(6\), Wis. Stats.](#), or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the City Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to

apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of four (4) days prior to the meeting of the Common Council at which the application will be considered for events of more than five (5) consecutive days. If the application is for a license to be used in a City park, the applicant shall specify the main point of sale facility.

- (g) **Class "E" Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the City Clerk under the authority of the Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- (h) **Retail "Class C" 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 City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
  - (4) A "Class C" license shall particularly describe the premises for which it is issued.

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

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

- (a) **License Fees.** The following license fees shall be charged for licenses issued by the Common Council for the sale of intoxicating liquors and fermented malt beverages within the City. All such fees are payable after approval of the application by the Common Council and prior to the release of the license being delivered to the licensee, with the exception of Temporary Class "B" Picnic Licenses, for which the fee shall be paid at the time application is submitted:
- (1) Class "A" Fermented Malt Beverages Retailer's License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord 2010-10 adopted 5/6/2010.* 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) Class "B" Fermented Malt Beverage License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* 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.
  - (3) Temporary Class "B" Fermented Malt Beverage License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
  - (4) Temporary "Class B" Wine License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* There shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
  - (5) Fermented Malt Beverage Wholesalers' License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's



Office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*

- (6) "Class A" Intoxicating Liquor Retailer's License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
  - (7) "Class B" Intoxicating Liquor Retailer's License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* 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.
  - (9) "Class C" Wine License. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* The fee for less than one (1) year shall be prorated.
- (b) **Cancellation for Failure to Pay Fee.** The City Clerk shall issue each license approved by the Common Council and shall make the same available at the City Clerk's office in City Hall. Any licenses for which the license fee is not paid within fifteen (15) days of approval of the application by the Common Council shall be returned to the Common Council for cancellation or other disposition.

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

- (a) **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 887.03, Wis. Stats.](#), and shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, or by the president and secretary, if a corporation.
- (c) **Publication.** The City Clerk shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under [Sec. 125.04, Wis. Stats.](#), or temporary "Class B" picnic wine licenses under [Sec. 125.51\(10\), Wis. Stats.](#) The application shall be published once in the official City newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under [Sec. 985.08, Wis. Stats.](#)
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any 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) **Number of Class "A" Intoxicating Liquor licenses and Number of Class "A" Fermented Malt Beverage Licenses.**
  - (1) Retail Class "A" Fermented Malt Beverage Licenses. The number of Retail Class "A" Fermented Malt Beverage Licenses issued by the City of Ladysmith in any one (1) year shall be limited to nine (9). *Increased limit from 7 to 9 adopted June 26, 2008 Ord. 2008-03.*
  - (2) Retail Class "B" Fermented Malt Beverage Licenses. The number of Retail Class "B" Fermented Malt Beverage Licenses issued by the City of Ladysmith in any one (1) year shall be limited to eight (8). *Increased limit to 8 adopted July 9, 2007 Ord. 2007-02*
  - (3) Retail Class "A" Intoxicating Liquor Licenses. The number of Retail Class "A" Intoxicating Liquor Licenses issued by the City of Ladysmith in any one (1) year shall be limited to seven (7). *Increase limit from 5 to 7 adopted July 6, 2005.*

- (4) Combination Retail Class "B" Fermented Malt Beverage and Intoxicating Liquor Licenses. The number of Combination Retail Class "B" Fermented Malt Beverage and Intoxicating Liquor Licenses issued by the City of Ladysmith in any one (1) year shall be limited to twelve (12).
- (5) Retail Class "C" Wine Licenses. The number of retail Class "C" Wine Licenses issued by the City of Ladysmith in any one year shall be limited to two (2). *Ord. 2001-04 adopted 05-14-01.*
- (6) Wholesale Class "E" Fermented Malt Beverage Licenses. There shall be no limitation on the number of Wholesale Class "E" Fermented Malt Beverage Licenses issued in any one (1) year and the holding of a Wholesale License shall entitle the party to purchase a Retail Class "A" Fermented Malt Beverage License.
- (7) Use of Population Estimates. The City may utilize the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government in determining quotas.
- (f) **Licensed Premises.** Licenses issued by the City shall be for the structure itself and shall not confer any license or right to property outside of the licensed structure.
- (g) **Delinquent Taxes, Assessments, Etc.**
  - (1) Premises. No initial or renewal alcohol beverage licenses shall be granted for any premises for which City taxes, assessments, utility bills, garbage collection fees, sewer and water bills or other assessments or other claims to the City are delinquent and unpaid.
  - (2) Persons. No initial or renewal alcohol license shall be granted to any person:
    - a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owed to the city.
    - b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the City.

#### SEC. 7-2-7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage license.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to 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 City Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.



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

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

The City Clerk shall notify the Chief of Police, Fire Inspector and Building Inspector of each new or renewal application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Police Department shall conduct an investigation of the applicant, including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. These officials shall furnish to the City Clerk in writing, who shall forward to the Common Council, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

#### **SEC. 7-2-9 APPROVAL OF APPLICATION.**

- (a) The Common Council is not required to grant all the licenses available. All applications are subject to an investigation and inspection by the Chief of Police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. All licenses must be renewed annually. The license period is July 1 to June 30.
- (b) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.

- (c) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City.
- (d) In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed.

#### **SEC. 7-2-10 GRANTING OR DENIAL OF LICENSE.**

- (a) If the inspecting officials recommend the denial of the application, the applicant shall be notified by the City Clerk at least fifteen (15) days prior to the Council meeting at which the application is to be considered. The notice shall set forth the basis for such recommendation and inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the application should be approved. In addition, the applicant shall be notified that the consideration of the application shall be held in closed session, pursuant to [Sec. 19.85\(1\)\(b\), Wis. Stats.](#), unless the applicant requests such consideration be held in open session.
- (b) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the City. The full license fee shall be charged for the whole or fraction of any year.
- (c) In determining whether to grant such license, consideration shall be given to the arrest and conviction record of the applicant, subject to the limitations imposed by [Secs. 111.321, 111.322 and 111.335, Wis. Stats.](#), financial responsibility of the applicant, the appropriateness of the location and premises where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.
- (d)
  - (1) If the Common Council denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Common Council and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to [Sec. 19.85\(1\)\(b\), Wis. Stats.](#), unless the applicant requests such reconsideration be held in open session and the Common Council consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Common Council meeting at which the application is to be reconsidered.
  - (2) If, upon reconsideration, the Council again denies the application, the City Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to [Sec. 125.12\(2\)\(d\), Wis. Stats.](#), for review.

