

## **CHAPTER 12      LICENSES AND PERMITS**

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## LICENSES AND PERMITS 12.01

12.01 LICENSES REQUIRED. A license shall be required for the sale of each of the following or the conduct of business or activity at the indicated license fee. The license fees shall be for one year unless otherwise indicated.

(1) CIGARETTE LICENSE. \$100. (Previous Auction License fee repealed and recreated #647, 05/18/2004.) (Am. #760, 7/2008)

(2) (Repealed #883, 5/20/2014)

(3) (Repealed #647, 05/18/2004)

(4) DOGS.

(a) Neutered Males and Spayed Females. \$5. (Am. #760, 7/2008)

(b) Unspayed Females or Males. \$12. (Am. #760, 7/2008)

(c) (Repealed #760, 7/2008)

(5) FERMENTED MALT BEVERAGES.

(a) Class "A" Beer. \$250. (Am. #887, 06/14/2014)

(b) Class "B" Beer. \$100. (Am. #760, 7/2008)

(c) (Repealed #760, 7/2008)

(d) Wholesaler's Beer License. \$25. (Am. #760, 7/2008)

(e) Operator's License. \$60. The license fee shall be prorated on the basis of the number of months remaining in the license period of issuance. (Am. # 811, 5/18/2010)

(f) (Repealed #760, 7/2008)

(g) Class "C" Wine License. \$100. The license fee shall be prorated on the basis of the number of months remaining in the license year. (Cr. #388, 1993)

(h) Provisional Operator. \$15. (Cr. #760, 7/2008)

(i) Temporary Operator. \$15. (Cr. #760, 7/2008)

(j) Temporary Class "B". \$10. (Cr. #760, 7/2008)

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- (k) Reserve "Class B". Initial issuance fee for each new owner, \$10,000. (Cr. #760, 7/2008)
- (6) FILLING STATIONS. See Sec.12.13.
- (7) (Repealed #647, 05/18/2004)
- (8) INTOXICATING LIQUOR.
  - (a) Retail Class "A" Liquor License. \$500. (Am. #760, 7/2008) (Am. #922, 6/2016)
  - (b) Retail Class "B" Liquor License. \$500. (Am. #922, 6/2016)
  - (c) (Repealed #647, 05/18/2004)
  - (d) Temporary Class "B". \$10. (Cr. #760, 7/2008) (Am. #922, 6/2016)
- (9) (Repealed #888, 06/17/2014)
- (10) JUNK AND SALVAGE YARDS. \$10.
- (11) MOBILE HOMES AND PARKS.
  - (a) Mobile Home Parks. \$2/space but not less than \$25.
  - (b) Mobile Homes. As provided in Sec.66.058, Wis. Stats.
- (12) DIRECT SELLERS. \$15. (Am. #487, 1997)
- (13) PUBLIC AMUSEMENTS.
  - (a) Circuses, Carnivals, etc.
    1. Seating capacity of more than 400. \$15 for the first day and \$10 for each day thereafter.
    2. Seating capacity of less than 400. \$10 for the first day and \$8 for each day thereafter.
  - (b) Theatrical Performances, Shows, Exhibitions, etc. \$5 for each day thereafter.
  - (c) (Repealed #888, 06/17/2014)

(d) (Repealed #888, 06/17/2014)

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(e) Miniature Golf Courses. (Am. #119) \$25.

(f) Golf Driving Ranges. (Am. #119) \$25.

(g) Ice and Roller Skating Rinks. \$50.

(h) Rides, Games of Chance and Skill, etc. \$5/day for each ride or game, etc.

(i) Sales of Goods, Wares and Merchandise. Where any event or activity licensed under this chapter is accompanied by the sale of goods, wares or merchandise, the licensee shall pay an additional fee of \$10 if the license is an annual one, or \$5/per if the license is a daily license.

(14) (Repealed #866, 3/19/13)

(15) TAXICABS. See Sec.12.11(6).

(16) PAWN BROKERS, SECOND-HAND ARTICLE DEALERS, SECOND-HAND JEWELRY DEALERS AND SECOND- HAND ARTICLE DEALER MALLS. Licenses Issued pursuant to §134.71 Wis. Stats. Fees as scheduled in §134.71(11) Wis. Stats. (cr. #770, 11/18/2008)

12.02 ISSUANCE AND REVOCATION OF LICENSES.

(1) LICENSE REQUIRED. No person shall engage in any business or activity enumerated in Sec.12.01 without a license or permit therefor as provided by this chapter. The words "license" and "permit" as used throughout this chapter shall be considered interchangeable.

(2) APPLICATION. Application for a license under this chapter shall be made to the City Clerk on a form furnished by the City. Such application shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the City Council.

(3) PAYMENT OF LICENSE FEE. License fees imposed under Sec.12.01 shall accompany the license application. If a license is granted, the City Clerk shall issue the applicant a receipt for his license fee.

(4) REFUND OF LICENSE FEE. No fee paid shall be refunded unless the license is denied, except in the case of retail class "B" liquor licenses, upon the surrender and reissuance of such license the surrendering license holder shall receive as a refund a sum equal to the prorated license fee under Section

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12.03(3)(d)1. of the City Ordinances effective November 1, 1993. (Am. #401, 1993)

(5) GRANTING OF LICENSES. The City Clerk may issue the following licenses subject to the standards established by this chapter without prior approval of the Council:

- (a) (Deleted).
- (b) (Deleted).
- (c) Auctions.
- (d) Dog licenses.
- (e) Public amusements and entertainments.

All other licenses shall be issued by the Council unless otherwise designated.

(6) TERMS OF LICENSES. All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these ordinances or State laws.

(7) FORM OF LICENSE. All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the City Clerk.

(8) RECORD OF LICENSES. The City Clerk shall keep a record of all licenses issued.

(9) DISPLAY OF LICENSES. All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the City upon request.

(10) COMPLIANCE WITH ORDINANCES REQUIRED. It shall be a condition of holding a license under this chapter that the licensee comply with all ordinances of the City. Failure to do so shall be cause for revocation of the license.

(11) TRANSFER OF LICENSES. All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Council.

(12) EXEMPTIONS. No license other than a liquor or beer license shall be required under this section for any nonprofit educational, charitable, civic,

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military, or religious organization where the activity which would otherwise be licensed is conducted for the benefit of the members or for the benefit of the public generally.

(13) RENEWAL OF LICENSES. All applications for renewal of licenses hereunder shall be made to the City Clerk by April 15.

(14) CONSENT TO INSPECTION. An applicant for a license under this chapter thereby consents to the entry of police or authorized City representatives upon licensed premises at all reasonable hours for inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or State law.

(15) REVOCATION OF LICENSES.

(a) Except as provided in Sec.12.03(11), any license issued under this chapter may be revoked for cause by the City Council. No license shall be revoked except upon written verified complaint filed with the City Council, by the Mayor, a member of the Council, the Chief of Police or a City resident. The licensee shall be served with a copy of the written charges and shall be given an opportunity to be heard before the City Council. The licensee shall be given notice of the hearing before the City Council which shall be not more than 20 nor less than 5 days after notice, except as otherwise agreed between the parties.

(b) At such hearing the licensee shall be entitled to be represented by counsel, shall have the right to present and cross-examine witnesses and, upon request, may have subpoenas issued by the Mayor or presiding officer of the City Council to compel the attendance of witnesses.

(c) After hearing the evidence, the City Council may revoke such license or impose a limited period of suspension. The determination of the Council shall be final.

(d) The Mayor or City Council may suspend the license of a licensee hereunder without hearing for not to exceed 10 days.

(e) The Police Department shall repossess any license revoked hereunder.

(16) PAYMENT OF FEES. No license under this chapter shall be issued to applicants with unpaid, overdue, delinquent or otherwise outstanding fines, forfeitures, penalties, assessments, personal property taxes and/or user fees owed to the City. (Amended # 858, 09/18/12).

12.03 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES (REP. & RECR. #761, 7/2008)

- (1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., relating to intoxicating liquors and fermented malt beverages, inclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of such statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision shall be a violation of this section. Any future amendments, revisions or modifications of the State Statutes are incorporated herein and are intended to be made part of this section in order to secure uniform Statewide regulation in the area of intoxicating liquors and fermented malt beverages.
- (2) DEFINITIONS. Whenever the following terms are used in this chapter, they shall be construed as follows:
  - A. Alcohol beverages. Means fermented malt beverages, wine and intoxicating liquor.
  - B. Brewer. Means any person who manufactures fermented malt beverages for sale or transportation.
  - C. Brewery premises. Means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.
  - D. Club. Means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and that only sells alcohol beverages incidental to its operation.
  - E. Department. Means the State of Wisconsin Department of Revenue.
  - F. Fast food restaurant. Means a restaurant serving food primarily prepared in advance and sold to its customers at a counter, and/or a restaurant utilizing a drive-through facility.
  - G. Fermented Malt beverages. Means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without un-malted grains or decorticated and de-germinated grains or sugar containing one-half percent (0.5%) or more of alcohol by volume.
  - H. Full-service restaurant. Means a restaurant where meals are primarily prepared individually for the customer and are served to customers at their table

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by wait staff. A restaurant that is a fast food restaurant, or that has drive-through facilities is not considered a full-service restaurant.

I. Intoxicating liquor. Means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half percent (0.5%) or more of alcohol by volume, which are beverages, but does not include 'fermented malt beverages' that contain less than five percent (5%) of alcohol by weight.

J. Legal drinking age. Means twenty-one (21) years of age.

K. License. Means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.

L. Permit. Means any permit issued by the department under this chapter.

M. Person. Means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.

N. Premises. Means the area described in a license or permit.

O. Principal business. Means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.

P. Restaurant. Has the meaning as defined in Sec. 254.61(5), Wis. Stats., and whose sale of alcohol beverages accounts for less than fifty percent (50%) of the establishment's gross receipts.

