

# Chapter 12 – LICENSES AND PERMITS

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### **12.01 (GENERAL PROVISIONS)**

(1) LICENSES OR PERMITS REQUIRED. No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this chapter, unless otherwise specifically provided.

(2) APPLICATION AND ISSUANCE. Unless otherwise provided, application for a license or permit shall be made in writing to the Clerk-Treasurer upon forms provided by the Clerk-Treasurer and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such license or permit and that the City Clerk/Treasurer have the authority to issue temporary Class "B" picnic beer licenses and temporary Class "B" wine cooler picnic licenses.<sup>1</sup>

(3) PAYMENT OF FEE. The fees for any license or permit shall be paid at the office of the Clerk-Treasurer upon the issuance of such license or permit.

(4) BOND AND INSURANCE. All required bonds shall be executed by 2 sureties or a surety company and be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the City before the license or permit is issued.

(5) FORM. Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the Clerk-

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<sup>1</sup> Chapter 12.01 (2) - Repealed and recreated by Ordinance 91-17

Treasurer and be impressed with the City seal. The Clerk-Treasurer shall keep a record of all licenses and permits issued.

(6) LICENSE AND PERMIT TERM.

- (a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.
- (b) When the issuance of a license for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.
- (c) Permits shall be issued for the term set forth in the permit.

(7) EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

(8) TRANSFER. Unless otherwise provided, no license or permit shall be transferable or assignable.

(9) RENEWAL. Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(10) SUSPENSION AND REVOCATION OF LICENSES AND PERMITS. Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Council for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

- (a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.
- (b) Conviction of any crime or misdemeanor, subject to 111.32(5)(a) and (h), Wis. Stats.
- (c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the City upon recommendation of the appropriate City official.
- (d) Expiration or cancellation of any required bond or insurance.
- (e) Actions unauthorized or beyond the scope of the license or permit granted.
- (f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.
- (g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

**12.02 (INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES)**

(1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., and any amendment thereto, relating to the sale of intoxicating liquor and fermented malt beverages, except 125.03, 125.14(4), 125.15, 125.16, 125.19, 125.20, 125.29, 125.30, 125.32(3), 125.33, 125.52, 125.53, 125.54, 125.55, 125.56, 125.58, 125.59, 125.60, 125.61, 125.62, 125.65, 125.67 and 125.69, including any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section.<sup>2</sup>

(2) DEFINITIONS. As used in this section, the following definitions apply:

- (a) Legal Drinking Age. Twenty one years of age, but also includes persons who have attained the age of 19 on or before August 31, 1986.
- (b) Underage Person. A person who has not attained the legal drinking age.

(3) LICENSE APPLICATION. Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by 125.04(3), Wis. Stats., and shall be filed with the Clerk-Treasurer not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under 125.26(6) and 125.51(4m), Wis. Stats., shall be filed with the Clerk-Treasurer not less than 3 days prior to the granting of the license. Further, as a condition of granting an operator's license, the applicant shall sign a waiver permitting the City to secure from the Federal Bureau of Investigation and the Wisconsin Crime Information Bureau a record

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<sup>2</sup> Chapter 12.02 (1) - Amended by Ordinance 765 and Ordinance 780

check of the applicant. No license shall be issued until the fee and cost of publication, as provided by 125.04(3)(g) 6., Wis. Stats., has been paid.

(4) APPLICATION INVESTIGATION. The Clerk-Treasurer shall notify the Health Officer, the Chief of Police, the Fire Chief and the Building Inspector of each new license and permit application and these officials shall review such application and inspect, or cause to be inspected, the 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 Council, in writing, the information derived from such investigation. No license or permit provided for in this section shall be issued without the approval of a majority of the Council, and no license shall be renewed without a report from the Chief of Police.

(5) LICENSE FEES. The fees and term for issuance of fermented malt beverage and intoxicating liquor licenses and related licenses shall be as follows:<sup>3</sup>

- (a) Class "A" Fermented Malt Beverages. \$100.00 per year.
- (b) Class "B" Fermented Malt Beverages. \$100.00 per year or \$50.00 for six (6) months; a six (6)-month license may not be renewed in the same calendar year.<sup>4</sup>
- (c) Class "B" Fermented Malt Beverage Picnic License. Issued to organizations enumerated in § 125.32(4)(a)7, Wis. Stats., \$10.00 per event.
- (d) Temporary "Class B" Wine license. Issued to churches and church organizations to sell or serve wine of not more than 6% alcohol by volume at a picnic, meeting, or gathering. \$10.00 per event. See § 125.51(4m), Wis. Stats.
- (e) Wholesalers Fermented Malt Beverages. \$25.00 per year.
- (f) "Class A" Intoxicating Liquor. \$400.00 per year.
- (g) "Class B" Intoxicating Liquor. \$400.00 per year. Bonafide clubs and lodges situated and incorporated or chartered in the State of Wisconsin for at least six (6) years shall be \$150.00 per year commencing July 1, 2005, as provided in § 125.51(3)(e), Wis. Stats., now in effect or hereafter amended from time to time.
- (h) Operator's License. \$24.00 for two (2) years
- (i) (Deleted)
- (j) Transfer of License to Another Premises. \$10.00.
- (k) "Class C" Wine License Fee. \$100.00 per year.
- (l) Seasonal Operator's License. There is hereby created a seasonal operator's license which shall allow an individual to tend bar for a six (6) consecutive month period. The fee for same shall be \$10.00 and said license shall not be issued to any individual more than twice within any two (2) licensing period (licensing period shall be July 1 through June 30). In addition, an individual applying for a seasonal operator's license shall comply with all requirements mandated for the issuance of a regular operator's license.
- (m) Reserve Class "B" Licenses. An initial fee of \$10,000.00 plus \$250.00 per year.

(6) OPERATOR'S LICENSE.<sup>5</sup>

- (a) All renewal applications for an operator's license shall be filed in the office of the Clerk-Treasurer on or before May 31 of each odd-numbered year. A \$10 surcharge shall be applied to any application filed after May 31st.
- (b) All renewal applications shall go before the Common Council for approval at one of their regularly-scheduled meetings in June of each odd-numbered year.
- (c) Nothing shall prevent the Council from granting any licenses which are applied for at any other time for a fraction of the two (2) year license period, but no proration of the required fee shall be granted.
- (d) An applicant must meet the following requirements:
  - 1. Applicant must be at least 18 years or older for an Operator's License.
  - 2. Applicant must not have a felony conviction within the last 5 years, the offense(s) substantially relating to the alcohol beverage licensing activity, nor be a habitual law offender as defined in State Statutes 9.39.62(2). In determining habitual law offender status, the background check may go back 15 years.
  - 3. Applicant has not had three or more Operating While Impaired (OWI) conviction within the past five years.

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<sup>3</sup> Chapter 12.02 (5) - Amended by Ordinance 2012-17 and 2010-25

<sup>4</sup> Chapter 12.02 (5) (b) - Amended by Ordinance 2011-17

<sup>5</sup> Chapter 12.02 (6) - Amended by Ordinance 2011-25 and Ordinance 91-11

4. Applicant has not had two or more convictions of the following offenses within the past two years:

- a. Conviction of selling intoxicants to underage persons.
- b. Conviction of allowing a person to use operator's license.
- c. Conviction of selling to an intoxicated person.
- d. Conviction of selling after hours.
- e. Conviction on selling without a license.
- f. Conviction of giving away intoxicating liquor to evade provisions of law.
- g. Conviction of any part of Chapter 125 State Statutes relating to alcohol beverages.
- h. Other arrests or convictions of charges related to the activities performed while bartending.

5. Applicant does not have any criminal or ordinance convictions that are related to the license requested, to include but not limited to, gambling, controlled substances, disorderly conduct, and battery in a bar within the past 2 years.

6. Applicant does not have a possession of a controlled substance conviction within the past 2 years.

7. Applicant does not have a Sale or Delivery of controlled substance conviction within the past 5 years.

8. Applicant has complied with all court ordered assessments resulting from an OWI or controlled substance conviction.

9. Applicant does not have any pending charges, the offense(s) of which are substantially relating to the alcohol beverage license.

(e) A criminal background records check will be conducted on all applicants by the Prairie du Chien Police Department. This background check will include, but is not limited to, Wisconsin State Criminal History, Prairie du Chien Police Department records, Driver's License (CIB, NCIC, P&P, and DOT) and with other law enforcement agencies where applicant previously resided. The Prairie du Chien Police Chief, or his designee, will make a report and recommendation to the Personnel, License and Insurance Committee.

(f) Any person who lies, misrepresents or omits their personal information on an application shall have their operator's license or provisional license application denied.

(g) If the Police Chief, or his designee, recommends denial of an operator's license application, the applicant has the right to file an appeal with the City Clerk within forty-five (45) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.

(h) The Clerk-Treasurer may issue a provisional operator's license subject to the following conditions:

1. A provisional license may be issued only to a person who has applied for a regular beverage operator's license as provided by this Chapter, and meets the requirements as set forth above in 12.02 (6) (d)

2. A provisional license may not be issued to any person who has been denied a regular operator's license by the Common Council.

3. A provisional license shall expire 60 days after its date of issuance, or when a regular operator's license is granted by the Common Council and is issued to the holder, whichever is sooner.

4. The fee for a provisional beverage operator's license shall be \$15.00.

5. On issuance of the provisional operator's license the Clerk/Treasurer or that person's designee shall provide the Police Department with a copy of the application and the Police Department shall then make a background check on the license holder and report the results of same to the Clerk/Treasurer's office.

6. The Police Chief or that person's designee may revoke the provisional operator's license if it is determined that that person's criminal or civil conviction record substantially relates to the duties and circumstances of a beverage operator's position.

7. Any person whose provisional license is revoked shall have the right to file an appeal with the City Clerk within forty-five (45) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.

8. No person shall be issued more than 3 provisional operator's licenses in any 2-year period.

(7) LICENSES REQUIRED. No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all statutes, ordinances and regulations applicable thereto. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where liquor and fermented malt beverages are kept, sold or offered for sale; no license shall be issued to any person for the purpose of possessing, selling offering for sale any liquor or fermented malt beverage in any dwelling, house, flat or residential apartment.