#### **SEC. 7-2-11 TRANSFER AND LAPSE OF LICENSE.**

- (a) In accordance with the provisions of [Sec. 125.04\(12\), Wis. Stats.](#), a license shall be transferable from one premises to another if such transfer is first approved by the Common Council. An application for transfer shall be made on a form furnished by the City Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the City for reissuance of said license and the City, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the City Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Common Council, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the City Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Common Council until the successor agent or another qualified agent is appointed and approved by the City.

#### **SEC. 7-2-12 NUMBERING OF LICENSE.**

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The City Clerk shall affix to the license his affidavit as provided by [Sec. 125.04\(4\), Wis. Stats.](#)

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

- (a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- (b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

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

All retail Class "A", Class "B", "Class A", "Class B" and "Class C" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the City applicable thereto:

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "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", 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 possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.

- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.
- (g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- (i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (k) **Improper 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.
- (1) **Consumption on Premises.** All purchases of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any thoroughfare, street, alley or sidewalk unless authorized by the Common Council.

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

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

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

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

- (1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (3) Between 12:00 midnight and 6:00 a.m., no person may sell intoxicating liquor or fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle for consumption away from the premises.

- (b) Carryout Hours.** Between 9:00 p.m. and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" (Beer) or Class "A" (Liquor) license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. *Ord. 2012-01 adopted 2/13/2012.*

**SEC. 7-2-16 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.**

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any City-owned property or privately-owned property within the City of Ladysmith, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Common Council in accordance with Wisconsin Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on City-owned property or privately-owned property may be authorized by the Common Council provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in [Sec. 125.26\(6\), Wis. Stats.](#), and shall fully comply with the requirements of this Section and Section 11-5-1.
- (b) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- (c) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (d) **Waiver.** The Common Council may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (e) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the City of Ladysmith. The City of Ladysmith shall be named as an additional insured. The applicant may be required to furnish a performance bond prior to being granted the license.
- (f) **Permitted Cups or Cans Only.** Intoxicants will be sold outside only in foam or plastic cups or cans. *Ord. 2023-04 adopted on June 15, 2023.*

[Cross Reference: Section 11-5-1.](#)



**SEC. 7-2-17 BEER GARDEN LICENSES REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" PREMISES.**

- (a) **Required for Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under permit granted by the Common Council. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Common Council at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid Beer Garden permit.
- (b) **Limitations on Issuance of Beer Garden Permits.** No permit shall be issued for a Beer Garden if any part of the Beer Garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. Each applicant for a Beer Garden permit shall accurately describe the area intended for use as a Beer Garden. There shall be a licensed operator with the Beer Garden at all times the Beer Garden is in operation. The City of Ladysmith has established fees for processing the specified permit, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2023-05 adopted June 12, 2023.*
- (c) **Adjoining Property Owners to be Notified of Pendency of Applications.** All property owners within one hundred fifty (150) feet of the proposed beer garden shall be notified of the pendency of application for a Beer Garden permit by first class mail.
- (d) **State Statutes Enforced Within Beer Garden.** Every permittee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of [Ch. 125, Wis. Stats.](#), shall be grounds for immediate revocation of the Beer Garden permit by the Common Council.

**SEC. 7-2-18 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.**

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 5, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Cancellation of Premised Licenses.**
  - (1) Grounds for Cancellation for Nonuse of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor Licenses granted under this Chapter for which the subject premises:
    - a. Is not open for business within one hundred eighty (180) days of the granting of such license; or
    - b. Is not open for business for a period of one hundred eighty (180) consecutive days or more; or
    - c. Is not open for business at least fifty percent (50%) of the days within any twelve (12) month period, either within a licensing year or overlapping two (2) licensing years, shall be cancelled unless, after notice and hearing as provided in Subsection (2) hereof, the Common Council shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Common Council may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license(s).
  - (2) Notice and Hearing. Prior to cancellation of any license, the City Clerk shall notify the licensee in writing of the City's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than fifteen (15) days after the date of the notice.

Such hearing shall be conducted as provided in accordance with [Sec. 125.12\(2\)\(b\), Wis. Stats.](#), or any amendments thereto.

(c) **License Revocation or Suspension.**

(1) Notice and Hearing. Whenever a person holding a license to sell alcoholic beverages has failed to maintain the premises according to standards prescribed for sanitation, or in whose premises persons are permitted to loiter for purposes of prostitution, or when the licensee has not observed and obeyed any lawful order of the Common Council or police officers of the City, has violated City Ordinances, or for any other good reason, the Common Council shall issue a summons, to be signed by the City Clerk commanding the licensee complained of to appear before the Common Council on a day and time and at a place named in the summons to show cause why the license should not be revoked or suspended. In addition, any resident may file a sworn, written complaint with the City Clerk. Such summons shall be served not less than three (3) and not more than ten (10) days before the time at which the licensee is commanded to appear and may be served personally upon the licensee or the agent of the licensee or upon the person in charge of the licensed premises. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of said offence and the facts constituting the alleged offense. If such licensee shall not appear as required by the summons, the complaint shall be taken as true, and if the Common Council deems its allegations sufficient, the Council shall recommend revocation or suspension of the license as provided herein.