Q. Sell, sold, sale or selling. Means any transfer of alcohol beverages with consideration, or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages, or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

R. Under the influence. Means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition that is the result of indulging to any degree in alcohol beverages and that tends to deprive a person of the clearness of intellect and control of himself or herself that he or she would otherwise possess.

S. Underage person. Means a person who has not attained the legal drinking age.

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T. Wholesaler. Means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

U. Wine. Means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sakes, is such products contain one-half percent (0.5%) or more of alcohol by volume.

(3) LICENSES REQUIRED. No person, except as provided by sub. (1), shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in or for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage or cause the same to be done without having procured a license or permit as provided in this section nor without complying with all the provisions of this section and all statutes, ordinances and regulations of the State and City applicable thereto.

(4) CLASSES OF LICENSES. There shall be the following classes of licenses which, when issued by the City Clerk under the authority of the City Council after payment of the fees specified in Sec. 12.01 of this chapter, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in Sec 125.17, 125.25, 125.26, 125.28, 125.51 and 125.57, Wis. Stats.

A. Class A Licenses.

1. A Class "A" license authorizes retail sales of fermented malt beverages within the City of Sparta, for consumption elsewhere than on the premises where sold.

2. A "Class A" license authorizes retail sales of all alcohol beverages within the City of Sparta, for consumption elsewhere than on the premises where sold.

3. A "Class A" license for the retail sale of cider, as defined in §125.51(2)(e)1 Wis. Stats, subject to the conditions and limitations set forth in §125.51(e) Wis. Stats. (Cr. #912, 8/19/2015).

B. Class B Licenses.

1. Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers may be removed from the premises where sold.

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2. A "Class B" license authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises.

3. Reserve "Class B" license as defined in Sec. 125.51(4)(a)4., counted under Sec. 125.51(4)(br), Wis. Stats. and subject to a \$10,000 initial issuance fee under the circumstances required by Sec. 125.51(3)(e) 2., Wis. Stats.; authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises.

4. 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 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.

5. 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 6 months before the date of application and to posts of veterans' organizations authorizing the sale of wine 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. No fee may be charged to a person who at the same time applies for a temporary Class "B" license for the same event.

C. "Class C" License. A "Class C" license authorizes the retail sale of wine by the glass or in opened original containers for consumption on the premises where sold. A "Class C" license may be issued for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold.

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D. Wholesaler's License. A Wholesaler's license shall permit its holder to sell and keep for sale, within the City of Sparta, alcohol beverages in their original packages or containers to dealers to be consumed elsewhere than on the premises where stored or sold.

E. Operator's License.

1. Regular Operator's Licenses may be issued to a qualified person by the Public Safety Committee for a period of up to two years. All licenses will expire bi-annually on June 30<sup>th</sup> in even numbered years. (Am. # 811, 05/18/2010)

2. Provisional Operator's licenses may be issued to a qualified person by the City Clerk for a period not to exceed 60 days. No provisional license may be issued to any person who has been denied an operator's license. The City Clerk may revoke the license if the City Clerk discovers that the holder of the license made a false statement on the application or is not otherwise qualified.

3. Temporary Operator's licenses may be issued to a qualified person employed by, or donating their services to, nonprofit corporations. Temporary Operator's licenses are issued by the City Clerk for a period not to exceed 14 days.

### (5) LICENSE APPLICATION.

A. Licenses for premises. All applications, except for operator's license, shall be made in writing on the form prescribed by the State Department of Revenue and shall be sworn to by the applicant as provided by Sec. 887.01, Wis. Stats., and shall be filed with the City Clerk not less than 15 days before the next meeting of the Public Safety Committee. The premises shall be physically described on the application 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.

1. The City Clerk shall notify the Police Department, Fire Chief and Building Inspector of all license and permit applications, and these officials shall review or cause to be inspected each original application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the approving authority in writing any reasons why the license or permit should not be issued. No license or permit provided for in this section shall be issued until such premises are in compliance with applicable regulations, ordinances and laws. The

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above officers may also review or cause to be inspected all renewal applications and any premises being licensed.

2. A license for a premises may be denied unless the applicant meets the following requirements:

- a. Has been a resident of the State of Wisconsin for at least ninety (90) days prior to applying for such license.
- b. Is at least 21 years of age.
- c. Has successfully completed a Responsible Beverage Server Training Course pursuant to Sec. 125(04(5)(a)5., Wis. Stats.
- d. Provides documentary proof of his/her right to possession of the premises sought to be licensed upon request by the City.
- e. Provides proof under Sec. 77.61(11), Wis. Stats. That he/she is the holder of a seller's permit.

f. Does not have an arrest or conviction record of offenses which substantially relate to the circumstances of the licensed activity. For purposes of this section "offenses which substantially relate to the circumstances of the licensed activity" shall include, but are not limited to the following:

- (1) Any non-felony alcohol related conviction or pending charges within the last twelve (12) months.
- (2) A history of non-felony alcohol related convictions as long as the most current conviction or arrest is within the last twenty-four (24) months.
- (3) Any non-felony drug related convictions or pending charges within the last twelve (12) months.

(4) Any non-felony conviction or pending charges within the last twelve (12) months which involve resisting arrest, battery to a police officer or obstructing justice in direct connection to activity at a licensed alcohol establishment.

(5) Two (2) or more non-felony convictions or pending charges in the last twenty-four (24) months for disorderly behavior type offenses if they occurred in direct connection to activity at a licensed alcohol establishment.

(6) One (1) or more felony conviction(s) in the last five (5) years involving alcohol, drugs or other behavior if it occurred in direct connection to activity at a licensed alcohol establishment.

(7) Any other arrest or conviction that is reasonably determined to be substantially related to the circumstances of the licensed activity. The reasons for such a determination shall be stated in writing with particularity by the governing body making said determination.

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3. No retail Class "A", "Class A", Class "B" or "Class B" license shall be issued for a premises when:

- a. It is located less than 500 feet from any established public school, parochial school, hospital or church. Such distance shall be measured via the shortest rout along the highway from the closest point of the boundary of such school, hospital or church to the closest entrance to such premises. This paragraph 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 500 feet thereof by any school, hospital or church building.
- b. It fails to conform to the sanitary, safety and health requirements of the State Department of Health and Social Services applicable to restaurants set forth in Sec. 125.68(5), Wis. Stats.
- c. It is intended to be used to sell intoxicating liquor or fermented malt beverages by drive thru window.
- d. (Repealed #794, 8/18/09)

4. Temporary Class "B" and Temporary "Class B" license applications shall include a plan for the area to be licensed. The City Clerk shall submit the plan to the Police Chief, Fire Chief and Building Inspector for review and comment. The plan shall address the following issues:

- a. Location.
- b. Fencing.
- c. Entrance and Exits
- d. Tables, Chairs and Trash Receptacles. A seating plan should be submitted and reviewed by the Fire Department to establish occupancy load. Seating capacity should be clearly posted. Trash receptacles will be required.
- e. Use of Right-of-Way. No outdoor area shall be located on a dedicated public right-of-way.
- f. Setback from Public Right-of-way. A minimum 20' setback from the public right-of-way. Exceptions may be requested for those lots not able to accommodate 20'.
- g. Hours of Operation.
- h. Staffing. At least one licensed bartender must be staffing the area.

B. Regular Operator's Licenses. Application for operator's licenses shall be made in writing on a form provided by the City Clerk and filed with the City Clerk not less than seven (7) days before the next meeting of the Public Safety Committee.

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1. The City Clerk shall refer the application to the Chief of Police for a records check. The Chief of Police shall report his findings to the Public Safety Committee.
2. An operator's license may be denied to any person who:
  - a. Is under the age of 18.
  - b. Has not successfully completed a Responsible Beverage Server Training Course.
  - c. Has an arrest or conviction record of offenses which substantially relate to the circumstances of the licensed activity. For purposes of this section "offenses which substantially relate to the circumstances of the licensed activity" shall include, but are not limited to the following:
    - (1) Any non-felony alcohol related conviction or pending charges within the last twelve (12) months.
    - (2) A history of non-felony alcohol related convictions as long as the most current conviction or arrest is within the last twenty-four (24) months.
    - (3) Any non-felony drug related convictions or pending charges within the last twelve (12) months.
    - (4) Any non-felony conviction or pending charges within the last twelve (12) months which involve resisting arrest, battery to a police officer or obstructing justice in direct connection to activity at a licensed alcohol establishment.
    - (5) Two (2) or more non-felony convictions or pending charges in the last twenty-four (24) months for disorderly behavior type offenses if they occurred in direct connection to activity at a licensed alcohol establishment.
    - (6) One (1) or more felony conviction(s) in the last five (5) years involving alcohol, drugs or other behavior if it occurred in direct connection to activity at a licensed alcohol establishment.
    - (7) Any other arrest or conviction that is reasonably determined to be substantially related to the circumstances of the licensed activity. The reasons for such a determination shall be stated in writing with particularity by the governing body making said determination.
  - d. Has outstanding fines, forfeitures, penalties, assessments and/or user fees owed to the City.