(8) QUALIFICATIONS FOR LICENSES AND PERMITS. (Repealed)<sup>6</sup>

(9) "CLASS A" LIQUOR LICENSE QUOTA. The number of "Class A" liquor licenses to be issued hereunder shall not exceed four (4).<sup>7</sup>

(10) LICENSE CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions imposed by State law on the granting of Class A and Class B fermented malt beverage licenses and intoxicating liquor licenses hereunder, the following conditions and restrictions shall apply:

(a) Consent to Inspection of Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the City without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.

(b) Violation by Agents or Employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.

(c) Sales to Underage Persons Prohibited. No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d) Sales by Clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(e) Commencement of Operations. Within 90 days after the issuance of a "Class A" retail liquor license or a "Class B" intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. Upon his failure to do business within such time, his license shall be subject to revocation by the Council after a public hearing. The Council may, for a good cause shown, extend such 90 day period.

(f) Cessation of Operations. If any licensee shall suspend or cease doing business for 90 consecutive days or more, his "Class A" retail liquor license or his "Class B" intoxicating liquor license or his "Class B" fermented malt beverage license shall be subject to revocation by the Council after a public hearing. The Council may, for a good cause shown, extend such 90 day period. Further, once a "Class B" intoxicating liquor license is revoked, no such license shall be issued in its stead if the effect of such reissuance increases the ratio of one for each 500 population.

(g) Transfer of License. No license shall be transferable from person to person except as provided by 125.04(12)(b), Wis. Stats., or from place to place, except as provided in 125.04 (12)(a), Wis. Stats.

(h) Location of Premises Restricted.

1. No retail Class A or Class B license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.

2. Except for bona fide clubs and hotels, no retail Class B license shall be issued in any residence district. Any premises shall be deemed to be included within a residence district if 2/3 of the buildings within a radius of 300 feet are used exclusively for residence purposes or the uses incidental thereto.

3. Except for bona fide clubs and hotels, a retail Class B license shall be issued only for the portion of a premises located on the street level.

(i) Safety and Health Requirements. No retail Class B license shall be issued unless the premises to be licensed to conform to the sanitary, safety and health requirements of the State Building Code, the State

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<sup>6</sup> Chapter 12.02 (8) - Repealed by Ordinance 2011-25

<sup>7</sup> Chapter 12.02 (9) – Amended by Ordinance 2012-06

Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also shall conform to all ordinances and regulations of the City.

(j) Clear View of Premises Required. Except as otherwise provided in this subsection, all windows in the front of any licensed premises shall be of clear glass, unobstructed by an signs, advertising material or venetian blinds, and the premises shall be so arranged as to furnish a clear view of the entire premises from the sidewalk at all times.

(k)

(l) City Taxes and Claims. No license shall be granted for operation on any premises upon which personal property taxes or assessments or other financial claims of the City are delinquent and unpaid.

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

(n) Wearing Apparel. All persons involved in the operation of any licensed premises under this section, whether as licensee, member of the immediate family of the licensee, licensed operator, unlicensed operator under the supervision of the licensee or licensed operator, waiter, waitress, entertainer, dancer or any other employee, shall observe the following applicable minimum standards for such licensed premises:

1. The costume, uniform or attire of any female shall be of nontransparent material and must completely cover the breasts at all times. The lower portion of such costume, uniform or attire must be of nontransparent material and completely cover the mons pubis genitals and the buttocks at all times.

2. The costume, uniform or attire of any male shall be of nontransparent material and must completely cover the pubis area, genitals and buttocks at all times.

(o) Posting of Licenses Required. Licenses or permits issued under this section shall be posted and displayed as provided in 125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(p) Dancing Regulated. No dancing shall be permitted upon premises licensed under this section by patrons or entertainers unless the premises is licensed under 12.07 this Chapter.

(11) PRESENCE ON PREMISES AFTER CLOSING HOURS RESTRICTED<sup>8</sup>

(a) No person who is not an employee of the person, corporation or entity that holds a license to sell intoxicating liquors or fermented malt beverages shall remain on the licensed premises after closing hours as established by Chapter 12 of the Municipal Code for the City of Prairie du Chien, Crawford County, Wisconsin.

(b) Any person on any premises licensed to sell intoxicating liquors or fermented malt beverages after closing hours as established by Chapter 12 of the Municipal Code of the City of Prairie du Chien must be an employee of the person, corporation.

(12) SALE OF CLASS B PACKAGED GOODS.

(a) Sale Restrictions. Pursuant to 125.51(3)(b), Wis. Stats., no person may sell intoxicating liquor in an original unopened package, container or bottle for consumption away from the premises in excess of 4 liters at any one time on any premises for which any "Class B" intoxicating liquor license or combination "Class B" alcohol beverage license has been issued. However, packaged goods sales of fermented malt beverages and wine from such premises may be made in any quantity.

(b) Hours of Sale. Between the hours of 12:00 midnight and 8:00 A.M., no person may sell any packaged goods from any Class B licensed premises.

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(14) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES.

(a) Restrictions. Pursuant to S.125.07(4)(b) and (bm), Wis. Stats., no underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may knowingly possess or consume alcohol beverages.

(b) Exceptions. An underage person may possess alcohol beverages if employed by any of the following:

1. A brewer

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<sup>8</sup> Chapter 12.02 (11) - Amended by Ordinance 92-23

<sup>9</sup> Chapter 12.02 (13) - Amended by Ordinance 782

2. A fermented malt beverages wholesaler.
  3. A permittee other than a Class "B" or Class "B" permittee.
  4. A facility for the production of alcohol fuel
  5. A retail licensee or permittee under the conditions specified in 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
  6. A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (c) Selling or Serving Alcohol Beverages. Pursuant to 125.32(2) and 125.68(2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcohol beverages on any Class A or Class B premises, provided that such underage person is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

(15) REVOCATION AND SUSPENSION OF LICENSES.

- (a) Procedure. Except as hereinafter provided, the provisions of 125.12(2) and (3), WI. Stats., shall be applicable to proceedings for revocation or suspension of licenses or permits granted under this section. Revocation or suspension proceedings may be initiated upon written complaint by the Mayor or Chief of Police or by the Council upon its own motion.
- (b) Repossession of License or Permit. Whenever any license or permit shall be revoked or suspended pursuant to this subsection, the Clerk-Treasurer shall notify the licensee or permittee and the Chief of Police or his designee shall take physical possession of the license or permit wherever it may be found and file it in the office of the Clerk-Treasurer.
- (c) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this section revoked within 12 months prior to application.

**12.03 (SODA WATER BEVERAGE LICENSE)<sup>10</sup>**

(Repealed)

**12.04 (CIGARETTE RETAILER LICENSE)**

(1) REQUIRED. No person shall sell cigarettes in the City without first obtaining a license from the Clerk-Treasurer. The provisions of 134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

(2) LICENSE FEE. The license fee shall be \$20.00 per year.<sup>11</sup>

**12.05 (AMUSEMENT DEVICE LICENSE)<sup>12</sup>**

(1) DEFINITIONS. For the purpose of this section, the following definitions shall apply:

- (a) Amusement device. Any pool or billiard table located in commercial premises or any machine activated by the insertion of a coin, slug, token or similar item and designed for amusement of the person operating the machine, including, but not limited to, jukeboxes, video and pinball machines; pool, shuffleboard and similar games; and any other device when set up and operated in an established place of business for profit, the operation of which involves a skill feature, and which is not a gambling device. Vending machines are excluded from this definition.
- (b) Amusement Arcade. Any premises at which 20 or more mechanical or electronic amusement devices are located.
- (c) Gambling. Shall be defined as set forth in Wisconsin State Statute Chapter 945.
- (d) Premises. A building or part of a building in which a mechanical or electronic amusement device or an amusement arcade is located and which is described in the license.
- (e) Skill. Means, within an opportunity provided for all players fairly to obtain prizes or rewards of merchandise, a player's precision, dexterity or ability to use his or her knowledge which enables him or her to obtain more frequent rewards or prizes than does another less precise, dexterous or knowledgeable player.

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<sup>10</sup> Chapter 12.03 – Repealed by Ordinance 2010-25

<sup>11</sup> Chapter 12.04 (2) - Amended by Ordinance 2010-25

<sup>12</sup> Chapter 12.05 - Recreated by Ordinance 2012-27

(2) LICENSE REQUIRED.

- (a) No person shall install, lease or set up any amusement device for use on any premises or operate any amusement arcade in the City without first obtaining a license from the Clerk-Treasurer.
- (b) The license application shall set forth the following information:
  - 1. The name and address of the applicant or, if a partnership or a limited liability partnership, the names and addresses of all the partners or, if a corporation or a limited liability company, the names and addresses of the principal officers and registered agent thereof, and the name and address of the person who will supervise the game room.
  - 2. The names and addresses of the owners of the amusement devices to be located on the licensed premises, if such others are different from that of the applicant. If the owner of the amusement devices is a partnership, the names and addresses of all the partners or, if a corporation, the names and addresses of the principal officers and registered agent thereof.
  - 3. A building plan of the premises to be licensed specifically describing and otherwise showing all dimensions, indicating the intended division of floor space, exits and entrances, the areas to be used for amusement devices, and the common aisles.
  - 4. If the applicant operates other game rooms in other areas, the names and addresses of such other licensed establishments.
  - 5. Such application shall also contain such additional information as the City deems necessary to assist it in determining the qualifications of the applicant for such license.

(3) FEE.<sup>13</sup>

- (a) The fee for an amusement arcade license hereunder shall be \$20.00 per year. In addition, the fee for an amusement device license hereunder shall be \$10.00 per year for each machine.
- (b) Permits may be transferred from machine to machine for a fee of \$1.00.

(4) POSTING OF LICENSES.

- (a) All licenses for amusement devices shall be attached in plain view upon the respective licensed devices.
- (b) All licenses for an amusement arcade shall be in plain view within the premises.

(5) PRIZES AND GAMBLING PROHIBITED.