(2) Procedure on Hearing: Effect of Revocation.

a. The Mayor or, in his absence, the Council President shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in [Sec. 227, Wis. Stats.](#), shall be followed. The complainant shall have the burden of proving the charges to a preponderance of the evidence. The licensee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the City shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The City Clerk shall serve as secretary to the Council and shall make and receive all exhibits admitted into the record. The Common Council, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true or not. If the vote is to suspend the license, it shall be for a period of not less than ten (10) days or more than ninety (90) days. Following the procedure above, the recommendation may be to revoke the license. If the Council determines that the charges are not substantiated, the complaint shall be dismissed without cost to either party. The Council's action shall be recorded by the Clerk.

b. If the complaint is found to be true, the licensee shall pay to the City the actual cost of the proceedings. If the complaint is found by the Common Council to be malicious and without probable cause, the complainant shall pay the cost of the proceedings in the same amount.

c. When a license is revoked, it shall be so entered of record by the City Clerk, and no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation, nor shall any part of the money paid as application fee for any license so revoked be refunded.

(d) **Other Provisions.** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Common Council by amendment to this Section or by the enactment of new ordinances. If any licenses shall fail or neglect to meet the requirements imposed by such new restrictions and regulations his license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(e) **Point Values for Alcohol Beverages' Violation, Revocations and Suspensions.**



- (1) Purpose and Definitions. The purpose of this Subsection is to administratively interpret those portions of this Chapter and Title 11, Chapter 4, of this Code of Ordinances relating to establishing an alcohol beverage demerit point system to assist in determining which licenseholders should be subject to suspension or revocation procedures.
- (2) Point Schedule. The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome licenseholders who have repeatedly violated state statutes and City Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

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

- (3) Violations, How Calculated. In determining the accumulated demerit points against a licensee within twelve (12) months, the City shall use the date each violation was committed as the basis for the determination.
- (4) Suspension or Revocation of License.
  - a. The Common Council shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court-imposed convictions or who have had referred to it reports from the City Attorney which, if believed, would result in two hundred (200) demerit points in twelve (12) months.
  - b. If the demerit point accumulation, calculated from the date of violation, exceeds two hundred (200) points in a twelve (12) month period, two hundred fifty (250) points in a twenty-four (24) month period or three hundred (300) points in a thirty-six (36) month period, the suspension shall be for not less than ten (10) days nor more than ninety (90). If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.
  - c. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

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

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

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

**ARTICLE B**

## Operator's License

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

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

*State Law Reference: Sec. 125.17, Wis. Stats.*

**SEC. 7-2-21 PROCEDURE UPON APPLICATION.**

- (a) **Application.** The Common Council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the City Clerk only to persons at least eighteen (18) years of age. Operator's licenses shall be operative only within the limits of the City. The City of Ladysmith has established a fee for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* The fee shall be payable at the time of application.
- (b) **Investigation.** The Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the Common Council approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation. Upon receipt of recommendation from the Chief of Police, the City Clerk shall cause the name of the applicant to be placed on the agenda of the Common Council for action to either grant or deny such license application.
- (c) **Provisional License.** The Common Council may issue a provisional license to a person who has applied for a license under Subsection (a) above. A provisional license may not be issued to anyone who has been denied a license under Subsection (a) above. A provisional license expires sixty (60) days after issuance or when a license under Subsection (a) is issued to the holder, whichever is sooner. The City Clerk may revoke a provisional license if the City Clerk discovers that the holder of the provisional license made a false statement on the application. A non-refundable application fee of Fifteen Dollars (\$15.00) shall be charged for the provisional license. The fee shall be payable at the time of the application for provisional license.
- (d) **Training Course.**
  - (1) No license shall be issued 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 college 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 or more of the following three (3) requirements:
    - a. The person is renewing an operator's license;

- b. Within the past two (2) years the person held a Class "A", "Class A" or "Class C" license or a Class "B" or "Class B" license or permit or a manager's or operator's license;
  - c. Within the past two (2) years the person has completed a responsible beverage-server training course.
- (2) A provisional operator's license may be issued to a person who is enrolled in a responsible beverage-server training course and who meets the standards established by the City. The Common Council shall revoke the provisional or operator's license of any applicant who fails to successfully complete the responsible beverage-server training course.

*Cross Reference: Section 7-2-5 and 7-2-8 and Secs. 125.17(5) and (6), Wis. Stats.*

#### **SEC. 7-2-22 DURATION.**

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

#### **SEC. 7-2-23 OPERATOR'S LICENSE FEE.**

The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request.

*Ord. 2010-10 adopted 5/6/2010.*

#### **SEC. 7-2-24 ISSUANCE OR DENIAL OF OPERATOR'S LICENSE.**

- (a) **Issuance of Approved Licenses.** After the Common Council approves the granting of an operator's license, the City Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license. The City Clerk shall issue each license approved by the Common Council and shall make the same available at the City Clerk's office in City Hall. Any operator's license for which the fee is not paid within fifteen (15) days of approval of the application by the Common Council shall be returned to the Common Council for cancellation or other disposition.
- (b) **Basis for Granting or Denial.**
  - (1) Consideration for the granting or denial of a license will be based on:
    - a. Arrest and conviction record of the applicant, subject to the limitations imposed by [Section 111.335, Wis. Stats.](#);
    - b. The financial responsibility of the applicant;
    - c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
    - d. Generally, the applicant's fitness for the trust to be reposed.
  - (2) If a licensee is convicted of an offense substantially related to the license activity, the Council may act to revoke or suspend the license.
- (c) **Denial; Appeals.**
  - (1) If the application is denied by the Common Council, the City Clerk shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Common Council in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Council's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
  - (2) If, upon reconsideration, the Council again denies the application, the City Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to [Sec. 125.12\(2\)\(d\), Wis. Stats.](#), for review.
  - (3) An application for denial based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has

habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

**SEC. 7-2-25 DISPLAY OF LICENSE.**

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or possessed by the licensed operator in the form of a wallet card.

**SEC. 7-2-26 REVOCATION OF OPERATOR'S LICENSE.**

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause or revocation of the license.