C. Provisional Operator's Licenses. Application for provisional operator's licenses shall be made in writing on a form provided by the City Clerk. The City Clerk may issue a provisional operator's license to any person provided the applicant has:

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1. Not previously been denied a license.
2. Has applied for a regular operator's license.
3. Has enrolled in a Responsible Beverage Server Training Course.
4. Received approval of the City Police Department that they do not have an arrest or conviction record of offenses which substantially relate to the circumstances of the licensed activity. For purposes of this section "offenses which substantially relate to the circumstances of the licensed activity" shall include, but are not limited to the following:
  - (a) Any non-felony alcohol related conviction or pending charges within the last twelve (12) months.
  - (b) A history of non-felony alcohol related convictions as long as the most current conviction or arrest is within the last twenty-four (24) months.
  - (c) Any non-felony drug related convictions or pending charges within the last twelve (12) months.
  - (d) Any non-felony conviction or pending charges within the last twelve (12) months which involve resisting arrest, battery to a police officer or obstructing justice in direct connection to activity at a licensed alcohol establishment.
  - (e) Two (2) or more non-felony convictions or pending charges in the last twenty-four (24) months for disorderly behavior type offenses if they occurred in direct connection to activity at a licensed alcohol establishment.
  - (f) One (1) or more felony conviction(s) in the last five (5) years involving alcohol, drugs or other behavior if it occurred in direct connection to activity at a licensed alcohol establishment.
  - (g) Any other arrest or conviction that is reasonably determined to be substantially related to the circumstances of the licensed activity. The reasons for such a determination shall be stated in writing with particularity by the governing body making said determination.
5. (Repealed #794, 8/18/09)

D. Temporary Operator's License. Application for temporary operator's licenses shall be made in writing on a form provided by the City Clerk. The City Clerk may issue a temporary operator's license to any person provided the applicant is employed by, or donating their services to, nonprofit corporations. Temporary Operator's licenses are issued by the City Clerk for a period not to exceed 14 days. No person may hold more than one license of this kind per year.

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E. Incomplete or False Applications. Applications submitted to the City Clerk which are incomplete or which contain false or misleading information may be denied unless there is strong mitigating circumstances. If an applicant is denied because of an incomplete or false application, such applicant must wait six (6) months before resubmitting an application.

F. Amendments to Applications. Whenever anything occurs to change any fact set out in the application of any license, such licensee shall file with the City Clerk a notice in writing of such change within 10 days after the occurrence thereof.

### (6) LICENSES RESTRICTIONS.

A. License Issued in Violation. No license or permit may be issued to any person except as provided in this chapter. Any license or permit in violation of this chapter is void.

B. License Quota. The number of persons and places that may be granted a retail "Class B" liquor license under this section is limited as provided in Sec. 125.51(4), Wis. Stats.

C. Issuance for Sales in Dwelling Prohibited. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

D. Gambling and Disorderly Conduct Prohibited. Each licensed and permitted premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous, indecent conduct or gambling shall be allowed at any time on any such premises.

E. Employment of Minors. No licensee shall employ any person under 18 years of age to serve, sell, dispense or give away any alcohol beverage.

F. Servers Not to Be Intoxicated. No person serving alcoholic beverages shall be intoxicated. Intoxication shall mean having a breath or blood alcohol content of .08 or more. (Created #824, 11/16/2010)

G. Servers to Submit to Preliminary Breath Test (PBT). A person serving alcoholic beverages at a licensed establishment shall submit to a PBT at the request of a law enforcement officer who has reasonable suspicion to believe the server is intoxicated. (Created #824, 11/16/2010)

### (7) TRANSFER OF LICENSES.

A. From Person to Person.

## LICENSES AND PERMITS 12.03(7)A(1)

1. Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without City Council approval. If the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application, then under such circumstances or others deemed sufficient by the City Council in its discretion, the City Council may, upon application, transfer the license to the licensee's designee provided such designee complies with all the requirements under this chapter applicable to original applicants, except that a surviving spouse shall be exempt from payment of the license fee for the year in which the transfer takes place.

2. Upon the happening of any of the events under paragraph (1) above, the personal representative, the surviving spouse, if a personal representative is not appointed, the trustee, or the receiver may continue to sell or assign the business.

B. From Place to Place. A license may only be transferred to another place or premises with the City Council's approval. The City Council may permit one

transfer during the license year provided the licensee proves to the City Council's satisfaction the new premises is in full and complete compliance with all state and city laws, regulations and ordinances; the owner and/or lien holder of the existing premises consents to the transfer in writing, and that such transfer is not detrimental to the public interest. Application to transfer shall be filed with the City Clerk along with payment of a transfer fee in the amount of ten dollars (\$10). In the event the City Council approves the transfer the City Clerk shall promptly notify the department of all transfers.

(8) CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverage:

A. If a wholesale license, between 5pm and 8am, except on Saturday when the closing hour shall be 9pm.

B. If a retail Class "A" license, between midnight and 6:00 a.m. (Am.# 887-, 06/14/2014)

C. If a retail "Class A" license, between 9pm and 8am.

D. If a retail Class "B" or "Class B" license, between 2am and 6am on weekdays and between 2:30am and 6am on Saturdays and Sundays. On January 1, premises operating under a Class B license are not required to close. No package, container or bottle sales may be made after midnight.

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E. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, may remain open for the conduct of their regular business but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

F. If a premises which includes outdoor premises, between 10pm and 10am for the outdoor portion of the premises.

(9) REVOCATION OF ALCOHOL BEVERAGE LICENSE FOR FAILURE TO OPERATE BUSINESS.

A. Any holder of an alcohol beverage license issued by the City of Sparta is required to use the issued license on the premises which it applies no less than 120 days during the term of such license and at least once every 30 days.

B. The City may revoke or refuse to renew the license of any person who fails to use an alcohol beverage license for the minimum period required in paragraph (A) above. The proceedings for the revocation or such license or refusal to renew such license may be instituted in the manner and under the procedure established in Sec. 125.12, Wis. Stats., and these ordinances.

(10) UNDERAGE PERSONS IN PLACES OF SALES. Pursuant to Sec. 125.07(3)(a)8., Wis. Stats., a person under the legal drinking age may enter and remain on Class "B" or "Class B" premises provided as follows:

A. Such person enters or remains in a room on such licensed premises separate from any room where alcohol beverages are sold or served.

B. Prior to the specific date for which authorization is sought, the Class "B" or "Class B" licensee submits a written request to the office of the City Clerk for written authorization from the Police Department.

C. The Public Safety Committee of the City of Sparta approves such written request. The Police Department makes a determination that the presence of persons under the legal drinking age on the licensed premises will not endanger their health, welfare or safety or that of other members of the community and issues written authorization.

D. No alcohol beverages are furnished or consumed by any person in the room where the underage person is present.

E. The licensee obtains a separate authorization for each date on which persons under the legal age will be present on the premises.

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(11) LICENSE REVOCATION, SUSPENSION OR NON RENEWAL. The following provisions shall apply to the revocation, suspension or non renewal of any license issued pursuant to this chapter.

A. Complaint. Any City resident may file a sworn written complaint with the City Clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:

1. The person has violated any provision of this chapter.
2. The person keeps or maintains a disorderly or riotous, indecent or improper house.
3. The person has sold or given away any intoxicant to any underage person, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards.
4. The person has failed to maintain the premises according to standards prescribed for sanitation by the state division of public health, or in whose premises persons are permitted to loiter for purposes of prostitution.
5. The person has not observed and obeyed any lawful order of the City Council or City police officers.
6. The person does not possess the qualifications required under this chapter to hold the license.
7. The person has been convicted of manufacturing or delivering a controlled substance; of possessing, with intent to manufacture or deliver, a controlled substance; or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance under a substantially similar federal law or a substantially similar law of another state.
8. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver a controlled substance.

B. Notice of hearing on complaint. Upon the filing of the complaint, the City shall issue a notice of hearing on complaint, signed by the Clerk and directed to any peace officer in the municipality who shall serve said notice upon the licensee in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court. The notice shall set forth the nature and content of the

## LICENSES AND PERMITS 12.03(11)B

complaint filed with the City and shall command the licensee complained of to appear before the City Council on a day and time and at a place named in the notice, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The notice and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear.

### C. Hearing procedure.

1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the City Council finds the allegations sufficient, the license shall be revoked. The Clerk shall give notice of the revocation to the person whose license is revoked.

2. The Mayor, or their designee, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Sec. 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

3. If the licensee appears as required by the notice and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. All proceedings and testimony shall be transcribed. The City Clerk shall mark and receive all exhibits admitted into the record.

### D. City Council decision.

1. Within twenty (20) days of the hearing completion, the City Council shall submit its findings of fact, conclusions of law and decision. The City Clerk shall provide the complainant and the licensee with a copy of the decision and any sanctions imposed.

2. The City Council decision shall be a final determination for purposes of judicial review.

3. If the City Council finds the complaint is true, it shall determine the sanctions to be imposed against the licensee. Sanctions include a warning, a fine not to exceed \$500, suspension of license or revocation of license. The licensee shall pay to the City the actual cost of the proceedings.

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4. If the City Council finds the complaint untrue, the proceeding shall be dismissed without cost to the accused.

E. Effect of revocation. When a license is revoked under this subsection, the City Clerk shall record the revocation and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation.

F. Judicial review. The City Council action in granting or failing to grant, suspending or revoking any license, or the failure of the City Council to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or City resident.

G. Non renewal of license. The City attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the City Council to hear evidence that a license issued pursuant to this chapter should not be renewed. The City Council shall, in writing, notify the licensee of the consideration of non renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non renewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommend for non renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. The commencement of this action shall stay action by the City Council on the licensee's application until the decision of the City Council is final.

H. Other provision. Any license issued pursuant to this order shall be subject to such further regulations and restrictions as the City Council of the City of Sparta may impose by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations his/her 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.

(12) NUDITY, NUDE ENTERTAINMENT BANNED. This section and the next section bans nude, semi-nude and other sexually explicit performances on premises that have municipal liquor and beer licenses. Persons who violate these sections are subject to penalties and license revocation. In enacting this section, the City of Sparta finds as follows:

A. There is a direct relationship between alcoholic beverage consumption and nude and semi-nude activities and an increase in criminal activities, moral

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degradation and the disturbances of the peace and the good order of the community. The concurrences of these activities are hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.

B. The combination of the sale and consumption of alcoholic beverages with the performance of nude and semi-nude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce and total community environment in the City.

C. In order to promote and preserve the public peace and good order and to safeguard the health, safety, morals and welfare of the community and the citizens thereof, it is necessary and advisable for the City to prohibit certain forms of nude and semi-nude acts, exhibitions, entertainment at commercial establishments at which alcoholic beverages are, or are available, to be sold or consumed.