- (a) No person shall offer, make, give or award any prize, money or coin to any person through or by reason of the use or operation of an amusement device. An exception shall be granted for any amusement device if it rewards the player exclusively with one or more nonredeemable free replays for achieving certain scores and does not change the ratio or record the number of the free replays so awarded, and for an amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to prizes, toys and novelties, each having a wholesale value which is not more than 7 times the cost charged to play the amusement device once or \$5, whichever is less.
- (b) No licensee shall permit his amusement devices to be used for gambling purposes.

(6) RESTRICTIONS AND REGULATIONS.

- (a) Premises to Be Safe and Sanitary. No license shall be granted for any amusement arcade 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 or restricting the movement of patrons and is an otherwise safe and sanitary environment. Generally, usable patron floor space should be 3 times greater than the floor space required by the amusement devices.
- (b) Premises to Be Supervised. The premises shall be adequately supervised during all hours of operation.
- (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 this Code or State or Federal law is permitted on such premises or adjacent areas.
- (d) 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.

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<sup>13</sup> Chapter 12.05 (3) - Amended by Ordinance 2010-25

(7) PENALTY. Failure to acquire the licenses set forth in this ordinance shall result in a fine of twenty-five (25) dollars per machine for the first offense and fifty (50) dollars per machine for each subsequent offense in a calendar year.

**12.06 (AMUSEMENT ARCADE LICENSE)<sup>14</sup>**

(Repealed)

**12.07 (DANCE HALL LICENSE)<sup>15</sup>**

(1) LICENSE REQUIRED. No person shall hold, conduct or have a public dance within the City except within a public dance hall, pavilion or on premises duly licensed under this section.

(2) DEFINITIONS. The terms used in this section shall be defined as follows:

(a) Public Dance. Any dance at which admission can be gained by the public generally upon payment of an admission fee or by the purchase, possession or presentation of a ticket or token, or in which charge is made for the caring of clothing or other property, or any other dance to which the public generally, without restriction, may gain admission with or without payment of a fee, or a dance operated for profit.

(b) Public Dance Hall. Any room, place or space at which a public dance may be held, or any hall or academy in which classes in dancing are held and instruction in dancing given for hire.

(3) EXCEPTIONS. Neither "public dance hall" nor "public dance" shall apply to a dance conducted in a church or parochial school hall or public school or fraternal or patriotic organization hall or to such place when conducted under the auspices of the proper church authorities or by any college or academy conducted for educational purposes, not to any dance conducted under the auspices of a parent teachers' association in conformity to law and the rules of the proper school authorities, nor to the place at which the same may be held.

(4) APPLICATION AND FEE. Application for a license for a public dance hall may be made by the owners or tenants of the premises for which a license is sought, directed to the Council. The license shall expire on June 30 following the date of issuance. The license fee shall be \$20.00.<sup>16</sup>

(5) POLICE SUPERVISION. All such dances shall be under the supervision of the Police Department and other proper authorities of the City. All licensees shall be responsible for maintaining order at dances.

(6) HOURS. All dances in the City shall cease at 2:00 A.M. and no music of any kind shall be permitted in any such dance hall, tavern or restaurant after 2:00 A.M. The provisions of this section shall apply to any place where dancing has been permitted. Restaurants may be permitted to be open, but no music of any kind shall be allowed after 2:00 A.M.

**12.08 (ENTERTAINMENT LICENSE)**

(1) LICENSE REQUIRED. Any person owning, conducting or managing for gain within the City any exhibition, show, amusement, carnival, circus, concert or musical entertainment shall obtain a license.

(2) APPLICATION. Application for a license shall be submitted on forms supplied by the Clerk-Treasurer. The application shall be accompanied by a certificate of insurance showing that the applicant is covered by liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$300,000 for the injury or death of one person, \$1,000,000.00 for any one accident and \$50,000 for property damage. If the entertainment involves carnival-type rides, proof of current inspection of such rides by the Wisconsin Department of Industry, Labor and Human Relations must also be furnished.

(3) FEE. The fee shall be \$50 per event.

(4) EXCEPTIONS. This section shall not be construed to require a license for premises licensed under sec. 12.02 of this chapter; for a lecture on a scientific, moral, educational or literary subject; for a concert of music given exclusively for a scientific, religious, educational or literary group; or for any lecture, concert, performance, exhibition or show given or made by citizens of the City, none of whom makes a vocation of providing such amusement.

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<sup>14</sup> Chapter 12.06 - Repealed by Ordinance 2012-27

<sup>15</sup> Chapter 12.07 - Revised by Ordinance 787

<sup>16</sup> Chapter 12.07 (4) - Amended by Ordinance 2010-25

**12.09 (FOOD AND MERCHANDISE STAND LICENSES)**<sup>17</sup>

(Repealed)

**12.10 (REGULATION AND LICENSING OF TRANSIENT MERCHANTS)**<sup>18</sup>

(Repealed)

**12.11 (LAWLER PARK DOCKING PERMIT)**

(1) REQUIRED. No water craft shall tie up or dock on the river wall adjacent to Lawler Park in the City without first securing, for said tying or docking, a permit from the Clerk-Treasurer.

(2) PENALTY. The owner of any water craft in violation of this section shall be subject to a forfeiture of \$100 per hour for each hour or part thereof that said water craft is in violation of this section.

**12.12 (JUNK DEALERS LICENSE)**

(1) LICENSE REQUIRED. No person shall engage in the business of buying, selling, gathering, delivering or storing old iron, brass, copper or other base metals, paper, rags or glass, any recyclable material unless no value is given therefore, and all articles and things discarded as manufactured articles commonly referred to as "junk", without first obtaining a license from the Council.

(2) EXCEPTION. No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site.

(3) APPLICATION. Applications for such license shall be made on forms supplied by the Clerk-Treasurer and filed with the Clerk-Treasurer.

(4) LICENSE FEE. The license fee shall be \$25 per year. The license year shall commence on July 1 of each year.

(5) REFERRAL TO COUNCIL. The application shall be referred to the Council which may grant, grant with conditions, or deny the license.

(6) RESTRICTIONS APPLICABLE TO JUNK DEALERS.

(a) No junk shall be displayed or stored outside the fenced area of the premises.

(b) No licensee hereunder shall conduct his business or any operation pertaining to such occupation on Sundays.

(c) No licensee shall conduct his business in such manner as to disturb unduly the peace and quiet of the neighborhood. The premises shall at all times be kept in a clean and wholesome condition and in full compliance with this section and in accordance with the reasonable rules, regulations and directions of the Council.

(d) Effective means for the elimination of the rodents and vermin commonly infesting junk yards shall be administered by all licensees hereunder.

(e) Every junk dealer shall keep a record of all copper, brass, guns, watches and other valuable materials purchased with the name and address of the person from whom purchased, the kind and quantity purchased, the serial number of the item purchased, and the date of the transaction. Such record shall be entered in a book which shall be open to inspection by police officers at any time.

(f) No junk shall be purchased from any person under 16 years of age without the written consent of the parent or guardian of such person.

(7) REVOCATION AND SUSPENSION OF LICENSE.

(a) Upon complaint being made in writing by any official of the City to the Council that any licensee hereunder has violated any of the provisions of this section, the Council shall cause a summons and complaint to be served upon the licensee to appear before it at the time specified in the summons, which shall be not less than 10 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Council shall thereupon proceed to hear the matter and if it finds that the allegations of said complaint are true, may revoke or suspend the license of such person.

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<sup>17</sup> Chapter 12.09 - Repealed by Ordinance 2011-02

<sup>18</sup> Chapter 12.10 - Repealed by Ordinance 2011-02

The provisions hereunder shall not be effective unless the license has received a copy of the complaint from the Building Inspector and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

(b) Whenever a license is revoked, the licensee shall have a period of 45 days from the date of such revocation to liquidate his business, during which time he shall be required to comply with all the terms and conditions of this section.

**12.13 (ANTIQUE, COIN AND SECONDHAND DEALERS)<sup>19</sup>**

(1) LICENSE REQUIRED. No person shall within the corporate limits of the City engage in the business of dealing in antiques or coins without first obtaining a license from the City Administrator.

(2) LICENSE FEE. The license fee hereunder shall be \$20.00 per year.

(3) RECORDS. Every licensee shall keep a written record of all articles purchased or sold with a description thereof and the name and address of the person involved in the transaction. This record shall be available to the Police Department at all reasonable hours.

(4) PURCHASES FROM MINORS PROHIBITED. No such dealer shall purchase any articles from any person under the age of eighteen (18) years.

**12.14 TAXICABS**

(1) DEFINITIONS. The term "taxicab", as used in this section, shall include all vehicles carrying passengers for hire for which public patronage is solicited, excepting vehicles which operate on established routes and are regulated by the Public Service Commission of Wisconsin.

(2) LICENSE REQUIRED. No person shall operate a taxicab within the City without a license obtained hereunder.

(3) APPLICATION. Application for a license hereunder shall be made to the Clerk-Treasurer and shall be referred to the Council.

(4) LICENSE FEES. The license fee hereunder shall be \$15.00 per taxicab per year.<sup>20</sup>

(5) COUNCIL APPROVAL REQUIRED. Upon reviewing the application and after considering the adequacy of existing taxicab service and the need for any additional service within the City, the Council shall grant or deny the license.

(6) APPROVAL OF FARES. The owner or driver of any taxicab shall not charge any passenger higher or lower rates of fare than those filed with the approved by the Council for transporting such passenger from any point within the City to any other point within the City.

(7) INSPECTION OF VEHICLES. The brakes, horn, lights, steering system, exhaust system and tires of every taxicab shall be examined and tested as to sufficiency at least once every 90 days by a reputable garage keeper doing business in the City who shall furnish a certificate as to the examination of the vehicle and that said components are in good working order, which certificate shall be filed with the Chief of Police.

(8) INSURANCE. Before any license is issued, the applicant for a license hereunder shall deposit with his application a certificate of insurance coverage showing that each vehicle to be licensed is covered by public liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$100,000 for injury or death to any one person in an accident involving such vehicle, \$300,000 for any one accident and \$25,000 property damage. Any insurance policy hereunder shall contain a provision that the same shall not be cancelled before expiration of its term except upon 20 days written notice to the City. Cancellation or termination of such insurance shall automatically terminate all licenses issued hereunder unless another certificate of insurance shall be substituted.