**SEC. 7-2-27 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.**

**ARTICLE C**

Penalties

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

- (a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the City of Ladysmith, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses.
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the City of Ladysmith, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the City of Ladysmith.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

**CHAPTER 3**

## Pharmacists' Permits; Cigarette License

- 7-3-1 Pharmacists' Permits (*removed Ord. 2010-14 adopted 6/28/2010*)  
7-3-2 Cigarette License

**SEC. 7-3-2 CIGARETTE LICENSE.**

- (a) **License Required.** No person, firm or corporation shall, in any manner, directly or indirectly, upon any premises, or by any device, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarette, cigarette paper or cigarette wrappers, or any substitute therefor, without first obtaining a license as hereinafter provided.
- (b) **Application for License; Fee.** Every person, firm or corporation desiring a license under this Section shall file with the City Clerk a written application therefor, stating the name of the person and the place for which such license is desired. Each license shall be filed by the City Clerk and shall name the licensee and the place wherein he is authorized to conduct such business, and the same shall not be delivered until the applicant shall pay to the City Clerk a license fee. Said license fee has been established for processing the specified license, and can be found in the fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
- (c) **Issuance and Term of License.** Licenses for the sale, exchange, barter, disposition of, or giving away or keeping for sale of cigarette paper or cigarette wrappers or any substitute therefor shall be issued by the City Clerk. Each license shall be issued on the first day of July in each year, or thereafter whenever applied for, and shall continue in force from date of issuance until the succeeding June 30th unless sooner revoked for any violation of this Section.

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



**CHAPTER 4**

## Direct Sellers

7-4-1	Registration Required
7-4-2	Definitions
7-4-3	Exemptions
7-4-4	Registration
7-4-5	Investigation
7-4-6	Appeal
7-4-7	Registration and Issuance of License
7-4-8	Regulation of Direct Sellers
7-4-9	Trailers Used for Vending
7-4-10	Records
7-4-11	Revocation of Registration

**SEC. 7-4-1 REGISTRATION REQUIRED.**

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

*Cross-Reference: Section 6-2-5(c).*

**SEC. 7-4-2 DEFINITIONS.**

In this Chapter:

- (a) **Direct Seller** means any individual who, for him/herself, or for a partnership, association or corporation, sells goods, or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.
- (b) **Permanent Merchant** means a direct seller who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
  - (1) Has continuously operated an established place of business in this City; or
  - (2) Has continuously resided in this City and now does business from his/her residence.
- (c) **Goods** shall include personal property of any kind and shall include goods provided incidental to services offered or sold.
- (d) **Charitable Organization** shall include any benevolent, religious, philanthropic, patriotic or charitable person, partnership, association or corporation, or one purporting to be such.
- (e) **Clerk** shall mean the City of Ladysmith Clerk.
- (f) **Person** shall mean all humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.
- (g) **Applicant** shall mean each individual applying for registration and licensing as a direct seller or solicitor.
- (h) **Registrant** shall mean each individual registered by the Clerk and to whom a license has been issued.

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

- (a) The following shall be exempt from all provisions of this Chapter:

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (2) Any person selling goods at wholesale to dealers in such goods.
- (3) Any person selling agricultural products which such person has grown.
- (4) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.
- (5) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested a home visit by, said person.
- (6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (7) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
- (8) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (9) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the City Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the City Clerk that such person is a transient merchant, provided that there is submitted to the City Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this City for at least one (1) year prior to the date complaint was made.
- (11) a. Charitable organizations shall be exempt from the requirements set forth in Section 7-4-4(a) and (c) if the organization has provided the individual representing it with credentials stating the name of the organization, the name of the representative and the purpose of the solicitation and provided, further, that said individuals provide the Clerk with the following information:
  1. The individual's name and permanent address.
  2. The name and address of the organization represented.
  3. The name and address of the officers or directors of the organization.
  4. The nature of the sales or solicitations.
  5. Proposed dates and time of sales or solicitations.
  6. Exempt applicants shall deposit with the Clerk the sum of Fifty Dollars (\$50.00). Said sum shall be refunded to such applicants upon their taking delivery of the license or licenses issued pursuant to Subsection (a)(11)b hereof. In the event such an applicant fails and neglects to take delivery of said license or licenses before initiating their solicitation, such deposit shall be forfeited to the City.

b. After approval by the Chief of Police, a license operative for the dates provided to the Clerk shall be issued without charge upon compliance with the foregoing.
- (12) Any religious organizations for which there is provided proof of tax-exempt status pursuant to [Sec. 501\(c\)\(3\) of the United States Internal Revenue Code](#) shall be exempt from the requirements set forth in Section 7-4-4(a) and (c). The provisions of Subsection (11) above shall be applicable to such organizations.
- (13) Any veteran shall be exempt from the provisions of Section 7-4-4(a) and (c) provided that such veteran provides the Clerk with the following information:
  - a. The veteran's name and permanent address.
  - b. The nature of the sales or solicitations.
  - c. Proposed dates and times of sales or solicitations.
  - d. Copy of state license.

The Clerk shall then forward the above information to the Chief of Police.

**SEC. 7-4-4 REGISTRATION.**

- (a) Applicants for registration must complete and return to the City Clerk a registration form furnished by the City Clerk which shall require the following information:
- (1) Name, permanent address and telephone number, and temporary address, if any;
  - (2) Height, weight, color of hair and eyes, and date of birth;
  - (3) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold;
  - (4) Temporary address and telephone number from which business will be conducted, if any;
  - (5) Nature of business to be conducted and a brief description of the goods offered and any services offered;
  - (6) Proposed method of delivery of goods, if applicable;
  - (7) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
  - (8) Last cities, villages, town, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
  - (9) Place where applicant can be contacted for at least seven (7) days after leaving this City;
  - (10) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offence and the place of conviction.
- (b) Applicants shall present to the City Clerk for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
  - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
  - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) Fee:
- (1) No application shall be processed until the application fee has been paid to the Clerk to cover the cost of processing said application. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
  - (2) The applicant shall sign a statement appointing the City Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
  - (3) Applicants exempt from the requirements of this Chapter hereof shall deposit with the Clerk the sum of Fifty Dollars (\$50.00). Said sum shall be refunded to such applicants upon their taking delivery of the license or licenses issued pursuant to Section 7-4-7 hereof. In the event such an applicant fails and neglects to take delivery of said license or licenses before initiating their solicitation, such deposit shall be forfeited to the City.