D. The particular combination of liquor, nudity and sex could be construed as a subliminal endorsement of unlawful sexual harassment.

E. There are significant secondary effects of adult entertainment establishments including prostitution, sexual assault and other criminal activity.

(13) PROHIBITED ACTS

A. It shall be unlawful for any person to perform, or for any licensee, 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 that:

1. Expose his or her genitals, pubic hair, perineum, anal region or pubic hair region; or
2. Expose any devise, costume or covering that gives the appearance of or simulates genitals, pubic hair, perineum, anal region or pubic hair region; or
3. Exposes any portion of the female breast at or below the areola thereof; or
4. To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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B. It shall be unlawful for any licensee, manager or agent of the licensee knowingly to permit any exhibition prohibited by subparagraph (A) to be exposed for viewing by persons within the licensed premises.

### (14) EXTENSION OF CLASS "B"/"CLASS B" LICENSE BEYOND THE BUILDING PREMISES.

A. Any retail Class "B"/"Class B" license issued shall limit and restrict the consumption of fermented malt beverages and intoxicating liquors as defined in Ch. 125, Wis. Stats., to the building premises so defined on the liquor license application unless, prior to the application of a liquor license or renewal thereof, approval has been obtained from the Plan Commission for an outdoor facility.

B. Upon making application to the Plan Commission, the person shall submit a site and landscape plan of the entire parcel showing the outdoor facility designating its location with respect to the main premises and other buildings on the site, designating entrances and exits of both the main structure and outdoor facility and the location of the outdoor facility with respect to buildings on adjoining sites and such other information as the Plan Commission may require to ensure compliance with this Code of Ordinances.

C. The Plan Commission shall consider the following guidelines when reviewing an application for an outdoor facility:

1. Location. The outdoor area may not be within a 150' setback from properties zoned residential. (Am. # 815, 08/17/10)
2. Fencing. The outdoor area should be enclosed with a fence. The height and style of fence will depend on location. (Am. # 810, 05/18/10)
3. Overall Appearance. The overall appearance must be attractive.
4. Exits. The normal entry and exit should be from inside the building. However, an emergency exit must be available from the outdoor facility. The Fire Department will review the emergency exit systems. (Am. # 810, 05/18/10).
5. Tables, Chairs and Trash Receptacles. A seating plan should be submitted and reviewed by the Fire Department to establish occupancy load. Seating capacity should be clearly posted. Trash receptacles will be required.
6. Trash. The outdoor area must be patrolled for trash and cleaned on a daily basis.

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7. Liquor Availability. The availability of liquor shall be consistent with the liquor license of the applicant. The approved liquor license must include the outdoor area as part of the premises.
8. Use of Right-of-Way. No outdoor area shall be located on a dedicated public right-of-way.
9. Size Limitation. An outdoor area shall not be larger than the inside area of its parent building.
10. Setback from Public Right-of-way. A minimum 20' setback from the public right-of-way. Exceptions may be requested for those lots not able to accommodate 20'.
11. Hours of Operation. Outdoor facility hours may only occur during open hours under Section 125.32(3) Wis. Stats. (Am. # 815, 08/17/10)
12. Music Allowed. As a general rule, music should not be allowed; however, applicants may make a special request.
13. Bartender Required. Whenever the outdoor facility is open to customers and intoxicating liquor or fermented malt beverages are sold, at least one licensed bartender must be staffing the area. (Am. # 810, 05/18/10)

D. The Plan Commission shall conduct a public hearing and make a recommendation to the City Council. Notice shall be given by ordinary mail of the proposed establishment of an outdoor facility to the owners of property immediately adjacent to the area to be considered for the new use extending 200' therefrom and to the owners of properties extending 200' from the street frontage of the opposite property and also by a Class I publication in the official newspaper. The recommendation shall be one of the following:

1. Approve without special conditions; or
2. Approve with special conditions taking into consideration the above guidelines; or
3. Deny.

E. Upon recommendation from the Plan Commission, the City Council shall consider the application and any special conditions recommended by the Plan Commission. If final approval is granted by the City Council, a special use permit shall be issued with any restrictions stated thereon. Any violation of the stated

## LICENSES AND PERMITS 12.03(14)E

restrictions shall subject the special use permit to automatic revocation without further notice or public hearing.

### 12.04 CABARETS.

(1) LICENSE REQUIRED. No person shall hereafter keep, maintain, conduct or operate any cabaret as defined in sub. (2) without first obtaining a license therefor.

(2) DEFINITION. A cabaret is a place to which the general public is admitted and where entertainment, such as music, singing, vaudeville, or dancing, is furnished to patrons by the management, or where dancing is allowed, with or without special charge therefor, and where alcoholic beverages are sold.

(3) FEES AND EXPIRATION. The fee for such cabaret license shall be \$50.00. Such cabaret license shall expire on June 30 after issuance, and the full license fee shall be charged for any such license issued on or before January 1. For license issued after January 1, the fee therefor shall be \$25.00. A special one night license may be issued by the Licensing and Investigation Committee for \$3.00 for each night. Not more than 3 such licenses shall be issued per license year for each location. Such location shall comply with all other requirements of this section.

(4) APPLICATION. The application for such cabaret license shall be filed in writing with the City Clerk for presentation to the Council. Such application shall state the name and address of the applicant, the location of the premises to be licensed, by street address and legal description, the name or names of the lessees of such premises, if any, the name of the manager to be in charge of such cabaret, a description of other business to be conducted upon the licensed premises, a statement of the length of time the owners and managers of such proposed cabaret have resided in the City, together with the employment or occupation for the past 2 years, and the type of license issued for such premises to sell intoxicating liquor or fermented malt beverages at retail.

(5) INVESTIGATION AND ISSUANCE. Each application submitted in accordance with sub. (4) shall be immediately transmitted by the City Clerk to the Chief of Police who shall, within 5 days, report in writing to the Licensing and Investigation Committee, the results of his investigation and his recommendation on such application; and thereafter such application shall be presented for action by the Council, at the next or any subsequent meeting thereof, upon the report of the Committee. Licenses shall be granted to each applicant who shall be approved by a majority vote of the Council and shall be issued by the Clerk and contain with particularity a description of the premises licensed and the name and address of the licensee. The licenses shall be numbered consecutively

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beginning with the number "one" in each year, and such license shall be posted conspicuously in the premises licensed at all times when they shall be in use.

(6) DISCRETION IN THE COUNCIL. The Council may refuse to grant any license if such license shall be against the public interest either because of the unsuitability of the location, undesirability or unreliability of the applicant or his manager, or because of the failure of such applicant or his manager to observe the provisions of this Code in the prior conduct of a cabaret, dance hall, tavern, or other similar place.

(7) LICENSE NOT TRANSFERABLE. No cabaret license shall be transferable as to location or to ownership.

(8) REVOCATION OF LICENSE. The license issued hereunder shall be forfeited or revoked by the Council where the licensee permits disorderly or immoral conduct on the premises and it shall stand revoked without further proceedings upon the conviction of the person holding such license as maintaining a disorderly, riotous, indecent, or improper house. If at any time the license issued pursuant to this section shall be forfeited or revoked, at least 6 months shall elapse before another such license shall be granted on the same premises or the same license.

(9) CONDITIONS OF LICENSE.

(a) Zoning Area Regulations. No cabaret license shall be issued to any applicant unless the premises for which license is applied is located in Commercial 1 (C-1) or Commercial 2 (C-2) as defined in this Municipal Code.

(b) Efficient means shall be employed to prevent the ordinary sounds of music, dancing, singing or entertainment within the cabaret from being heard on adjoining premises or on the public street. No unusually loud music, singing or entertainment or any boisterousness or noisy conduct on the part of the patrons shall be permitted.

(c) All cabarets shall be well lighted at all times when any patrons shall be therein, and at all times when the same is open to the public.

(d) The opening and closing of cabarets shall be governed by existing opening and closing of Class "B" Combination and Class "B" Fermented Malt Beverages licensed premises.

(e) No prostitute, procurer or vagrant shall be permitted upon the premises of any cabaret.

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(f) No intoxicated person shall remain in any cabaret, and no person bordering on intoxication shall be served any beverage containing alcohol or be permitted to dance in any cabaret.

(g) No entertainment or dancing shall be permitted which shall be vulgar, suggestive, licentious or offensive to public morals and decency.

(h) There shall be in every cabaret premises not less than 2 exit doors leading to the outside and opening outwardly.

(i) The sale, service or consumption of commodities for which licenses are otherwise required shall not be permitted in any cabaret unless the proper license or licenses therefor are obtained for such premises, in the name of the owner or manager of such cabaret.

(j) Floor Space Requirements. No such cabaret licenses shall be issued nor shall any public or private dancing be permitted unless such premises shall have 200 or more square feet of unobstructed continuous floor space available for dancing space. The dancing space shall not include the area enclosed by an imaginary line, 6 feet in front of any bar, and the back bar wall, or the area within 3 feet of any part of an exit door, toilet room door or any exit passageway, or any other space or room which is not used exclusively by the public. Such open dancing space shall be used for dancing only, and for no other purposes at the time the same is used for dancing.

(k) Compliance Required. Refusal by any person in a cabaret to comply with the reasonable efforts of the proprietor to comply with the provisions of this section shall be deemed a violation and subject to a penalty hereunder, as shall refusal of any person to comply with directions of the police department, sheriff or deputy sheriff, constable, or any dance inspector in effort to enforce the provisions of this section in any cabaret.

### 12.06 PUBLIC AMUSEMENTS AND ENTERTAINMENTS.

(1) LICENSE REQUIRED. No person shall conduct a public amusement or entertainment within the City without a license as required hereunder.

(2) PUBLIC AMUSEMENT OR ENTERTAINMENT DEFINED. A public amusement or recreation is any activity or exhibition to which admission by the public is gained upon payment of money or other thing of value. It includes, without limitation by reason of enumeration, carnivals, circuses, exhibitions of animals or fowl, rides, games of chance or skill, public exhibitions, theatrical performances, shows, concerts, lectures, pool halls, billiard halls, bowling alleys, miniature golf course, golf driving ranges, ice or roller skating rinks and the like.