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<sup>19</sup> Chapter 12.13 - Amended by Ordinance 2011-05 and Ordinance 2010-25

<sup>20</sup> Chapter 12.14 (4) - Amended by Ordinance 2010-25

(9) LICENSE ISSUANCE. Upon the granting of a license hereunder and upon compliance with the provisions of this section by the applicant, the Clerk-Treasurer shall issue to the licensee a license which shall be displayed prominently in the taxicab for which it has been issued.

(10) LICENSES NOT TRANSFERABLE. No license issued hereunder shall be transferable from one licensee to another. Licenses may be transferred from one vehicle to another upon submitting to the Clerk-Treasurer proof of insurance and a certificate of inspection.

(11) NAME OF CABS. The serial number of a taxicab license shall be printed or painted on each side of the taxicab in figures at least 1-1/2 inches in height in a contrasting color at a point not lower than 1/2 the height of the taxicab. The name of the owner or operator of the taxicab shall be printed on both sides and rear of each taxicab in like letters.

(12) FARES TO BE POSTED IN TAXICAB. Each taxicab shall have a card printed in plain legible figures with the fares charged and posted in a conspicuous place inside the taxicab in plain sight of passengers.

(13) Repealed.

(14) SUSPENSION AND REVOCATION. Licenses granted under this section may be suspended or revoked at any time by the Council for any violation of the provisions of this section and also if the vehicle for which the license was issued is not of good appearance, clean and safe, or for conduct by the licensee or any person driving a vehicle under such license which is prejudicial to the public safety, welfare or good order of the City. A license suspended or revoked because the vehicle is not of good appearance, clean and safe shall not be reissued until the vehicle shall be put in good condition for use by the public to the satisfaction of the Council. When a taxicab license is revoked or suspended, as herein provided, the Clerk-Treasurer shall immediately notify the owner to cease operation of the vehicle as a taxicab for which the license has been revoked.

#### **12.15 (MOBILE HOMES AND MOBILE HOME PARKS)**

(1) STATE STATUTES ADOPTED BY REFERENCE. The provisions of 66.058, Wis. Stats., and the definitions therein are hereby adopted by reference.

(2) PARKING OUTSIDE LICENSED MOBILE HOME PARKS.

(a) Restricted. No occupied mobile home shall be permitted to be located in the City unless the same is in a licensed mobile home park, except those mobile homes now occupied outside of a mobile home park.

(b) Exceptions.

1. Paragraph (a) above is not intended to restrict the location of 1- and 2-family manufactured homes which meet the applicable 1- and 2-family standards set forth in Ch. 101, Wis. Stats., and the requirements of Ch.17 of this Code.

2. Notwithstanding other provisions of this subsection, the Council may, upon application, issue a special permit for the location of a mobile home outside a mobile home park for temporary use solely as a field office or as a temporary dwelling on an owner's lot while a permanent home is being constructed thereon, and such permit shall specifically state the expiration date thereof which shall not exceed 12 months as to a field office and not exceed 4 months as to a temporary dwelling.

(3) PARK LICENSE REQUIRED. No person shall establish or operate upon property owned or controlled by him/her within the City a mobile home park without having first secured a license therefore from the City Administrator. The application for such license shall be accompanied by a fee of \$2.00 for each space in the existing or proposed park, but not less than \$50.00. Such parks shall comply with Wis. Adm. Code H77, which is hereby adopted by reference. The license transfer fee is \$10.00.<sup>21</sup>

(4) ADDITIONS TO PARKS. Licenses of mobile home parks shall furnish information to the Clerk-Treasurer and Assessor on such homes added to their park within 5 days after their arrival on forms furnished by the Clerk-Treasurer.

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<sup>21</sup> Chapter 12.15 (3) - Amended by Ordinance 2010-25

(5) PARKING PERMIT FEES. There is imposed on each nonexempt mobile home located in the City a parking permit fee, such amount to be determined in accordance with 66.058, Wis. Stats. The fees shall be paid to the Clerk-Treasurer on or before the 10th day of the month following the month for which they are due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each nonexempt mobile home therein and to remit such fees to the Clerk-Treasurer. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Chs. 70 and 74, Wis. Stats.

(6) PAYMENT OF FEES FOR HOMES OUTSIDE PARKS. Occupants of nonexempt mobile homes parked outside of a mobile home park shall remit monthly parking permit fees directly to the Clerk-Treasurer as provided in sub. (5) above.

(7) MOBILE HOME PARK REQUIREMENTS.

(a) License Application. The application for a license or a renewal thereof shall be made on forms furnished by the Clerk-Treasurer 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, written authorization signed by the owner must be finished stating that the applicant is authorized to construct or maintain the park and make the application. The application shall also include 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:

1. The boundaries used for park purposes.
2. The location of roadways and driveways.
3. The location of units.
4. The location and number of sanitary conveniences, including toilets, washrooms, laundries, and utility rooms to be used by occupants of units, if required.
5. Method and plan of sewage disposal.
6. Method and plan of garbage removal.
7. Plan for water supply.
8. Plan of electrical lighting of units, if required.

(b) Inspection and Enforcement. No park license shall be issued until the Clerk-Treasurer shall notify the Chief of Police, the Health Officer, the Fire Chief and the Building Inspector of such application and these officials shall inspect, or cause to be inspected, such application and the premises to determine whether the applicant and the premises on which mobile homes will be located comply with this Code and State administrative rules and laws applicable thereto. These officials shall furnish to the 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. For the purpose of making inspections and securing enforcement, such officials or their authorized agents may enter on any premises on which a mobile home is located, or is about to be located, and inspect the same and all accommodations connected therewith at any reasonable time.

(c) Location of Parks. See Ch. 17 of this Code.

(d) Park Plan.

1. Drainage. Every mobile home and mobile home park shall be located in 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 that drainage or contaminated liquids or solids can be deposited on its location, including, but not limited to, drainage from any barnyard, outdoor toilet or other source of filth.

2. Sites. Home spaces shall be clearly defined and shall consist of a minimum of 1,000 square feet and a width of not less than 20 feet. The basic unit shall not occupy an excess of 1/4 of the area of the site and a complete unit, including all accessory structures shall not occupy more than 1/2 of the area of the site. Mobile home parks which, at the time of the adoption of Wis. Adm. Code H 77.04, effective March 1, 1971, existed lawfully with mobile home sites that do not comply with foregoing minimum area requirements may continue to operate. Expansion and modification of such mobile home parks shall, however, be in accord with this provision. All sites shall about upon a street or driveway giving easy access from all units to a public street. For a 2-way street, the width must be at least 32 feet if parking is to be permitted on both sides of the street, 25 feet in width if parking is permitted only on one side, or 18 feet in width if parking on the street is prohibited unless the width is appropriately increased. Such driveways shall be graveled or paved and maintained in good condition, having natural drainage, be well

lighted at night and shall be obstructed. Parking spaces in a ratio of 1-1/2 for each home site shall be provided

3. Walkways. Walkways shall be graveled or paved and well lighted at night.

4. Electrical Service. 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 amperes capacity and a heavy duty outlet receptacle. Electrical outlets shall be weatherproof and no power lines shall be less than 15 feet above ground.

5. Off-Street Parking. Off-street parking areas for motor vehicles shall be provided in the ratio of one space for each unit.

6. Mobile homes Parking Restricted. No unit shall be parked in a park outside of a designated space.

(e) Water Supply.

1. An adequate supply of pure water, furnished through a pipe distribution system connected directly with the public water main, shall be furnished for drinking and domestic purposes in all parks.

2. 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 of pressure per square inch and capable of furnishing a minimum of 125 gallons per day per space.

(f) Waste and Garbage Disposal.

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

2. Every space shall be provided with sewer connections which shall be provided with suitable fittings so that water tight connections can be made. Such connections shall be so constructed that they can be closed when not connected and trapped in such a manner as to be maintained in an odor-free condition.

3. 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.

4. Each faucet shall be equipped with facilities for drainage of excess water.

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

(g) Management.

1. 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.

2. The attendant or person in charge, together with the licensee, shall:

a. 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 the following:

i. Names and addresses.

ii. Dates of entrance and departure.

iii. License numbers of all mobile homes and towing or other vehicles.

b. Maintain the park in a clean, orderly and sanitary condition at all times.

c. Insure that this section is complied with an enforced and report promptly to the proper authorities any violations of this section or any other violations of law which may come to his attention.

d. Report to the Health Officer all cases of persons or animals infected or suspected of being infected with any communicable disease.

e. Maintain in convenient places, approved by the Fire Chief, hand fire extinguisher in the ratio of one to each 8 units.

f. Collect the monthly parking permit fee provided for in sub. (5) above. A book shall be kept showing the names of the person paying such service charges and the amount paid.

g. Prohibit the lighting of open fires on the premises.

h. Applicability of Plumbing, Electrical and Building Codes. All plumbing, electrical, building and other work on or at any park licensed under this section shall be in accordance with this Code and the requirements of the State Department of Health and Social Services.

- i. Revocation and Suspension. The Council may revoke any license or permit issued pursuant to the terms of this section, in accordance with 66.058 (2), Wis. Stats.

**12.16 (ANIMAL CONTROL)<sup>22</sup>**

**(1) LICENSING.**

(a) Any person owning, keeping, harboring, or having custody of any dog or cat over six (6) months of age must obtain a license as herein provided.

(b) Exception.

1. No license or permit shall be required of any humane society, municipal animal control facility or licensed veterinary clinic.

2. License fees shall not be required for seeing eye dogs or governmental police dogs under their control; licenses for the above shall be issued without charge.

(c) Application. Application for license shall be made to the City Clerk/Treasurer. A rabies certification issued by a licensed veterinarian clinic is necessary before a license can be issued.