**SEC. 7-4-5 INVESTIGATION.**

- (a) Upon receipt of each application, the City Clerk may refer it immediately to the Chief of Police who may make and complete an investigation of the statements made in such registration.
- (b) The City Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement;

complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-4-4(b) above.

#### **SEC. 7-4-6 APPEAL.**

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Common Council or, if none has been adopted, under the provisions of [Chapter 68, Wis. Stats.](#)

#### **SEC. 7-4-7 REGISTRATION AND ISSUANCE OF LICENSE.**

- (a) Upon compliance with the foregoing requirements, filing of a bond and payment of the license fee as hereinafter set forth, the Clerk shall register the applicant as a direct seller or solicitor and issue a license to the applicant. The license shall be operative only during the days requested on the registration form.
- (b) Such license shall contain the signature of the Clerk, the name and address of the direct seller or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitations.
- (c) Registrants shall exhibit their license at the request of any citizen or police officer.

#### **SEC. 7-4-8 REGULATION OF DIRECT SELLERS.**

##### **(a) Prohibited Practices.**

- (1) A direct seller shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.
- (3) No direct seller or solicitor shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales or solicitations are made from vehicles, all traffic and parking regulations shall be observed. No direct seller or solicitor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon in excess of fifteen (15) minutes, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. Any move from a stationary location shall be to a place not less than one hundred (100) feet from such location, and the seller or solicitor shall not return to within one hundred (100) feet of any previously occupied location within four (4) hours of having moved from said location. For the purpose of this Section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and public impeded or inconvenienced.
- (4) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.

- (5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.
  - (6) No direct Seller's Permit shall be issued for the area surrounding and within 1,000 ft. of Memorial Park for the period of the Northland Mardi Gras, typically the third weekend of July, if the permit is for an item offered at the Northland Mardi Gras. *Ord. 2016-06 adopted 7/25/2016.*
- (b) **Disclosure Requirements.**
- (1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.
  - (2) If any sale of goods is made by a direct seller or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in [Sec. 423.203, Wis. Stats.](#); the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of [Sections 423.203\(1\)\(a\)\(b\) and \(c\), \(2\) and \(3\), Wis. Stats.](#)
  - (3) If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

#### **SEC. 7-4-9 TRAILERS USED FOR VENDING.**

Trailers used for vending may be permitted by action of the Common Council, provided further that operators are not relieved of complying with other laws and regulations by operation of such permit, except as to locations in which such trailer may be operated, which may be outside the commercial district if the permit so allows.

#### **SEC. 7-4-10 RECORDS.**

The Chief of Police shall report to the City Clerk all convictions for violation of this Chapter and the City Clerk shall note any such violation on the record of the registrant convicted. The decision of the City Clerk regarding revocation may be appealed to the Common Council.

#### **SEC. 7-4-11 REVOCATION OF REGISTRATION.**

- (a) Registration may be revoked by the City Clerk after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.
- (b) Written notice of the hearing shall be served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice shall 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.**

WI Stat. 167.10 as from time to time amended is hereby adopted in its entirety. This ordinance is intended as a supplement to the state statute. In case of any apparent conflict between WI Stat 167.10 and this ordinance, the State Statute shall control.

- (1) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
  - (a) Fuel or a lubricant.
  - (b) A firearm cartridge or shotgun shell.
  - (c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
  - (d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
  - (e) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used, possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
  - (f) A toy snake which contains no mercury.
  - (g) A model rocket engine.
  - (h) Tobacco and a tobacco product.
  - (i) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch outside diameter which does not contain magnesium, chlorate or perchlorate.
  - (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
  - (k) A fuseless device that is designed to produce audible or visible effect or audible and visible effects and that contains less than one-quarter grain of explosive mixture.
  - (l) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects or audible and visible effects.
  - (m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
  - (n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
  - (p) A novelty device that spins or moves on the ground.
- (2) **Sale.** No person may sell or possess with intent to sell fireworks, unless any of the following apply:
  - (a) The person sells the fireworks, or possesses the fireworks with intent to sell them to a person holding a permit under sub (3)(c).
  - (b) The person sells the fireworks, or possesses the fireworks with the intent to sell them to a city, village or town.
  - (bg) The person sells the fireworks, or possesses the fireworks with intent to sell them, to a person who is not a resident of this state.
  - (c) The person sells the fireworks or possesses the fireworks with intent to sell them, for the purpose specified under sub (3)(b)2 to 6.
- (3) **Use.**
  - (a) **Permit Required.** No person may possess or use fireworks without a user's permit from the Mayor of the city or person designated by the mayor in which the possession or use is to occur or from an official or employee of the City as designated by the Common Council. No person may use fireworks or a device listed under Subsection 1(e)-(g) and (i)-(n) while attending a fireworks display for which a permit has been issued to a person listed under

subparagraph (c) 1 to 5 or under subparagraph (c)6 if the display is open to the general public.

- (b) Permit Exceptions. Subparagraph (a) above does not apply to:
1. The City, village or town, but City fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
  2. The possession or use of explosives in accordance with rules or general orders of the department of safety and professional services.
  3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.
  4. The possession or use of explosive or combustible materials in any manufacturing process.
  5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
  6. A possessor or manufacturer of explosives in possession of a license or permit under 18 U.S.C. 841 to 848 if the possession of the fireworks is authorized under the license or permit.
  7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city where the possession of the fireworks is authorized by permit or ordinance.
- (bm) Paragraph (a) applies to a person transporting fireworks under par. (b)7 if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.
- (c) Who May Obtain Permit. A permit under this Subsection may be issued only to the following persons:
1. A public authority.
  2. A fair association.
  3. An amusement park.
  4. A park board.
  5. A civic organization.
  6. Any individual or group of individuals.
  7. An agricultural producer for the protection of crops from predatory birds or animals.
- (d) Crop Protection Signs. A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (e) Bond. The Mayor issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the City, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Clerk.
- (f) Required Information for Permit. A permit under this Subsection shall specify all of the following:
1. The name and address of the permit holder.
  2. The date on and after which fireworks may be purchased.
  3. The general kind and approximate quantity of fireworks which may be purchased.
  4. The date and location of permitted use.
  5. Other special conditions prescribed by ordinance.
- (g) Copy of Permit. A copy of a permit under this Subsection shall be given to the Fire Chief and Chief of Police at least two (2) days before the date of authorized use.
- (h) Minors Prohibited. A permit under this Subsection may not be issued to a minor.
- (4) **Out of State and In State Shipping.** This section does not prohibit a vendor from selling fireworks to a nonresident person or to a person or group granted a permit under 3(c)1 through 7. A vendor that ships fireworks sold under this subsection shall package and ship the fireworks in

accordance with applicable state and federal law.