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### (3) LICENSE FEES.

#### (a) Circuses, Carnivals, etc.

1. Seating capacity of more than 400. \$15 for the first day and \$10 for each day thereafter.
2. Seating capacity for less than 400. \$10 for the first day and \$8 for each day thereafter.

#### (b) Theatrical Performances, Shows, Exhibitions, etc. \$5 for each day.

#### (c) Bowling Alleys. \$5 for each alley.

#### (d) Pool and Billiard Halls. \$5 for each table.

#### (e) Miniature Golf Courses. (Am. #119) \$25/yr.

#### (f) Golf Driving Ranges. (Am. #119) \$25/yr.

#### (g) Ice and Roller Skating Rinks. \$50/yr.

#### (h) Rides, Games of Chance and Skill, etc. \$5/day for each ride or game or the like.

#### (i) Sales of Goods, Wares and Merchandise. Where any event or activity licensed under this section is accompanied by the sale of goods, wares or merchandise, the licensee shall pay an additional fee of \$10 if the license is an annual one or \$5/day if the license is a daily license.

(4) EXEMPTIONS. No license shall be required for nonprofit activities or exhibitions which would otherwise be licensed under this section or activities or exhibitions for which an admission charge is made but where the proceeds thereof are devoted to a civic, educational or charitable purpose.

(5) APPLICATION. Any person who wishes to license an activity or exhibition under this section shall file an application with the City Clerk upon a form furnished by the Clerk. Such application shall contain such information as shall be required by the Clerk to determine whether the applicant and the premises to be licensed are suitable for licensing. The Clerk may refer the application to such City officers as necessary for investigation and report.

(6) ISSUANCE. The City Clerk may issue any license hereunder if the reports on the application as referred to the City officers are favorable. If the City Clerk denies the application, he shall refer it to the City Council for consideration. The

## LICENSES AND PERMITS 12.065(6)

applicant shall have an opportunity to appear before the City Council with respect to such application.

### 12.065 MECHANICAL OR ELECTRONIC AMUSEMENT DEVICES. (Cr. #118)

(1) **MECHANICAL OR ELECTRONIC AMUSEMENT DEVICE DEFINED.** Any machine, device or game which, upon the insertion of a coin, slug, token or similar item, permits a person or operator to use the device as a game or contest of skill or amusement, whether or not the device registers a score and which is not a gambling device.

The term shall include, but not be limited to, electronic or mechanical game machines and pinball machines.

(2) **REGISTRATION AND LICENSING.** Any person maintaining, operating or permitting the operation of a mechanical or electronic amusement device shall obtain a license to operate such device from the Clerk. The fee for operation of a mechanical or electronic amusement device shall be \$10 per machine per year. Such license shall expire on June 30 of each year. The applicant shall submit an application for each place where a mechanical or electronic amusement device, the place where the device is to be operated and such other information as the Clerk may reasonably require. If the Clerk is satisfied that the applicant meets all the requirements of this section, he shall issue the license. Such license shall be conspicuously displayed on the premises at all time while the device is operable.

### (3) **RESTRICTIONS APPLICABLE TO MECHANICAL OR ELECTRONIC AMUSEMENT DEVICES.**

(a) Premises to be Safe and Sanitary. No license shall be granted for any mechanical or electronic amusement device unless the premises complies with all fire and Building Code requirements of the City and the State, provides adequate room for operation of the devices without blocking access and is an otherwise safe and sanitary environment.

(b) Premises to be Supervised. No mechanical or electronic amusement device license shall be granted unless the applicant therefor shows that the premises will be adequately supervised.

(c) Orderly Conduct Required. The licensee shall maintain supervision of the premises in such a manner as to insure that no disorderly conduct, gambling or other activity prohibited by local ordinance, State or federal law is permitted on such premises.

(d) Department of Justice Registration Required. No mechanical or electronic amusement device may lawfully be operated in the City unless

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there is affixed thereto a Department of Justice AD number, if required by law. If any device is found in the City without such registration number, any police officer is authorized to summarily revoke the license of the premises where the offense is committed.

(e) Offering of Prizes or Awards Prohibited. No licensee under this section shall offer, advertise, make or give any reward, prize, money or thing of value to any person by reason of the operation of any mechanical or electronic amusement device.

(f) Consent to Inspection. An applicant for a license under this section thereby consents to the entry of police or authorized representatives of the City upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this section all things found therein in violation of this section or State law.

(4) TRANSFERABILITY OF LICENSES. Mechanical or electronic amusement device licenses may be transferred from premises during the license year without charge. The holder of such license shall notify the Clerk within 10 days of the time such transfer is made.

12.07 JUKEBOXES. (Repealed #888, 06/17/2014)

12.08 MOBILE HOMES AND MOBILE HOME PARKS.

(1) STATE LAW AND DEFINITIONS ADOPTED. (Am. #138) Section 66.058, Wis. Stats., and the definitions therein are hereby adopted by reference. The term mobile home park, as used herein, shall include a mobile home condominium as defined in Sec.17.02(22)(b) of this Municipal Code.

(2) PARKING FEE. Effective July 1, 2002, there is hereby imposed on each occupied, non-exempt mobile home located in the City a monthly parking fee as determined in accordance with Sec.66.0435, Wis. Stats. Such fees shall be paid to the City Treasurer by the mobile home court owner on a monthly basis, no later than ten days following receipt of a billing statement from the office of the City Treasurer. The mobile home court owner shall be allowed to deduct 2% of the monthly billing statement for the cost of collection. The monthly parking permit fees shall be prorated for the month when the owner of a non-exempt mobile home shall remove the same from the City as follows: The mobile home court owner shall pay one-half of the monthly parking permit fee if the non-exempt mobile home is removed before the 15<sup>th</sup> day of the month and the full amount of the parking permit fee if the mobile home is removed after the 15<sup>th</sup> day of the month. (Am. #594, 2002)

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(3) PARK LICENSE REQUIRED.

(a) No person shall establish or operate upon property owned or controlled by him within the City a mobile home park without having first secured a license therefor from the City Clerk and the Council under Sec.12.02. The application for such license shall be accompanied by a fee of \$2 for each space in the existing or proposed park, but not less than \$25. The license shall expire on June 30 in the year of issuance. For any license issued during the license year, the fee shall be prorated to the first day of the month during which the license was issued, provided, however, that the fee shall not be less than the prorated portion of the \$25 minimum fee. Such parks shall comply with HSS 177, Wis. Adm. Code, which is adopted herein by reference. (Am. #67)

(b) Licenses of mobile home parks and owners of land on which are parked any occupied, nonexempt mobile homes shall furnish information to the City Clerk on such homes added to their park or land within 5 days after arrival of such home on forms furnished by the City Clerk in accordance with Sec.66.058(3)(v) and (e), Wis. Stats.

(c) Mobile home park owners shall remit parking fees directly to the City Treasurer as provided in Sub.(2). Any parking permit fees not paid when due shall bear interest at the rate of 1% per month. Such interest charge shall be effective from and after February 11, 1982 and shall be applicable to all parking fees which are or become delinquent on or after that date.

(4) LOCATION OUTSIDE PARKS. No person shall keep a mobile home or any home constructed from any 2 such homes or mobile home units which are known as "double-wides" upon any lot or parcel in the City except in a licensed mobile home park at any time when such mobile home is occupied or available for occupancy. Existing nonconforming uses are exempt.

(5) LICENSE FOR PARK: APPLICATION AND ISSUANCE. The application for a license or a renewal thereof shall be made on forms furnished by the City Clerk and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a verified statement by that person, that the applicant is authorized by him to construct or maintain the park and make the application), and such a legal description of the premises, upon which the park is or will be located as will readily identify and definitely locate the premises. The application shall be accompanied by 2 copies of the park plan showing the following, either existing or as proposed:

(a) The extent and area used for park purposes;

(b) Roadways and driveways;

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- (c) Location of units;
- (d) Location and number of sanitary conveniences, including toilets, washrooms, laundries and utility rooms to be used by occupants of units, if required;
- (e) Method and plan of sewage disposal;
- (f) Method and plan of garbage removal;
- (g) Plan for water supply;
- (h) Plan for electrical lighting of units, if required.

(6) INSPECTION AND ENFORCEMENT. No park license shall be issued until the City Clerk shall notify the Chief of Police, the Health Officer, the Chief of the Fire Department and the Building Inspector or their authorized agents of such application, and these officials shall inspect or cause to be inspected each application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the City Council in writing the information derived from such investigation, and a statement as to whether the applicant and the premises meet the requirements of the Department for which the officer is certifying. No license shall be renewed without a reinspection of the premises. To make inspections and secure enforcement, such officials or their authorized agents may enter on any premises on which a mobile home is located, or about to be located, and inspect the same and all accommodations connected therewith at any reasonable time.

(7) LOCATION OF PARKS.

- (a) No mobile home or mobile home park shall be located in any fire district.
- (b) No occupied mobile home within the City shall be located less than 10 feet from any building or other mobile home or from the boundary line of the premises on which located.

(8) PARK PLAN.

- (a) Every mobile home or mobile home park shall be located on a well-drained area, and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No mobile home or mobile home park shall be located in any area that is situated so

## LICENSES AND PERMITS 12.08(8)a

drainage from any barnyard, outdoor toilet or other source of filth can be deposited in its location.

(b) Home spaces shall be clearly defined and consist of a minimum of 1,000 square feet and a width of not less than 20 feet. The park shall be so arranged that all spaces shall face or abut on a driveway of not less than 20 feet in width, giving easy access from all units to a public street. Such driveway shall be graveled or paved and maintained in good condition, having natural drainage, be well lighted at night, and shall not be obstructed.