(d) Fees. A license shall be issued after payment of the applicable fee:

1. For each un-neutered male dog	\$8.00
2. For each unspayed female dog	\$8.00
3. For each neutered male dog	\$3.00
4. For each spayed female dog	\$3.00
5. Duplicate license	\$3.00
6. For each un-neutered male cat	\$8.00
7. For each unspayed female cat	\$8.00
8. For each neutered male cat	\$3.00
9. For each spayed female cat	\$3.00
10. Duplicate license	\$3.00

(e) Census. The City of Prairie du Chien, may employ suitable persons upon such terms and conditions as it may see fit, to make a house-to-house census and issue licenses. The owners then and there to procure their rabies shots and licenses. The City of Prairie du Chien shall impose an additional charge of Twenty-five and no/100 (\$25.00) Dollars for each license issued in the course of such census.

(f) Impoundment of Animals

1. Unrestrained animals, not under the control of the owner or keeper, including dogs and cats, may be taken by the Police or the animal control personnel if one is employed by the City, and impounded in an animal shelter or veterinarian clinic and there confined in a humane manner.

2. Animals not claimed by their owners within seven (7) days shall be deemed as being surrendered and may be disposed of by the veterinarian service, and the original owner shall have no further claim for such animal.

3. Animals not claimed by their owners after seven (7) days may be available for adoption upon payment of boarding fees relative to that animal.

4. Release from Impoundment. Any dog or cat which has been impounded as a result of being lost or at large, shall not be released to its owner until payment of boarding fees are made.

**(2) KENNEL LICENSES.**

(a) The term "Kennel" means any establishment wherein or whereon dogs or cats are kept for the purpose of breeding, sale or sporting purposes.

(b) Any person, firm or corporation who keeps or operates a kennel shall apply to the City Clerk/Treasurer for such a license which may be granted only after review and hearing by the Common Council for the City of Prairie du Chien and upon such terms and conditions as the Common Council for the City of Prairie du Chien in its sole discretion determines to be in the public interest. Said license may be terminated or modified by the Common Council for the City of Prairie du Chien after notice and hearing if it be found that the kennel in question is excessively loud, odorous or a substantial nuisance to those who live in close proximity to same.

(c) Any person, firm or corporation granted a kennel license hereunder shall pay an annual fee to the City of Prairie du Chien for such license as follows:

1. \$45.00 for a kennel of twelve (12) or fewer animals in excess of six (6) months of age.<sup>23</sup>

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<sup>22</sup> Chapter 12.16 - Repealed and recreated by Ordinance 791

<sup>23</sup> Chapter 12.16 (2) (c) (1) - Amended by Ordinance 2010-25

2. The license fee as set forth in 12.16(1)(d) of the Municipal Code for the City of Prairie du Chien shall apply for each animal six (6) months of age or older in excess of twelve (12).
3. All fees hereunder shall be in lieu of and not in addition to those required by 12.16(1)(d) of the Municipal Code for the City of Prairie du Chien.

(3) ANNOYANCES

- (a) No person shall harbor or keep any dog or cat or any other animal which would be a public nuisance as defined in 10.03 (2) (g) of the Municipal Code for the City of Prairie du Chien.<sup>24</sup>
- (b) All structures, pens, yards and areas adjacent thereto for housing of all dogs, cats and other animals under this Ordinance shall be maintained in a clean and sanitary condition and free from objectionable odors.
- (c) All dogs and cats and other animals covered by this Ordinance shall be confined on the premises of the owner or caretaker or under his/her immediate control.
- (d) No person shall tie, stake or fasten any dog within any street, alley, sidewalk or other public place within the City of Prairie du Chien, or in such a manner that the animal has access to any portion of any street, alley, sidewalk or other public or private property.
- (e) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with any other animal except for planned breeding, provided, however, a dog or cat may be kept on a leash when under the supervision of a responsible person.
- (f) No owner, caretaker or custodian shall fail to exercise proper care and control of his/her animals to prevent them from becoming a public nuisance. Molesting passerby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds, parks, cemeteries, or trespassing upon private property, barking or whining, shall be deemed a nuisance.
- (g) No person shall keep or permit to be kept on his/her premises any wild or vicious animal for display or for exhibiting purposes, whether gratuitously or for fee. This Section shall not be construed so as to apply to a zoo, theatrical exhibit or circus.

(4) ANIMAL BITES (Repealed)<sup>25</sup>

(5) CRUELTY TO ANIMALS

- (a) No person shall confine and allow his/her animal to remain outside during adverse weather conditions constituting a health hazard to said animals; such act shall be deemed cruelty to animals and such animals may be impounded by the Police Department.
- (b) No owner shall fail to provide his/her animals with sufficient food and water, proper shelter and protection from the weather and with humane care and treatment.
- (c) No person shall beat, cruelty, ill-treat, torment, overload, overwork, or otherwise abuse any animal.
- (d) No person shall cause or permit any dog fight, cockfight, bullfight or other combat between animals or between animals and humans except rodeo events.
- (e) No owner of any animal shall abandon such animal.
- (f) It shall be unlawful for any person to injure, to destroy or attempt to injure or destroy, any kind of wild animal unless authorized by this Ordinance or State Statute.

(6) RABIES VACCINATION REQUIRED. Every dog or cat owned or kept within the City of Prairie du Chien that is five (5) months of age or older shall be vaccinated against rabies. Young dog and cats shall be vaccinated within thirty (30) days after they have reached the age of five (5) months. Unvaccinated dogs or cats acquired or moved into the City of Prairie du Chien must be vaccinated within thirty (30) days after arrival, unless under five (5) months of age, as specified above. Every dog and cat shall be revaccinated according to the recommendations of the vaccine used by the veterinarian administering such vaccinations. The certificate of vaccination shall specify the expected duration of the immunity of the vaccine used. The administering veterinarian shall issue a tag upon completion of the rabies vaccination, and that tag must be attached to the dog or cat's collar.

(7) MISCELLANEOUS PROVISIONS RELATIVE TO DOGS AND CATS.

- (a) Any dog or cat feces deposited on public or private property other than the owners shall be immediately picked up and disposed of by the owner or keeper of that animal.

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<sup>24</sup> Chapter 12.16 (3) (a) – Amended by Ordinance 2014-24

<sup>25</sup> Chapter 12.16 (4) - Repealed by Ordinance 2010-13

(b) No dogs, cats or other animals covered by this Ordinance shall be allowed in any park or recreation area owned by the City of Prairie du Chien, EXCEPT dogs that are specially trained to lead blind persons.

(8) PENALTIES. Violation of any part of this Ordinance shall be subject to penalties as set forth in Section 25.04 of this code.

**12.17 (TREE TRIMMING LICENSE)**

(1) LICENSE REQUIRED. No person shall engage in the business of tree trimming or tree removal within the City without first obtaining a license from the Clerk-Treasurer.

(2) APPLICATION. At the time of filing an application, an investigation fee of \$5 shall be paid to the Clerk-Treasurer to cover the cost of investigation of the facts stated in the application. The application shall be sworn to by the applicant and filed with the Clerk-Treasurer and shall contain such information as the Clerk-Treasurer shall require for the effective enforcement of this section and the safeguarding of the residents of the City.

(3) LICENSE FEE. The license fee shall be \$20.00 per year or any fractional part thereof. The license period shall commence July 1 each year and end June 30.<sup>26</sup>

(4) INSURANCE. No license shall be issued until the applicant deposits with the Clerk-Treasurer a policy of liability insurance covering tree trimming and tree removal operation of the applicant. Such insurance policy shall be issued by a company licensed to do business in the State of Wisconsin and shall insure the licensee against loss from liability to the amount of \$100,000.00 for the injury or death of one person in any one accident, in the amount of \$200,000.00 for the injury or death of more than one person in any accident, and \$10,000 for damage to property of others for any one accident due to the negligent operation of the licensee. The cancellation or other termination of any insurance policy issued in compliance with this section shall automatically revoke and terminate all license issued unless another policy shall be in effect at the time of such cancellation or termination.

**12.18 (GARBAGE HAULERS LICENSE)**

See Sec. 11.07(3) of this Code.

**12.19 (BICYCLE LICENSE)**

See Sec. 7.12 of this Code.

**12.20 (PENALTY)**

Except as otherwise specifically provided in this chapter, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Sec. 25.04 of this Code.

**12.30 (REGULATION OF VICIOUS DOGS) (Repealed)<sup>27</sup>**

(Repealed)

**12.31 (SPECIAL EVENTS/ PARADE PERMIT)<sup>28</sup>**

(1) PERMIT REQUIRED. No person shall form, marshal or lead any parade or special event on any public street, public premises, or publicly owned property within the corporate limits of the City of Prairie du Chien or owned by the City of Prairie du Chien unless a permit has been obtained in advance as provided for in this Ordinance.

(2) DEFINITIONS.

(a) "Special event" means any planned occurrence on the public right-of-way, public premises, or publicly owned property, including, but not limited to, gatherings, festivals and athletic events which are not within the normal and ordinary use of that public premises, public right-of-way, or publicly owned property or which by nature of the event may have a greater impact on City services or resources than would have occurred had the event not taken place. Whether the event is considered within the normal,

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<sup>26</sup> Chapter 12.17 (3) - Amended by Ordinance 2010-25

<sup>27</sup> Chapter 12.30 - Repealed by Ordinance 2010-13

<sup>28</sup> Chapter 12.31 - Created by Ordinance 2011-01

ordinary, or intended use of public premises, public right-of-way, or public property shall be determined by the City department that maintains jurisdiction over the proposed venue.

(b) "Parade" means an organized public procession on a festive or ceremonial occasion.

(3) PERMIT NOT REQUIRED.

(a) A permit is not required for assembling or movement of a funeral procession, Presidential or Gubernatorial procession, or Military Convoy.

(b) A parade on sidewalks and footways, in which persons move not more than two abreast and which does not substantially hinder normal use of the sidewalk or footway and conforms with traffic control devices and other traffic regulations, may be conducted without a permit, provided that notification of the event prior to its occurrence is provided to the Chief of Police, who must agree that the event meets the standards of this clause.

(4) LICENSE PERIOD. The license shall be valid for the date and time approved on the license permit.

(5) FEE. The fee shall be set at \$25.00.