(5) **Local Regulation.**

- (a) Subject to pars. (b) to (e), a city may enact an ordinance for any of the following:
1. Defining “fireworks” to include all items included under sub (1)(e), (f), (i), (j), (k), (l), (m) and (n).
  2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.
  3. Regulating the sale, possession or use, as defined by ordinance.
- (b) An ordinance under par (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.
- (d) A county ordinance enacted under par (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par (a).
- (e) Notwithstanding par (a) or par (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town or village or county while transporting the fireworks to a city, town or village or county where possession of the fireworks is authorized by permit or ordinance.

(6) **Storage and Handling.**

- (1) Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
- (2) Smoking Prohibited. No person may smoke where fireworks are stored or handled.
- (3) Fire Chief to be Notified. A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
- (4) Storage Distance. No wholesaler, dealer or jobber may store fireworks within fifty (50) feet of a dwelling.
- (5) Restrictions on Storage. No person may store fireworks within fifty (50) feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one (1) gallon.

(7) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(7m) **Municipal Liability.** No city, village or town, or committee, official or employee of a city, village or town, is civilly liable for damage to any person or property caused by fireworks for the sole reason that the city, village or town issued a permit in accordance with the requirements of sub (3) and any applicable requirements authorized under sub (5) that authorized the purchase, possession or use of the fireworks.

(8) **Enforcement.**

- (a) A city, village or town may petition the circuit court for an order enjoining violations of sub (2) (3) or (6) or an ordinance adopted under sub (5).
- (b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in Stat. 968.20(4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub (5) or a court order under par (a) may be destroyed after conviction for a violation. Except as provided in 968.20(4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) **Penalties.**

- (a) A person who violates a court order under sub (8)(a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.
- (b) A person who violated (2), (3) or (6) or an ordinance adopted under (5) shall forfeit not more than \$1,000.
- (c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.



**(10) Sellers Permit.**

- (a) No person may sell or possess with intent to sell fireworks without a seller's permit from the City Clerk. The fee for a seller's permit shall be as prescribed in the City's Fee Schedule per calendar year.
1. The entire permit fee shall be charged for every seller's permit per calendar year rather for the whole or fraction of the year, and shall be paid when application is made for such permit.
  2. The City Clerk shall provide an appropriate permit form as approved by the Common Council and shall maintain adequate records of the permits issued.
  3. The applicant shall particularly describe the address and structure where the permit will be used and shall at all times publically and continuously display such permit at such location. Such permit may be transferred to a new location upon payment of a new permit fee.
  4. All holders of seller's permits shall comply with all local ordinances and federal and state regulations and statutes regarding the sale, transport or storage of flammable or explosive materials.
  5. Failure to pay the applicable fee shall result in a suspension of a seller's permit until such fees are paid.
  6. Licenses shall hereunder be for a term of one (1) year; from January 1<sup>st</sup> through December 31.
  7. A Certificate of Liability Insurance in an amount not less than \$1,000,000 shall be provided listing the City of Ladysmith as an additionally insured upon application.

**(b) Suspension, Revocation or Non-renewal of Permit.**

1. Suspension for Failure to Pay Amounts Due to City. Any permit issued hereunder may be suspended for the permit holder's failure to timely pay any outstanding money owed to the City, for example but not by limitations, assessments, taxes, fees, forfeitures or penalties owed to the City. Such suspension shall become effective 72 hours after written notice of the pending suspension is personally served on the permit holder or any employee of permit holder during regular business hours. Any such suspension shall be lifted upon payment of such amounts.
2. Immediate Suspension to Effect Health and Safety. After confirming with the Police Chief or Fire Chief, in order to protect the health and safety of persons and property, the Mayor, Police Chief, or Fire Chief, or any combination may temporarily suspend any permit issued hereunder. The Police Chief, Fire Chief or Mayor shall advise the permit holder verbally or in writing, or advise any employee of the permit holder who is on the premises at the time of such suspension and the requirements to be met to lift the suspension.
3. Suspension or Revocation for Ordinance Violation. The Mayor may issue a written order suspending or revoking any seller or user permit issued hereunder for violation of any City Ordinance. The order shall give the permit holder no less than fourteen days to remedy the ordinance violation or violations or to request a hearing before the Common Council. If the permit holder requests a public hearing within the time specified in the order, the suspension shall be stayed until after the public hearing and subsequent decision on the suspension by the Common Council. If the permit holder does not timely remedy the violations or request a hearing with the Common Council the suspension or revocation shall become permanent. Nothing in this paragraph shall prevent the Mayor, Fire Chief or Police Chief from temporarily suspending any permit under paragraph 2.
4. Revocation or Nonrenewal. The Common Council, upon application by the Police Chief, Fire Chief or Mayor, may revoke or non-renew any permit issued under this Chapter for repeated or continued violation of any City Ordinance. Prior to any revocation or non-renewal, the City Clerk shall cause written notice of such pending revocation or non-renewal to be served upon the permit holder in the same manner of service of a summons in any civil proceeding commenced in the State of Wisconsin.