(c) Walkways shall be graveled or paved and well lighted at night.

(d) Every space shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch or fuse of not less than 30 amp capacity, and a heavy duty outlet receptacle. Electrical outlets shall be weatherproof, and no power lines shall be less than 15 feet above ground.

(e) Off-street parking areas for motor vehicles shall be provided in the ration of one lot for each unit.

(f) No unit shall be parked in a park outside of a designated space.

### (9) WATER SUPPLY.

(a) An adequate supply of pure water, furnished through a pipe distribution system connected directly and domestic purposes in all parks.

(b) Individual water service connections shall be so constructed that they will not be damaged by the parking of such units. Such system shall be adequate to provide 20 pounds pressure per square inch and capable of furnishing a minimum of 125 gallons per day per space.

### (10) WASTE AND GARBAGE DISPOSAL.

(a) All liquid waste from showers, toilets, laundries, faucets, lavatories, etc., shall be discharged into a sewer system extended from and connected with the public water system where available.

(b) Every space shall be provided with sewer connections which shall comply with the State Plumbing Code. The sewer connection shall be provided with suitable fittings so watertight connections can be made. Such connections shall be so constructed so they can be closed when not

## LICENSES AND PERMITS 12.08(10)(b)

connected and trapped in such a manner as to be maintained in an odor-free condition.

(c) All sanitary facilities in any unit which are not connected with a public sewer system, where available, by approved pipe connections shall be sealed and their use is prohibited.

(d) Each faucet shall be equipped with facilities for drainage of waste and excess water.

(e) Every unit shall be provided with a substantial fly-tight, watertight metal garbage depository from which the contents shall be removed and disposed of in a sanitary manner by the camp custodian at least twice weekly between May 1 and October 15, and otherwise weekly.

### (11) MANAGEMENT.

(a) In every park there shall be located the office of the attendant or person in charge. A copy of the license and of this section shall be posted therein and the park register shall be at all times kept in such office.

(b) The attendant or person in charge, together with the licensee, shall:

1. Keep a register of all guests, to be open at all times to inspection by City, State and Federal officers, which shall show for all guests:

- a. Names and addresses.
- b. Number of children of school age.
- c. State of legal residence.
- d. Dates of entrance and departure.
- e. License numbers of all mobile homes and towing or other vehicles.
- f. States issuing such licenses.
- g. Purpose of stay in park.
- h. Place of last location and length of stay.
- i. Place of employment of each occupant.

## LICENSES AND PERMITS 12.08(11)(b)2

2. Maintain the park in a clean, orderly and sanitary condition at all times.
3. Insure that this section is complied with and enforced and report promptly to the proper authorities any violations of this or any other violations of law which may come to his attention.
4. Report to the Health Officer all cases of persons or animals affected or suspected of being affected with any communicable disease.
5. Maintain in convenient places, approved by the Fire Chief, hand fire extinguishers in the ratio of one to each 8 units.
6. Prohibit the lighting of open fires on the premises.

(12) **APPLICABILITY OF PLUMBING, ELECTRICAL AND BUILDING ORDINANCES.** All plumbing, electrical, building and other work on or at any park licensed under this section shall be in accordance with this Municipal Code and the requirements of the State Department of Health and Social Services. Licenses and permits granted under this section grant no right to erect or repair any structure, to do any plumbing or electrical work.

(13) **REVOCAION AND SUSPENSION.** The City Council may revoke any license or permit issued pursuant to the terms of this section in accordance with Sec.66.058, Wis. Stats.

(14) **HEALTH AND SANITATION PERMIT REQUIRED.** (Am. #153) In addition to all other requirements outlined in this section, each mobile home park shall have in full force and effect a health and sanitation permit issued by the State Department of Health and Social Services, Division of Health.

### 12.09 DIRECT SELLERS. (Rep. & recr. #195)

(1) **REGISTRATION REQUIRED.** No person shall engage in direct sales within the City without being registered for that purpose as provided herein.

(2) **DEFINITIONS.** In this section:

Charitable Organization. Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation or one purporting to be such.

Clerk. The City Clerk.

## LICENSES AND PERMITS 12.09(2)

Direct Seller. Any individual who for himself 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 such 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.

Goods. Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

Permanent Merchant. A direct seller who for at least one year prior to the consideration of the application of this chapter to such merchant:

- (a) Has continuously operated an established place of business in this City; or
- (b) Has continuously resided in this City and now does business from his residence.

(3) EXEMPTIONS. The following shall be exempt from all provisions of this section:

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) Any person selling goods to permanent merchants.
- (c) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.
- (d) Any person who has an established place of business where the goods are sold or offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by such person.
- (e) Any person who has had or one who represents a company which has had a prior business transaction, such as a prior sale or credit arrangement with the prospective customer.
- (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

## LICENSES AND PERMITS 12.09(3)(g)

(g) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale, pursuant to law.

(h) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of such organization, provided that there is submitted to the Chief of Police 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. (Am. #486, 1997)

(i) Any person who claims to be a permanent merchant, but against who complaint has been made to the Chief of Police that such person is a transient merchant, provided that there is submitted to the Chief of Police proof that such person has leased for at least one year or purchased the premises from which he is conducting business or proof that such person has conducted such business in this City for at least one year prior to the date the complaint was made. (Am. #486, 1997)

(j) (Repealed #705, 4/18/2006)

### (4) REGISTRATION.

(a) Applicants for registration must complete and return to the Chief of Police a registration form furnished by the Chief of Police, which shall require the following information: (Am. #486, 1997)

1. Name, permanent address, telephone number, temporary address, if any, and social security number.
2. Date of birth, weight, color of hair and eyes.
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.

LICENSES AND PERMITS 12.09(4)(a)8

8. Last cities, villages or towns, not to exceed 3, where applicant conducted similar business.

9. Place where applicant can be contracted for at least 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 5 years, the nature of the offense and the place of conviction.

(b) Applicant shall present to the Clerk for examination:

1. A driver's license or some other proof of identity as may be reasonable 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.

4. Such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for license is made.

(c) At the time the registration is returned, a fee as prescribed in Sec.12.01 shall be paid to the Chief of Police to cover the cost of processing such registration. The applicant shall sign a statement appointing the Chief of Police 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. Upon payment of such fee and the signing of such statement, the Chief of Police shall register the applicant as a direct seller and date the entry, subject to subsequent refusal as provided in par.

(5)(b). (Am. #486, 1997)

(5) INVESTIGATION.

## LICENSES AND PERMITS 12.09(5)a

(a) Upon receipt of each application, the Chief of Police may refer it immediately to the Director of Public Safety, who may make and complete an investigation of the statements made in such registration. (Am. #486, 1997)

(b) The Chief of Police shall refuse to register the applicant if it is determined, pursuant to the investigation, 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 3, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last 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 par. (4)(b). (Am. #486, 1997)

(6) APPEAL. Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the City Council or, if none has been adopted, under the provisions of Sec.68.07 through 68.16, Wis. Stats.

### (7) REGULATION OF DIRECT SELLERS.

#### (a) Prohibited Practices.

1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 9 p.m. and 9 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 or 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. Such portion shall be expressed as a percentage of the sale price of the goods.

## LICENSES AND PERMITS 12.09(7)(a)3

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

4. No direct seller shall make any loud noise or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100' radius of the source.

5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

### (b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

2. If any sale of goods is made by a direct seller or any sales orders for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel such transaction if it involved the extension of credit or is a cash transaction of more than \$25 in accordance with the procedure as set forth in Sec.423.203, Wis. Stats. The seller shall give the buyer 2 copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sec.423.201(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.

(8) RECORDS. The Chief of Police shall report all convictions for violation of this chapter and shall note any such violation on the record of the registrant convicted. (Am. #486, 1997)

### (9) REVOCATION OF REGISTRATION.

(a) Registration may be revoked by the Chief of Police 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

## LICENSES AND PERMITS 12.09(9)(a)

sale; violated any provision of this section; or was convicted of any crime, ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling; the registrant may request a hearing on a revocation by filing written request therefor with the Clerk and such hearing shall be scheduled by the Public Safety Committee of the Common Council of the City of Sparta. (Am. #486, 1997)

(b) Written notice of the hearing shall be served personally on the registrant at least 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 facts upon which the hearing will be based.

(10) PENALTY. Any person convicted of violating any provision of this section shall forfeit not less than \$10 nor more than \$100 for each violation, plus costs of prosecution. Each violation shall constitute a separate offense.

### 12.10 AUCTIONS. (Rep. Ord. #276, 1989)

### 12.11 TAXICABS.

(1) LICENSE REQUIRED. No person shall operate upon the streets of the City a motor vehicle for the transportation of passengers or baggage for hire without a license under this section.

(2) EXEMPTIONS. No license shall be required for vehicles operating on fixed routes or between fixed termini or funeral vehicles.

(3) APPLICATION. Application for a license hereunder shall be made to the City Clerk upon a form furnished by the Clerk. Such application shall contain the following information:

(a) Name and address of applicant and if a partnership, association or corporation, the names of all participants, officers and directors.

(b) Number of vehicles to be licensed.

(c) A description of each vehicle.

(d) Motor vehicle license number of each vehicle.

(e) Name of insurance carrier.

(f) Proposed rates.

(g) Such other information as the City Council may require.

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(4) **CERTIFICATE BY AUTOMOBILE MECHANIC TO ACCOMPANY APPLICATION OR RENEWAL THEREOF.** Each application for a taxi cab license, or renewal there of, shall be accompanied by a certificate of inspection by a certified auto mechanic that the vehicle is equipped in compliance with the provisions of the state traffic code. (Am. 749, 2/19/2008) (Am 764, 08/19/08)

(5) **LIABILITY INSURANCE.** The application shall be accompanied by proof of liability and property damage insurance issued by a company licensed to do business in the State of Wisconsin, approved by the City Council, which shall insure each licensed vehicle for liability of not less than \$50,000.00 because of bodily injury to or death of one person in any one accident, to a limit of not less than \$100,000.00 because of bodily injury to or death of two or more persons in any one accident and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$25,000.00 because of injury to or destruction of property of others in any one accident. Such insurance shall be maintained in effect while any license hereunder is in effect. (Am. #374, 1993)

(6) **LICENSE FEE.** The license fee shall be \$50 for the first vehicle licensed and \$25 per year for each additional vehicle so licensed. License fees for licenses issued during the license year shall be prorated.