(6) ADDITIONAL FEES. Where the Common Council determines that the cost of additional municipal services was increased because of the special event, the Common Council may require the permittee to make an additional payment in an amount equal to the increased cost for the municipal services

(7) HOW TO APPLY. Applications shall be made in writing on the form prescribed by law and filed with the City Administrator who may issue the same after appropriate review by the Co-Public Works Managers, the Parks and Recreation Director, the City Administrator, and the Chief of Police and Parks Department. All applications shall be filed no less than fifteen (15) days and no more than sixty (60) days prior to the parade or special event. Approval of the permit must be granted by the Common Council to the special event or parade.

**12.32 (PEDDLERS, CANVASSERS, AND TRANSIENT MERCHANTS LICENSE)<sup>29</sup>**

(1) LICENSE REQUIRED. No peddler, canvasser, or transient merchant as defined in Section 2 hereof shall engage in any business within the City without first obtaining a license therefore.

(2) DEFINITIONS. The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Canvasser" includes any person, whether a resident of the City or not, who goes from place to place within the City taking or attempting to take orders for future delivery of property or for services to be performed in the future, whether or not such person carries or exposes for sale a sample of such sale or whether or not he/she is collecting advance payments on such sales. It includes any person who occupies any place within the City for the purpose of exhibiting samples and taking orders for future delivery.

(b) "Peddler" includes any person, whether a resident of the City or not, who goes from place to place within the City offering for sale property which he/she carries with him/her or making sales and delivering articles to purchasers. It shall not include vendors of milk, bakery products, groceries, or ice who distribute their products to regular customers on established routes.

(c) "Transient merchant" means a person who engages at a fixed location in the City in the temporary business of primarily selling property at such location. It does not include a person who does not sell from stock but exhibits samples for the purpose of securing orders for future delivery only, or vendors of prepared food who have received appropriate licenses. It includes a person who associates temporarily with any local business or conducts business in the name of a local merchant, dealer or auctioneer.

(3) EXEMPTIONS. No license shall be required hereunder of the following:

(a) Persons selling personal property at wholesale to dealers in such articles.

(b) Newsboys.

(c) Children under 18 years of age who are residents of the City.

(d) Merchants or their employees delivering goods in the regular course of business.

(e) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.

(f) A veteran holding a special State license under § 440.51, Wis. Stats.

(g) Sales required by statute or order of a court.

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<sup>29</sup> Chapter 12.32 - Created by Ordinance 2011-02

- (h) Bona fide auction sales conducted pursuant to law.
- (i) Sales at community events or fairs sponsored by nonprofit organizations or public entities provided the transient merchant has the permission of the nonprofit sponsor or public entity to sell at the community event or fair.

(4) APPLICATION. Application for a license hereunder shall be made in writing to the City Administrator on a form furnished by the City Administrator stating:

- (a) Name and description of applicant.
- (b) Permanent home address and local address of the applicant and, in case of transient merchants, the local address from which proposed sales will be made.
- (c) A brief description of the nature of the business and the goods to be sold.
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- (e) The length of time for which the right to do business is desired.
- (f) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof, where such goods or products are located at the time such application is filed and the proposed method of delivery.
- (g) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any City ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- (h) The three cities or villages where applicant carried on business immediately preceding date of application and the address from which such business was conducted in those municipalities.

(5) RELIGIOUS AND CHARITABLE ORGANIZATIONS.

(a) License application. Any organization, society, association, or corporation desiring to solicit or have solicited in its name donations of money, or property or desiring to sell or distribute any property for which a fee is charged within the City for a charitable, religious, patriotic or philanthropic purpose shall be exempt from the provisions of this ordinance, provided a sworn application in writing is filed on a form furnished by the City Administrator stating the following:

1. Name and purpose of the cause for which permit is sought.
2. Names and addresses of the officers and directors of the organization.
3. Period during which solicitation is to be carried on.
4. Whether or not any commission, fees, wages, or emoluments are to be expended in connection with such solicitation.

(b) Issuance of license to exempt organization. Once satisfied that such organization is an established religious, charitable, patriotic, or philanthropic organization, the City Administrator shall issue a permit, with a charge of \$10.00, to such organization to solicit in the City. Such organization shall furnish to its members, agents or representatives conducting solicitation credentials stating the name of the organization, the name of the agent and the purpose of the solicitation.

(6) INVESTIGATION AND ISSUANCE.

(a) The Chief of Police shall immediately investigate the applicant's business and moral character as he/she deems necessary for the protection of the public good and shall endorse the application as prescribed herein within seventy-two (72) hours after the application has been filed with the City Administrator by the applicant.

(b) If the Chief of Police shall find the applicant is not of good moral character, he/she shall endorse on such application his/her disapproval and his/her reasons for the same. The City Administrator shall notify the applicant that his/her application has been disapproved and that no license shall be issued.

(c) If the Chief of Police shall find the applicant to be of good moral character, he/she shall endorse his/her approval on the application. The City Administrator shall then issue to the applicant a license. Such license shall contain the signature of the issuing officer and shall show the name and address of such licensee, the class of license issued, the kind of goods to be sold thereunder, the date of issuance, the date of expiration, the license number, and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or transient merchant shall secure a personal license. No license shall be used by any person other than the one to whom it is issued. The City Administrator shall keep a permanent record of all licenses issued.

(7) FEES.

- (a) A fee for such license shall be \$35.00.

(b) Any veteran who holds a special State license issued pursuant to § 440.51, Wis. Stats., shall be exempt from the securing of a license as provided herein.

(8) EXCESSIVE NOISE PROHIBITED. No person licensed hereunder shall in hawking his/her wares create such noise as to annoy a person of ordinary sensibilities.

(9) USE OF STREETS. No licensee shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks. For the purpose of this subsection, a police officer's judgment, exercised in good faith, shall be conclusive as to whether the area is congested and the public impeded or inconvenienced.

(10) DISPLAY OF LICENSE. Any person licensed hereunder shall carry his/her license with him/her while engaged in licensed activities, and shall display such license to any officer of the City or any person with whom he/she seeks to do business upon request.

(11) DUTY OF POLICE TO ENFORCE. A police officer shall require any person seen peddling, soliciting, or canvassing who is unknown by such officer to be licensed and to produce his/her license; and the police officer shall enforce the provisions of this section against any person violating the same.

(12) REVOCATION. Any license issued hereunder may be revoked by the Council, after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for license.
- (b) Fraud, misrepresentation, or false statement made in the course of carrying on his/her business as solicitor, canvasser, peddler, or transient merchant.
- (c) Any violation of this section.
- (d) Conviction of any crime or misdemeanor involving moral turpitude.
- (e) Conducting the business of peddler, canvasser, solicitor, or transient merchant in an unlawful manner or in a manner that breaches the peace or is a menace to the health, safety, or general welfare of the public.

(13) APPEAL. Any person aggrieved by the action of the Chief of Police or the City Administrator in the denial of a permit or license may have such denial reviewed by the Common Council.

(14) REAPPLICATION. No applicant to whom a license has been refused or whose license has been revoked shall make further application until at least six (6) months have lapsed since the last previous rejection or revocation, unless he/she can show that the reason for such rejection or revocation no longer exists.

(15) EXPIRATION OF LICENSE. Any annual license issued hereunder shall expire December 31 in the year issued.

(16) DISCLOSURE REQUIREMENTS.

(a) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose the transient merchant's name, the name of the company or organization the transient merchant is affiliated with, if any, and the identity of the merchandise or services being offered for sale.

(b) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or if it is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in § 423.203, Wis. Stats. The seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b), and (c), (2), and (3), Wis. Stats.

(c) If the transient merchant takes a sales order for the later delivery of merchandise, the transient merchant 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.

(17) PENALTY. Any person adjudged in violation of this Ordinance shall be subject to a forfeiture of not less than \$25.00 nor more than \$1,000.00 per day for each violation plus costs of prosecution. Each violation shall constitute a separate offense.

**12.33 (FLEA MARKET LICENSE)<sup>30</sup>**

(1) SECONDHAND ARTICLE DEALER. No person may operate as a secondhand article dealer unless that person first obtains a secondhand article dealer's license. "Secondhand article dealer" means any person who primarily engages in the business of purchasing or selling secondhand articles as defined in § 134.71(1)(f) and (g), Wis. Stats.

(2) LICENSE NOT REQUIRED. A person who operates as a secondhand article dealer only on premises or land owned by a person having a secondhand dealer mall or flea market license need not obtain a secondhand article dealer's license.

(3) SECONDHAND JEWELRY DEALER. No person may operate as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry dealer's license. "Secondhand jewelry dealer" means any person who engages in the business of any transaction consisting of purchasing, selling, receiving or exchanging secondhand jewelry as defined in § 134.71(c), (f) and (g), Wis. Stats.

(4) SECONDHAND ARTICLE DEALER/FLEA MARKET. The owner of any premises or land upon which two (2) or more persons operate as secondhand article dealers may obtain a secondhand article dealer mall or flea market license for the premises or land if the following conditions are met:

- (a) Each secondhand article dealer occupies a separate sales location.
- (b) The secondhand article dealer mall or flea market is operated under one name and at one address, and is under the control of the dealer/flea market license holder.

(5) LICENSE PERIOD. Each license for a secondhand article dealer or secondhand jewelry dealer is valid from January 1 until December 31. Each license for a secondhand article dealer mall or flea market is valid from January 1 until December 31.

(6) LICENSE FEE. The following license fees are due at the time of application filing.

- (a) Secondhand Article Dealer's License - \$27.50
- (b) Secondhand Jewelry Dealer's License - \$30.00
- (c) Secondhand Article Dealer Mall or Flea Market License - \$165.00

(7) HOW TO APPLY. Applications shall be made in writing on the form prescribed by law and filed with the City Administrator who may issue the same after appropriate investigation by the Police Department and Common Council approval. All applications for this license must be in writing to the City Administrator not less than fifteen (15) days prior to the granting of this license. The required fee and bond, if applicable, shall accompany the application.