The permit holder shall have fourteen days to remedy the violation or violations or to request a hearing before the Common Council. *Ord. 2014-02 adopted on 6/23/2014.*

*State Law Reference: Section 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 City are primarily for the use of the public in the ordinary way. However, under proper circumstances, the City Clerk may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit, such as for block parties, to the end that the health, safety and general welfare of the public and the good order of the City can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the City Clerk and shall be filed with the City Clerk. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
  - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
  - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
  - (4) The date and duration of time for which the requested use of the street is proposed to occur.
  - (5) An accurate description of that portion of the street proposed to be used.
  - (6) The approximate number of persons for whom use of the proposed street area is requested.
  - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Review by Chief of Police and Director of Public Works.** Before any application for a Street Use Permit is considered by the City Clerk, the application shall be reviewed by the Director of Public Works and Chief of Police for their recommendation as to the affect that the temporary closing of the street will have on the public safety and traffic movement in the area during the time the street may be closed.
- (d) **Mandatory Denial of Street Use Permit** An application for a Street Use Permit shall be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
  - (2) The proposed street use would violate any federal or state law or any Ordinance of the City.
  - (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
  - (4) The application for a Street Use Permit does not contain the information required above.
  - (5) The application requests a period for the use of the street that would last later than 10:00 p.m.
  - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the City Clerk 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 which has been established in the City of Ladysmith's fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
- (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 sixty percent (60%) of the residents over

eighteen (18) years of age residing along that portion of the street designated for the proposed use. Said petition shall be verified and shall be submitted in substantially the following form.

#### PETITION FOR STREET USE PERMIT

We, the undersigned residents of the \_\_\_\_\_ hundred block of \_\_\_\_\_ Street in the City of Ladysmith, hereby consent to the \_\_\_\_\_ recreational or business use of this street between the hours of \_\_\_\_\_ and \_\_\_\_\_ on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ for the purpose of \_\_\_\_\_ and do hereby consent to the City of Ladysmith to grant a Street Use Permit for use of the said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the City of Ladysmith shall attach to the granting of the requested Street Use Permit. We further understand that the permit will not be granted for the event to last later than 10:00 p.m. on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is granted.

We designate \_\_\_\_\_ as the responsible person or persons who shall apply for an application for a Street Use Permit.

- (g) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the City and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the City on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the City of Ladysmith in an amount prescribed by the City's Schedule of Insurance Requirements. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (h) **Termination of a Street Use Permit** A Street Use Permit for an event in progress may be terminated by the Police Department if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or Ordinances of the City of Ladysmith. The Chief of Police has the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

**CHAPTER 7**

## Miscellaneous Business Licenses

- 7-7-1 Amusement Licenses  
7-7-2 Junk Dealers

**SEC. 7-7-1 AMUSEMENT LICENSES.**

- (a) **Required licenses.** No person shall engage in or follow any business or occupation in the City of Ladysmith hereinafter named without having a license for that purpose and paying a license fee hereinafter set opposite the name or description of such business or occupation:
- (1) Shooting Galleries. Etc. Operating a shooting gallery, billiard or pool table; the City of Ladysmith has established an annual fee for each gallery, billiard table or pool table, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*
  - (2) Jukeboxes. Etc. Operating jukeboxes, pinball machines and other amusement game machines; the City of Ladysmith has established an annual fee for each machine, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord 2010-10 adopted 5/6/2010.*
- (b) **License Year.** The license year for the licenses herein provided for shall end on the 30th day of June in each year, and licenses may be issued at any time in any year on payment of a proportionate part of the annual license fee.
- (c) **License Form.** Each license for jukeboxes, pinball machines and other amusement game machines shall show the serial number, type of machine and a description of the premises where located.
- (d) **License Not Transferable.** No license issued under this Section shall be transferable from one (1) location to another, nor from one (1) machine to another.

**SEC. 7-7-2 JUNK DEALERS.**

- (a) **License Required.** No person or persons, association, partnership, firm or corporation shall hereafter in the City of Ladysmith keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or secondhand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether from a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred herein to as "junk dealer."
- (b) **License Application.**
- (1) Every applicant for a license to engage in the business of junk dealer shall file with the City Clerk a written application upon a form prepared and provided by the City, signed by the applicant or applicants. Said application shall state:
    - a. The names and residences of the applicants, if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation.
    - b. The length of time such applicant or applicants, if an individual, firm or partnership, or the manager or person in charge, if the applicant is a firm or corporation, has or have resided in the City of Ladysmith; his or their places of previous employment; whether married or single; whether he or they, or any of them, have been convicted of a felony or misdemeanor and, if so, what offense, when and in what court.

- c. Whether the applicant or applicants or officers or manager of applicant has been employed by a junk dealer or has been a junk dealer.
  - d. The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled.
  - e. The premises where such business is to be located or carried on.
- (2) Each application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the Mayor.
- (c) **Inspection.**
- (1) The City Clerk shall report such application to the Chief of Police, Fire Chief or Building Inspector, who shall inspect or cause to be inspected such premises to determine whether it complies with all laws, ordinances, rules and regulations. Said premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner, shall contain no fire hazards and shall be arranged so that a thorough inspection may be made at any time by the proper, fire, building and police authorities.
  - (2) No building shall be used for the business of junk dealing unless it shall be of fireproof construction.
  - (3) Each of the premises upon which the business of junk dealer is to be carried on shall be enclosed by a proper fence or other structure not less than seven (7) feet in height, constructed so that no dust or other material may pass through. Said enclosure shall be maintained in good condition at all times. No article shall be piled so as to protrude above said enclosure.
- (d) **Location.** No premises shall be used for carrying on the business of junk dealing when more than one (1) building situated within a distance of seven hundred (700) feet are used solely for residence purposes. Any junk dealer using premises for the business of junk dealing at the time of the passage of this ordinance which does not comply with this Section may be granted a license for three (3) months, but said license shall not be renewed.
- (e) **Fee.**
- (1) Upon the filing of such application, the applicant shall pay to the City Treasurer the fee, or fees, incidental to such application as hereinafter required. Upon approval of such application and after investigation, the City of Ladysmith shall issue to the applicant a license to engage in business as provided in Subsection (a). No license shall be refused, except for a specified reason.
  - (2) All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the junk business, the date of issuance and expiration of the license and the name and address of the licensee. No applicant to whom a license has been refused shall make application until a period of at least six (6) months has elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists.
- (f) **License Issuance, Term, Additional Vehicle Fee.**
- (1) Every junk dealer shall pay an annual license fee. The City of Ladysmith has established fees for processing the specified license, which fee schedule is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.* All licenses shall be issued as of July 1st and shall continue in force until June 30th next succeeding the date of issuance thereof, unless sooner revoked.
  - (2) In the event applicant for any of the licenses referred to above shall be made after July 1st of any year for a remaining period of a calendar year, the fee shall be prorated by quarters.
  - (3) Each holder of a junk dealer's license shall be entitled to have, keep and operate one (1) vehicle in connection with said business for the purpose of collecting junk within the City of Ladysmith. For each additional vehicle used in and about said business for the purpose of collecting junk within the municipal limits the additional sum can be found in the City of Ladysmith's fee schedule which is permanently on file in the Clerk's office and will be made available for inspection upon request. *Ord. 2010-10 adopted 5/6/2010.*