(7) **REQUIRED NUMBER OF VEHICLES.** (Am. #60, 1980) No license shall be granted unless the licensee shall have one vehicle equipped and ready to operate during the term of the license.

(8) **CONDITIONS OF LICENSE.**

(a) Place of Business. (Am. #343, 1991) Any person licensed to transport passengers for hire shall maintain an established place of business within the City and shall provide taxi service from 7:00 a.m. to 6:00 p.m., Monday through Thursdays; 7:00 a.m. to 12:00 midnight on Fridays; 8:00 a.m. to 12:00 midnight on Saturdays; and 8:00 a.m. to 2:00 p.m. on Sundays. Holiday service is not required. The place of business shall be designated in the application for the license.

(b) VEHICLES TO BE KEPT IN REPAIR. Every vehicle licensed hereunder shall be kept in a state of repair and equipped in compliance with the state traffic code and Chapter 7 of this municipal code. Vehicles not in compliance with the state traffic code or Chapter 7 of this municipal code shall be removed from service and a taxi cab licensed activity until necessary repairs have been made. (Am 764, 08/19/08)

(c) Tampering With Odometer Prohibited. No licensee or his employee or agent shall tamper with or change the reading of any odometer on any vehicle licensed hereunder.

## LICENSES AND PERMITS 12.11(8)d

(d) Licensee Accountable for Violations. A licensee hereunder shall be responsible for the operation of all motor vehicles licensed hereunder and for the conduct of the drivers of each such vehicle.

(e) License Not Transferable. No license hereunder shall be assigned without the permission of the City Council.

(f) Vehicles to Be Marked. Every vehicle licensed hereunder shall be marked on the outside with the words "taxicab" or "taxi" and the name and address of the licensee, of such size or illumination as to be seen at a distance of 50' in clear weather.

(9) TAXI DRIVERS. All taxi drivers shall be licensed drivers of the State and at least 18 years of age. All drivers shall submit their driver's license to the police department for inspections before driving or operating a taxicab. Each driver shall give courteous service to the public and shall comply with all State traffic laws and Ch. 7 of this Code. The driver's traffic and criminal record shall be reviewed by the police department for substantial relation to licensure and operation of a public conveyance vehicle, as permitted under Wisconsin law. (Repealed & Recreated, #768, 10/21/2008)

(10) ANNUAL APPLICATIONS FOR TAXI DRIVERS. Taxi drivers are required to apply annually for a city issued taxi driver's license, which shall be either displayed in the taxi cab being operated or on the operator's person at all times while operating the taxi cab. Taxi driver license applicants or holders shall pay an annual fee for police background checks. (Created, #768, 10/21/2008)

(11) FAILURE TO PAY FARE.

(a) No person shall fail or refuse to pay for the service of any taxicab with the intention of defrauding the driver, providing the rates charged conform with those set forth in this chapter and/or as posted in the vehicle.

(b) Every driver shall have the right to demand payment of the posted fare in advance and may refuse to convey unless so prepaid, but no driver shall otherwise refuse to convey any orderly person upon request.

(c) (Rescinded, # 850, 03/20/2012)

(12) PENALTIES. Any person in violation of this section shall be subject to a penalty under Section 25.04 of the Code of City Ordinances. A second violation within twelve months shall receive a penalty double the amount of the first offense and a third offense within twelve months shall receive a penalty triple the

## LICENSES AND PERMITS 12.11(12)

amount of the first offense, notwithstanding maximum penalties set forth therein.  
(Created, #850, 03/20/2012)

### 12.12 JUNK AND SALVAGE YARDS.

(1) **LICENSE REQUIRED.** No person shall maintain in the City any structure or premises for the storing or the buying or selling at retail or wholesale of use or second-hand materials or personalty, which from its worn condition renders it virtually useless for the purpose for which made, commonly classed as junk, without obtaining a license therefor from the City Council as provided herein.

(2) **APPLICATION.** Every applicant for a license hereunder shall file with the City Clerk a written application upon a form prepared and provided by the City, signed by the applicant. Such application shall contain the following information:

(a) The name and residence of the applicant, whether he is a sole proprietor, partnership or corporation, and if a partnership shall disclose all members thereof, and if a corporation, shall disclose their registered agent in the State and its principal place of business.

(b) The length of time such applicant or applicants have resided in the City and prior address.

(c) A detailed nature of the business conducted and the kind of materials collected, bought or sold or otherwise handled.

(3) **REFERRAL OF APPLICATION.** The City Clerk shall refer the application to the Chief of Police, the Fire Chief, the Health Officer and the Building Inspector, who shall investigate the licensee and the premises proposed to be licensed to determine whether the licensee and the premises conform to State laws and City ordinances and that the premises are adequate and suitable for conducting a junk or salvage yard. Such officers shall report to the City Council so that their reports may be considered at the next regular meeting after referral.

(4) **LICENSE FEE.** The license fee for every license issued hereunder shall be \$10.00 per year.

(5) **ACTION ON APPLICATION.** The City Council shall grant or deny a license on the basis of the application and the reports of the officers. The prospective licensee shall be entitled to be heard on his application.

(6) **CONDITIONS OF LICENSE.**

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- (a) Each of the premises upon which the business of junk dealer is carried on shall be completely enclosed by a property fence or other structure, approved by the Council, not less than 7 feet high.
- (b) Each fence or other structure shall be constructed so no dust or other material may pass through.
- (c) The enclosure shall be maintained in good condition at all times.
- (d) No articles shall be piled so as to protrude above the enclosure.
- (e) No articles shall be placed on the outside of the enclosure.
- (f) The fence, structure or building shall be painted in a uniform color and the paint shall be kept in proper condition at all times.
- (g) There shall be no burning of any type.
- (h) There shall be no storage of unprocessed car bodies.
- (i) There shall be no storage of any materials emitting offensive odors.

The licensee shall comply with any rules or regulations prescribed by the Health Officer for the conduct of the junk or salvage yard.

### 12.13 FILLING STATIONS.

(1) LICENSE REQUIRED. No person shall erect or maintain any bulk storage station or petroleum or gasoline service station within the City without a license therefor obtained from the City Council under this section.

(2) APPLICATION. Application for a license hereunder shall be made to the City Council on a form furnished by the City Clerk. Such application shall be accompanied by site plans showing the location of all proposed structures and all points of ingress and egress and such other information as may be required by the City Council.

(3) HEARING. A license hereunder may be granted or denied by the City Council after a public hearing, notice of which shall be given by publication of a Class 1 notice under Ch. 985, Wis. Stats.

### 12.14 KEEPING PETS/ANIMALS. (Am. #874, 10/15/2013)

## LICENSES AND PERMITS 12.14(1)

- (1) No person shall keep a rooster, horse, mule, donkey, pony, cow, goat, swine, sheep, or animal raised for fur-bearing purposes within the city, except of agriculturally zoned property.
- (2) No exotic animals shall be housed, quartered, stabled, pastured, kept, or in any manner maintained within the city limits except temporarily during special events or as otherwise specifically approved by the city council. Animals prohibited by this section include any animal that in wild state is carnivorous or that, because of its nature or physical makeup, is capable of inflicting harm on human beings or property, including, but not limited to, animals that belong to the cat family, snakes (either poisonous or that otherwise present a risk of physical harm to human beings as a result of their nature or physical makeup, including constrictors), bears, wolves, wolverines, badgers, lions, tigers and any hybrids of the same.

### (3) BEEKEEPING (Created #921, 6/2016)

#### (a) Definitions

1. "Beekeeping" means intentionally creating, fostering or maintaining a colony of honeybees.
2. "Colony" means an aggregate of honeybees consisting principally of workers, but having when perfect, one queen and at times many drones including brood, combs, honey and the receptacle inhabited by honeybees.
3. "Hive" shall mean a structure built specifically to accommodate a colony of honeybees
4. "Honeybee" means all life stages of the common domestic honey bee, *Apis mellifera* species

#### (b) Residential & General Agricultural Zoning Districts

1. Hives may be located only on lots with residential use.
2. Colony densities:
  - (a)  $\frac{1}{4}$  acre or less in size – two colonies
  - (b) More than  $\frac{1}{4}$  acre but less than  $\frac{1}{2}$  acre – four colonies
  - (c) More than  $\frac{1}{2}$  - six colonies maximum
3. No hive shall exceed twenty (20) cubic feet in volume.
4. No hive shall be located closer than three (3) feet from any property line.
5. No hive shall be located closer than ten (10) feet from a public sidewalk or twenty-five (25) feet from a principal building on an abutting lot.
6. A constant supply of water shall be provided for all hives.
7. A flyway barrier at least six (6) feet in height shall shield any part of a property line that is within twenty-five (25) feet of a hive. The flyway barrier shall consist of a wall, fence, dense vegetation or a combination thereof and it shall be positioned no more than eight feet from the hive.

LICENSES AND PERMITS 12.14(3)b(8)

8. The Beekeeper shall notify all residents of the property and the owner or operator of the property if the applicant is not the owner or operator.
9. All hives shall be kept in sound and usable condition.
10. All abandon hives are to be removed from the property
11. No hive may house a colony of insects other than honeybees.

12.15 DOGS, LICENSING AND REGULATION.

(1) LICENSE REQUIRED. Every person residing in the City who owns a dog which is more than 5 months of age on January 1 of any year shall annually at the time and in the manner prescribed by law for the payment of personal property taxes obtain a license therefor.