**12.34 (STREET PARTY/CLOSURE PERMIT)<sup>31</sup>**

(1) PERMIT REQUIRED. The City Administrator may order the temporary closing of a City street or public thoroughfare in a residentially zoned district for the purpose of authorizing a street party to be held thereon, through the issuance of a "Street Party/Closure Permit". The request for such a permit must be in writing, signed by a majority of property owners fronting the street to be closed, filed at least ten (10) days in advance of the event desired to be held, accompanied by a fee to cover the cost of permit issuance and administration.

(2) DEFINITION. A "Street Party" shall be defined as a gathering of persons for a civil, charitable, community, or neighborhood event held within a City street or other public thoroughfare which has been temporarily closed for the occasion.

(3) RESTRICTIONS.

- (a) Street parties shall start no earlier than 10:00 A.M. Permits issued shall state a starting time and termination time.

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<sup>30</sup> Chapter 12.33 - Created by Ordinance 2011-03

<sup>31</sup> Chapter 12.34 - Created by Ordinance 2011-04

(b) Street parties shall terminate no later than 11:00 P.M., on the day of commencement of the street party, however, the City Administrator, upon the request of abutting property owners, may specify an earlier termination time. Prior to granting a permit, the City Administrator should confer with the Alderpersons of the District, if practicable.

(c) Street parties may be prematurely terminated by order of a police officer following an investigation which indicates that the street party has become loud, disorderly, is creating a public nuisance, disturbing the peace, endangering the public health, safety or welfare, or otherwise contrary in its conduct to the terms of this Ordinance or other City or State ordinances, laws, rules or regulations. It shall be unlawful for any person to participate in a street party once terminated by order of a police officer as above set forth.

(4) FEE. A Street Closure Permit shall be issued for a fee of \$25.00. Should any street party take place prior to the issuance of a permit, the fee shall increase to five (5) times the amount of the fee.

(5) LIMIT. There shall be a limit of two (2) permits per calendar year per street block.

(6) INSPECTION. A Co-Manager of the Department of Public Works shall inspect the street or public thoroughfare and obtain the recommendations of the Fire and Police Departments prior to permit issuance. The Department of Public Works shall provide barricades to close off the street which will be the subject of the street party. The City Administrator may decline to issue said permit for good cause, such as, but not limited to, his/her consideration that the street closing, if permitted, will, or will tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, safety, and welfare. The Director of Public Works, upon issuing a permit, shall send a copy of same to the Fire and Police Departments, notifying the departments of a closed street. The permit shall state the date and time for which the permit is valid.

(7) APPEAL. Should the permit be denied, the applicant may appeal the denial to the Public Works Committee by filing a written notice of appeal with the City Administrator within five (5) business days following, but not including, the day of denial.

(8) BARRICADES. The Police Department shall check the street during said permit hours to determine if the barricades have in fact been put in place. It shall be the responsibility of the applicant to put in place and maintain said barricades during the hours of the street closing specified on said permit. It shall be unlawful to hold a street party under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of said permit. It shall also be unlawful to place or maintain said barricades on a City street or public thoroughfare at any time or place not specified in said permit application. The applicant shall at all times be personally responsible for complying with this Ordinance and his/her duties are not delegable. It shall further be unlawful for any person to possess a City barricade or use the same for any purpose not authorized by the City.

(9) DEPOSIT. A deposit of \$ 100.00 shall be required of all permit applicants prior to issuance of a permit hereunder. Said amount to be used by the City to offset any damage to barricades required hereunder.

**12.40 (ANNUAL FEES FOR USE OF ALL LAUNCHING AREAS)<sup>32</sup>**

\$40.00 – Non-resident Annual Fee

\$20.00 – Resident Annual Fee

\$7.00 – Daily Fee

For the above fees, the following definitions shall apply:

(1) A non-resident is any person with residence outside the corporate limits of the City of Prairie du Chien, Crawford County, Wisconsin.

(2) A resident is any person with residence within the corporate limits of the City of Prairie du Chien, Crawford County, Wisconsin.

(3) Annual shall mean year 2000 commencing with the enactment of this Ordinance and run to and including the 31st day of December, 2000. Thereafter, annual shall be each calendar year starting year 2001.

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<sup>32</sup> Chapter 12.40 - Created by Ordinance 00-09 and re-created by Ordinance 2012-18. Fees amended by Ordinance 2010-25.

(4) Daily shall mean commencing on the day the fee for the daily usage was purchased and end at midnight of that same day.

(5) Any person launching a boat or other water craft shall be required to pay a fee as set forth in Section 1 above. Notwithstanding the above, all state, federal, and local governmental agencies are exempt from payment of the fee hereunder required.

(6) The City Administrator of the City of Prairie du Chien, Crawford County, Wisconsin, is hereby authorized to contact or associate with any person, firm, corporation, or entity for the purpose of sale and collection of the permits and associated fees required by this Ordinance. Further the City Administrator of the City of Prairie du Chien, Crawford County, Wisconsin, is authorized to undertake and implement any and all additional requirements necessary to effectuate this Ordinance.

(7) All fees collected hereunder shall be placed in a non-lapsing fund to be used for the repair and maintenance of boat launching sites presently in existence within the City of Prairie du Chien, Crawford County, Wisconsin, and for the development, construction, repair and maintenance of future boat launching sites within the City of Prairie du Chien, Crawford County, Wisconsin.

(8) Any person violating any provision of this Ordinance shall be subject to penalty as set forth in Section 25.04 of the Municipal Code now in effect or as amended from time to time.

**12.41 (NON-METALLIC MINING REGULATIONS)<sup>33</sup>**

(1) INTENT. The purpose of this section is to provide minimum standards for large nonmetallic mining operations including processing facilities in the City, and to require licenses for nonmetallic mining operators and facility operators in order to protect public health and safety, to minimize or prevent adverse off-site impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the City.

(2) DEFINITIONS. For the purpose of this section, the following definitions shall be applied:

(a) "Adjoining landowner" means any property within 1/2 mile of the proposed mine site regardless of whether there is a residence or structure on the property.

(b) "Buffer" means an undisturbed vegetated area measured from the mine site border into the mine site, in which no nonmetallic mining activities, structures or roads can occur except for the construction and maintenance of a vegetated berm.

(c) "City" means City of Prairie du Chien, Crawford County, Wisconsin

(d) "Dwelling" means any building or structure, or part thereof, which is used or intended to be used for living or sleeping.

(e) "Heavy Vehicle" means a vehicle over 48,000 pounds.

(f) "Landowner" means the person or entity who has title to land in fee simple or who holds a land contract for the land.

(g) A "mine site" or "site" means land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the Operator; all land on which is or will be located any structures, equipment, storage facilities, stockpiles, washing, drying, processing or screening facilities, private roads or haulage ways associated with nonmetallic mining operation regardless of whether the materials come from on-site or off-site; and all contiguous lands to the nonmetallic mining operation under common ownership or control of the owner or Operator.

(h) "Nonmetallic minerals" means a product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material. Nonmetallic minerals include but are not limited to stone, rock, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.

(i) "Nonmetallic mining" means any or all of the following:

1. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading and dredging of such materials.

2. Manufacturing or industrial processing operations that may involve the use of equipment for the crushing, screening, separation, washing, drying or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site, or from materials transferred from off-site.

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<sup>33</sup> Chapter 12.41 - Created by Ordinance 2013-03

3. Manufacturing processes aimed at producing nonmetallic products for sale or use by the Operator.
4. Stockpiling of nonmetallic products for sale or use off-site and stockpiling of waste materials.
5. Transport of the extracted nonmetallic materials, finished products or waste materials to or from the extraction site and/or processing site(s).
6. Disposal of waste materials.
7. Reclamation of the extraction site.

(j) "Operator" means any person who is engaged in, or who has applied for a license to engage in nonmetallic mining whether individually, jointly or through subsidiaries, agents, employees, contractors, or subcontractors.

(k) "Operator's license" or "license" means the license required of mining operators in this Chapter to undertake nonmetallic mining in the City.

(l) "Waste Material" means the non-marketable by-product that results directly from or is displaced by extraction or that is a by-product of a manufacturing process that is scheduled for disposal at the extraction site or some other site as part of a reclamation plan.

(3) **APPLICABILITY AND SCOPE.** This section shall apply to all nonmetallic mining operations and mine sites including processing facilities within the City where more than ten (10) acres of total affected acreage occurs over the life of the mine or processing facility, and does not apply to activities set forth in (a) through (f) below.

(a) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.

(b) Excavations or grading conducted for the construction reconstruction, maintenance or repair of a highway, railroad, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the highway, railroad or other transportation facility.

(c) Grading conducted for preparing a construction-site or restoring land following a flood or natural disaster.

(d) Excavations for building construction purposes conducted on the building site.

(f) Removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.

#### (4) **LICENSE REQUIRED**

(a) **License Requirement.** Except as set forth in subsection (6), no person shall operate a nonmetallic mine or processing facility within the scope of this Chapter in the City without first obtaining an Operator's license from the Common Council.

(b) **License Term.**

1. An Operator's license shall be granted for a period of three years commencing on January 1 and ending on December 31. For the first year of operation under this Chapter, the Operator's license will extend from the date of issuance until the second December 31 of the second calendar year after operations have been started.

2. An Operator's license may be renewed as set forth in Section 12.41 (8).

3. **License Amendment.** If the City has issued an Operator's license, the Operator may request an amendment to that license during the license term, using the same process as the original license application.

4. **License Transfer.** An Operator's license may not be assigned or transferred without the express written consent of the Common Council.

5. **License Revocation.** An Operator's license may be revoked under the procedures in Section 12.41 (9).

6. Non-metallic sand and gravel mines in operation on and prior to the date this section takes effect shall not be required to register or apply for a license under this ordinance, as long as said mine operates under the original reclamation plan approved by the Crawford County Land Conservation Department and/or the City of Prairie du Chien and the reclamation plan is not modified in any way. If the reclamation is modified, the mine is considered a new operation and is subject to the licensing requirements of this ordinance.

#### (5) **PROCEDURES FOR APPLYING FOR AN OPERATOR'S LICENSE.**

(a) **Application Form.** The Application Form for a license to mine in the City shall be available from the City Administrator.