- (g) **Operation.**
- (1) No junk dealer shall carry on the business at or from any other place than the one designated in the license therefor nor shall said business be carried on after such license has been revoked or has expired.
  - (2) No junk dealer shall make any purchase from any person or receive any articles between 9:00 p.m. and 8:00 a.m.
  - (3) No junk dealer shall purchase or acquire from any person under the age of eighteen (18) years any junk, other than old rags or paper, without the written consent of a parent or guardian. No item shall be acquired from any intoxicated person.
  - (3) The contents of the premises of every junk dealer shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities.
  - (4) The premises of every junk dealer shall be subject to inspection by the proper municipal authorities at any time.
  - (5) All articles received shall be retained for ten (10) days before disposal. This shall not apply to old rags or paper.
- (h) **Health Requirements.** The Building Inspector shall formulate reasonable rules and regulations relating to the conduct of the business of junk dealing which shall protect the health of the community. No junk dealer shall violate any such rule or regulation.
- (i) **Purchase and Pawn of Articles Forbidden.** No licensee hereunder shall receive in the course of his business any article by way of purchase or pawn, and he shall not loan or advance any sums of money on the security of any article or thing.
- (j) **Inspection Requirements.** Every licensee with a fixed or established place of business shall, on demand, exhibit to any officer of the Police Department any and all goods bought or received and give his name, residence and description of the person from whom such goods are purchased or received. The licensee shall keep a written record containing the name and residence of the person selling any such goods, together with an accurate description thereof.
- (k) **Purchase and Receiving Metal Requirements.** No licensee having a fixed place of business shall purchase or receive any new or old metals or metal products, automobiles or parts thereof, or any material composed wholly or in part of any metal, without obtaining a written statement in the English language, describing the articles being purchased or received and shall set forth the date when such articles were received by such person and from whom; all such statements shall be preserved for at least one (1) year. The burden of proving ownership and the right to transfer any such articles mentioned in this paragraph shall be assumed and maintained by the licensee under this Section.
- (l) **Lost and Stolen Articles.** If any goods, articles or things whatsoever shall be advertised in any newspaper printed in the City as having been lost or stolen and the same or any answering the description advertised or any part or portion thereof shall be or come into the possession of any junk merchant or peddler, he shall give information thereof, in writing, to the Chief of Police and state from whom the same was received. Any junk merchant or peddler who shall have or receive any goods, articles or things lost or stolen or alleged or supposed to have been lost or stolen shall exhibit the same on demand to any police officer or to the, Chief of Police or any magistrate or any person duly authorized in writing by the Chief of Police or any magistrate who shall exhibit such authorization to such dealer or peddler.
- (m) **Violation Procedure.**
- (1) Upon complaint being made in writing by any municipal official or resident of the City to the City Clerk that any licensee has violated any of the provisions of this Chapter, the Common Council shall summon such licensee to appear before them at the time specified in the summons, which shall be not less than three (3) days after the date of the service thereof, to show cause why his license shall not be revoked. The Common Council shall proceed to hear the matter and if he finds the allegations of said complaint are correct, he shall revoke said junk dealer's license.
  - (2) Whenever any license shall be so revoked, no refund of any unearned portion of the fee therefor shall be made and no license shall be granted to any person, firm, partnership, association or corporation whose license has been so revoked within a period of five (5) years



from the date of such revocation. Notice of such revocation and the reason or reasons therefor in writing shall be served by the Common Council upon the person, firm, partnership, association or corporation named in the application by mailing the same to the address given in the application and upon filing a copy of the same with the City Clerk.

**CHAPTER 8**

## Licensees to Pay Local Claims; Appellate Procedures

7-8-1 Licensees Required To Pay Local Taxes, Assessments and Claims;  
Appellate Procedures

**SEC. 7-8-1 LICENSEES REQUIRED TO PAY LOCAL TAXES, ASSESSMENTS AND CLAIMS.**

- (a) **Payment of Claim as Condition of License.** The City shall not issue or renew license to transact any business within the City of Ladysmith:
- (1) For any purposes for which taxes, assessments or other claims of the City are delinquent and unpaid.
  - (2) For any person who is delinquent in payment:
    - a. Of any taxes, assessments or other claims owed the City; or
    - b. Of any forfeiture resulting from a violation of any City Ordinance.
- (b) **Exception.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapter 1.
- (c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Appeals; Notice and Hearing.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by [Section 125.12, Wis. Stats.](#), as amended from time to time.
  - (2) With respect to licenses other than those described in Subsection (a) herein, the Common Council or its assignee shall notify the applicant in writing of the City's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Common Council. If the applicant shall fail to appear before the Council on the date indicated on the notice, the Council shall deny the application for renewal. If the applicant appears before the Council on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Common Council shall conduct a hearing with respect to the matter. At the hearing, both the City and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Common Council determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.
- (e) **Other License Denial Appeals.** Where an individual, business or corporation wishes to appeal the City Clerk's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Clerk that the matter be referred to the Common Council. A public hearing shall be scheduled within fourteen (14) calendar days by the Common Council. All parties may be represented by counsel. The Council shall consider all relevant information and shall render a decision which shall be binding.