(2) FEES. (Am. #68) Such owner shall pay to the City Treasurer a fee as prescribed in Sec.12.01.

(3) ISSUANCE OF LICENSE. Upon payment to the City Clerk of the required fee, the Clerk shall issue to such person a license to keep such dog for one year and such person shall, upon procuring the license, place upon the dog a collar with a tag furnished to him by the City Clerk or the county clerk.

(4) STATE REGULATIONS. Chapter 174, Wis. Stats., shall apply so far as applicable.

(5) DOGS NOT TO RUN AT LARGE. (Am. #875, 10/15/2013) Owners, harborers or custodians of dogs are required to keep their dogs firmly secured by leash when off the premises of the owner, harborer or custodian and unleashed dogs on premises are required to be under the direct control of a responsible person or prohibited from leaving the property through fencing, restraints, or other devices that restrict movement when within six feet of a public way.

(6) HARBORING CERTAIN DOGS PROHIBITED. No person shall own, harbor or keep any dog which:

(a) Habitually pursues any vehicle upon any public street, alley or highway.

(b) Assaults or attacks any person or domesticated animal. (Am. # 876, 10/15/13)

(c) Is vicious. A showing that a dog has bitten, attacked or injured any person shall constitute a prima facie showing that such dog is vicious.

## LICENSES AND PERMITS 12.15(6)d

(d) By frequent, repeated or habitual howling, barking or yelping, disturbs the peace of any person or the public. (Am. #207).

(e) Is required to be licensed, but is not.

(7) **CERTIFICATE OF INOCULATION REQUIRED.** No license shall be issued hereunder for any dog unless the applicant exhibits a certificate of a qualified veterinarian showing that the dog has been inoculated for rabies and distemper with the 2 years prior to application.

(8) **DOG POUND.**

(a) Confinement of Dogs. The Police Department or any other officer appointed by the Council shall apprehend any dog running at large within the City or which does any of the things prohibited under sub. (6) and confine the same in a suitable dog pound.

(b) Enforcement. The Chief of Police or his qualified assistants shall be responsible for the apprehension and confinement of dogs in a pound as herein provided and such police officer shall apprehend and confine dogs as provided in this section and may enforce this section, including the right to commence actions for the collection of any forfeiture imposed by this chapter. Such action shall be paid such compensation as the Council shall determine by resolution.

(c) Disposition of Unclaimed Dogs. The keeper of the pound shall keep all dogs apprehended for 7 days at the dog pound, unless sooner claimed by the owner or keeper. If any dog is not reclaimed by the rightful owner within such time, the dog may be sold for the amount incurred in apprehending, keeping and caring for the dog or it may be destroyed in a proper and humane manner.

(c) Owner or Keeper to Pay Costs. The owner or keeper of any dog so confined may reclaim such a dog at any time before the same is disposed or upon payment of all costs and charges incurred in apprehending, keeping and caring for the dog. Such costs and charges may include expenses for inoculations or other medical treatment of the dog. The owner or keeper's payment of costs and charges incurred in apprehending, keeping and caring for the dog shall be made directly to the Chief of Police.

(9) LIMIT OF DOGS. (Am. Ord. #207) No individual owner or family unit living together, firm or corporation shall keep more than 2 dogs over the age of 6 months, excepting bona fide animal hospitals in which the dogs are confined and kennels.

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(10) SANITATION. (Cr. Ord. #207) Every person with a dog under his control off the premises of the owner, keeper or custodian shall be responsible for collecting and disposing of in a sanitary manner any fecal matter left by such dog.

(11) PROPER SHELTER REQUIREMENT. (Cr. #561, 2000) Every person in charge of or control of any dog which is tied or caged outside or prohibited access to existing buildings for shelter shall provide the dog with shelter and bedding as prescribed in this section.

(a) Minimum outdoor standards of shelter shall include:

1. When sunlight is likely to cause heat exhaustion of a dog tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the dog from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine farm animals as defined in §948.01(3), Wis. Stats.

2. 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. The shelter shall be:

- a. A moisture proof structure.
- b. Made of durable material.
- c. Suitable in size to provide sufficient space to allow each dog adequate freedom to movement and allow for retention of heat.
- d. Maintained in good repair to protect the dog from injury.
- e. A solid floor raised at least 2" off the ground.
- f. The shelter shall contain a sufficient quantity of suitable bedding material to provide insulation and protection against the cold and dampness as well as promote retention of body heat.
- g. If the shelter does not provide the dog with protection from the wind blowing directly into the shelter, the entrance shall be covered by a self-closing covering.

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h. The requirements of subpars. 2.f. and g. will be suspended the months of May through September, inclusive.

(b) A monetary forfeiture or possible impoundment of the dog shall be imposed on anyone found in violation of the shelter requirements contained in this subsection. The decision as to the necessity of impoundment of the dog shall be in the sole discretion of the Humane Officer. The amount of the monetary forfeiture shall be accordance with the State standards for ordinance violations.

12.16 FRANCHISES. (Repealed # 818, 9/21/10)

12.17 FARMERS' MARKET. (Repealed # 818, 9/21/10)

12.18 WEIGHTS AND MEASURES LICENSE REQUIRED

(1) WEIGHTS AND MEASURES LICENSE REQUIRED. Commencing July 1, 2000, no person, firm or corporation shall operate or maintain weights and measures, weighing or measuring devices, systems and/or accessories relating thereto which are used commercially within the City of Sparta in determining the weight, measure or count of commodities or items sold, offered or exposed for sale on the basis of weight, measure or count, unless licensed by an annual weighing or measuring device license issued pursuant to the provisions of this ordinance.

(2) DEFINITIONS.

(a) Commercial weighing or measuring devices are those used or employed in establishing the size, quantity, extent, area or measurement of quantities, items, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.

(b) Enforcing Authorities: (Amended #642, 2/2004)

1. City Sealer (Sealer of Weights and Measures)
2. Building Inspector (Supervisor of City Sealer)
3. Sparta Public Safety Committee (Review Board)

(3) APPLICATION. The application for a weighing or measuring device license shall be made in writing on the form provided for such purpose by the City Sealer. Such application shall state the type and number of weighing and measuring devices to be licensed, the location of the devices, the applicant's full name and post office address, whether such person is an individual, firm or

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corporation and if a partnership, the names of the partners including their addresses and the signatures of the applicant or applicants.

(4) FEES The City Sealer shall receive the following fees for services as Sealer of Weights and Measures: (Amended #836, 7/19/2011)

(a)	Base Annual Fee	No charge
(b)	Scales up to 30 lbs.	\$20.00
(c)	Scales 30 lbs. to 1000 lbs.	\$44.00
(d)	Scales over 1000 lbs.	\$80.00
(e)	Point of Sale Systems	\$30.00
(f)	Person Weighing Scales	\$44.00
(g)	Hopper Scales	\$50.00
(h)	High Accuracy Scales	\$36.00
(i)	Scanner	\$200.00
(j)	Taxi Meters	\$40.00
(k)	Recycling Machines	\$60.00
(l)	Linear Meters	\$16.00
(m)	Timing Devices	\$10.00
(n)	Petroleum Pumps/Dispensers	\$24.00
(o)	Vehicle Tank & Bulk Plant Meters	\$36.00

(5) SUSPENSION FOR NONRENEWAL. It shall be the duty of the City Sealer to notify the Supervisor and appropriate City Officials and to order the immediate enforcement of the provisions of this ordinance in cases involving failure to renew a weighing and measuring device license. Said licensee shall be prohibited from operating or maintaining a weighing or measuring device until such time as valid license has been applied for and obtained under the provisions of this ordinance.

(6) DISPLAY OF LICENSE. All licenses issued under this ordinance shall be displayed in a prominent, visible area of the premises where the business is carried on and the same shall remain posted during the period for which the license is in force.

(7) LICENSE SUSPENSION OR REVOCATION.

(a) Suspension of License - Notwithstanding the other provisions of this ordinance, whenever the City Sealer finds that any licensed premises is conducted or managed in such a manner that there are serious or repeated violations of this ordinance, or a violation of any of the ordinances or regulations of the City of Sparta, the laws of the State of Wisconsin or regulations of the National Bureau of Standards relating to weights and measures, he/she may without warning, notice or hearing,

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issue a written notice to the license holder, operator or employee in charge of the licensed premises citing such condition and specifying the corrective action to be taken. The Public Safety Committee can review the record of the City Sealer and if deemed necessary, shall order that the license is immediately suspended and all weighing and measuring operations are to be discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the City Clerk, shall be afforded a hearing before the Public Safety Committee within 30 days of such petition. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension.

(b) Revocation of Licenses - For serious or repeated violations of any of the requirements of this ordinance, or for interference with the City Sealer in the performance of his duties, the license may be permanently revoked after an opportunity for a hearing has been provided by the Public Safety Committee and Supervisor. Prior to such action, the City Sealer or Supervisor shall notify the license holder in writing, stating the reasons for which the license is subject to revocation, and advising that the license shall be permanently revoked at the end of ten (10) days following service of such notice, unless a request for a hearing is filed with the City Clerk's office, by the license holder within the ten (10) day period.

(c) Hearings - The hearings provided for in this section shall be conducted by the Chairman of the Public Safety Committee at a time and place designated by the Chairman. Based upon the record of such hearing, the City Sealer or Supervisor shall be charged with enforcing the decisions of the Public Safety Committee. A written record of the hearing shall be furnished to the license holder by the City Sealer if requested by the license holder.

(8) OTHER WEIGHING OR MEASURING DEVICE COSTS. Whenever a special request is made for the inspection or testing of a uncategorized weighing or measuring device or a consultation, the actual expense of the same may be charged to the person or firm receiving the service. Such payment or charge shall be based on a current hourly rate. (Amended #601, 2002)

12.25 PENALTY. Any person who shall violate any provision of this chapter or who shall fail to obtain a license or permit as required hereunder shall be subject to a penalty as provided in Sec.25.04 of this Municipal Code.