(b) Application Submittal. The applicant shall submit five (5) copies of the Application Form and all required documentation required under Section 12.41 (6) to the City Administrator accompanied by the payment of the appropriate fees as set forth herein. The Application Form shall be signed by the Operator and by the landowner, provided the landowner is a person other than the Operator.

(c) Reimbursement of Fees and Costs.

1. Reimbursable Costs. The City Administrator and other City staff may expend time in the review and processing of Operator's Licenses. The City may also retain the services of professional consultants in reviewing, processing and acting upon Operator's License applications, including but not limited to engineers, attorneys, planners, environmental specialists, and other consultants with skills relevant to Operator Licensing issues arising under this Ordinance. Any applicant for an Operator's License shall reimburse the City for staff time expended, and shall reimburse the City for the cost to the City charged by any consultant retained by the City, in the administration, investigation, and processing of such Operator's License application.

2. Preliminary Cost Reimbursement Agreement. At the time an application for an Operator's License is filed with the City, the applicant shall execute for the benefit of the City an agreement agreeing to pay and providing adequate security guaranteeing payment of the cost of the investigation, review and processing of the application, including without limitation by way of enumeration, legal, engineering, acoustical, planning, environmental, and staff administrative costs. The agreement and the security shall be in form and substance acceptable to the City. The City shall not begin processing the application until the preliminary cost reimbursement agreement is approved and signed and until the required security is provided to the City. The City may accept an initial deposit to begin permit processing and to provide an estimate to the applicant of anticipated costs, but it shall not incur processing costs beyond that for which a deposit or other security has been approved.

(d) Initial Review by the County Land Conservation Department.

1. Preliminary Review. The City Administrator shall forward the application to the Land Conservation Department for initial review to determine if additional information or expertise is necessary to properly evaluate the application. If no additional information or expertise is deemed necessary the Land Conservation Department proceed to schedule a final review at its next regularly scheduled meeting.

2. Additional Information. The Land Conservation Department may request the applicant to submit additional information if the Land Conservation Department determines that the application is incomplete. The Land Conservation Department may also retain the services of an engineering firm or other qualified person with appropriate expertise ("retained expert") to review the application and report to the Land Conservation Department whether additional information is required for review of the application and to determine whether the application meets the standards of this Chapter.

3. Retained Expert Report. Once the applicant has submitted any additional information and has paid the fee in the amount charged, the retained expert shall report to the Land Conservation Department on whether the application meets the requirements of this Chapter.

4. Final Review. The Land Conservation Department shall schedule the application for final review at its next regularly scheduled meeting following its completion of review under par (a) or (c).

5. Recommendation to the Common Council. Upon completion of its review, the Land Conservation Department shall make findings of fact and either recommend that the Common Council grant the applicant a permit to mine with or without restrictive conditions of use or recommend that the Common Council deny the application for a permit to mine. The Land Conservation Department will make every reasonable effort to expedite their review of the application.

(e) Decision by the Common Council

1. Notice and Hearing. The City Administrator shall place the Land Conservation Department's recommendation on the agenda for the next regular meeting of the Common Council. The Common Council shall set a date for a public hearing and give Class III public notice plus the designated posting places at least fifteen (15) days prior to the date scheduled for the hearing, with the notice mailed to all adjoining landowners. At the public hearing, the Common Council shall take public comment on the proposed mine license.

2. Common Council Decision. Following the public hearing, the Common Council may take immediate action or set a date for the meeting at which time they shall make a final decision on

the Operator's license. The Common Council shall review the retained expert's report as well as public comments made at the public hearing. The Common Council shall grant the license if it determines that the operation of the mine including any processing facility will be consistent with the minimum standards and the purposes of this Chapter. If the Common Council denies the license, the applicant may request a hearing under the provisions of Section 12.41 (9) (c).

(6) LICENSE APPLICATION. All applicants for a nonmetallic mining Operator's license shall submit the following information:

(a) Ownership Information.

1. The name, addresses, phone numbers, and e-mail address of the Operator of the nonmetallic mining operation.
2. The name, address, phone numbers, and e-mail address of all owners or lessors of the land on which the nonmetallic mining operation will occur.
3. If the nonmetallic mining operation is subject to a lease, a copy of a fully executed lease and/or agreement between the landowner and the Operator who will engage in mining operations on the proposed site.
4. Proof that all property taxes on the proposed mine site are current.

(b) Site Information and Maps.

1. Parcel identification numbers of all contiguous parcels owned by the same landowner/lessor on which the nonmetallic mining operation will be located. Certified Survey Maps shall be provided of any of those parcels as may be available at the time of application.
2. An aerial photo of the proposed site at a scale of not less than 1 inch equals 660 feet signed by both the Operator and the landowner of the mine site.
3. A topographic map of the mine site extending 1/2 mile beyond the site boundaries at contour intervals no wider than 10 feet showing the boundaries of the site, the location and total acreage of the site, and the name of all roads within one mile of the site.
4. The location within the site of all existing buildings and other structures, equipment, stockpiles, storage and parking areas.
5. A map on which all residential, agricultural and municipal wells within 1/2 mile of the boundaries of the site in all directions are marked and given a numerical identification of the location.
6. The location and name of all surface waters, including lakes, private or public ponds, streams (including intermittent streams and headwaters), drainage ditches, wetlands, drainage patterns and other water features on the site and within 1/2 mile of the site. The base flow of the surface waters within 1/2 mile of the mine site as determined at the time of application.
7. The gradient and depth of the groundwater table shall be determined by existing wells within 1/2 mile of the mine site or other existing data.
8. A description of the distribution, depth and type of topsoil not only of the area of the site currently proposed for mining and for which an Operator's license application is being submitted, but also of the entire acreage of land contiguous with the proposed mine site that is owned by the same landowner/lessor, as well as the geological composition and depth and width of the nonmetallic deposit.
9. A map identifying the location of all other non-contiguous sites within the City of Prairie du Chien and the adjacent townships of Prairie du Chien and Bridgeport, if any, that will contribute extracted material to the same processing facility to which the site for which the applicant seeks a license will also contribute.

(c) Operation Plan.

1. Dates of the planned commencement and cessation of the operation of the mine and the processing facilities.
2. Description of mining methods, machinery and equipment to be used for extraction and processing of the extracted material, and the sequence of operations.
3. Estimated volume of material to be extracted over the life of the mine and for the next calendar year. Estimated volume of material to be processed over the life of the processing facility and for the next calendar year.
4. Location of road access points. The proposed location within the site of all buildings and other structures, equipment, stockpiles, storage and parking areas.
5. Identification of all proposed off-site trucking routes, together with the frequency of traffic and the common schedule of travel to be used for transporting extracted materials or products to or from the site.

6. A water budget, including an estimate of the amount of daily water use, water sources, and methods for disposing of water used or falling on the site, including methods used for infiltration and control of run-off.

7. A listing of any hazardous materials, including fuel supplies that will be stored on-site and a description of measures to be used for securing and storing these materials. The Operator shall have a plan for responding to spills of any hazardous materials on the site.

8. A listing of all flocculants and other chemicals used in the manufacturing or processing operations or in controlling dust, and a detailed description of expected releases and final disposal of each.

(d) Information Demonstrating Compliance with Minimum Standards.

1. The Operator shall provide the information necessary to demonstrate that the mining operation will comply with the minimum standards in Section 12.41 (7).

2. For mining operations commencing after the effective date of this Chapter, the Operator shall also provide information establishing baseline conditions at the site before operations commence, including the groundwater elevation across the site, groundwater quality at the site for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made, and the base flow of surface waters within 1/2 mile of the site.

3. For mining operations and processing facilities commencing after the effective date of this Chapter, the Operator shall also provide information establishing background conditions for air quality at the site before operations commence.

(e) Special Exceptions. The applicant may request a special exception from the application requirements of this section if it can demonstrate that the information required can be provided by alternative means or is not necessary for an evaluation of the particular mining operation, and that the public health, safety and welfare will not be adversely affected thereby.

(7) MINIMUM STANDARDS OF OPERATION. The Common Council may grant a license to mine if the applicant can demonstrate that the following minimum standards of operation will be met:

(a) General Standards.

1. The Operator shall stake or otherwise mark the borders of the entire site and shall secure the site by appropriate measures which can include fencing or other alternative measures consistent with mine safety and security

2. The Operator shall demonstrate compliance with all of the other provisions of this Chapter and other applicable City Ordinances.

3. The Operator shall have obtained a permit from the City for any blasting operations.

4. The Operator shall demonstrate that all other applicable federal, state and local permits and approvals required for the nonmetallic mining operation have been or will be obtained prior to commencement of operation. The Operator shall demonstrate this by submitting a copy of all permits, approvals, or waivers of permits to the City prior to commencing operations.

5. The Operator shall provide notice to the City of any notices of violation, citations, or other enforcement actions taken by any other governmental body against the mining operation within the City within fifteen (15) days of receiving such notice from the governmental body.

(b) Buffer Areas

1. Except as noted below, the Operator shall provide a buffer area of a minimum of 50 feet along bordering property lines and public roadways. The buffer area shall provide a setback of 660 feet to the location of any dwelling unless the landowner consents to a lesser distance but not less than 50 feet. For example, if a dwelling is located 100 feet from the mine site property boundary, the buffer area on the mine site would be 560 feet so that the distance to the dwelling would be 660 feet. If a berm is placed within the buffer area and it lies along a public roadway, bottom edge of the berm shall be a minimum of 10 feet from the edge of any road side ditch and shall be vegetated to minimize erosion entering the ditch.

2. The Operator shall screen the mining operations from public view to the maximum extent practicable through the use of berms, additional setbacks or other measures.

(c) Hours of Operation

1. The Operator shall limit normal hours of operations on-site to 14 hours a day Monday through Friday during daylight hours and not earlier than 5:00 a.m. and not later than 9:00 p.m. and on Saturday during daylight hours and not earlier than 5:00a.m. and no later than 5 p.m. to minimize off-site impacts to residents. Operations on-site shall not occur on Sundays or named

holidays. The Operator may submit a plan for extended hours as a special exception, if it can demonstrate that additional hours are necessary for the mining operation and it would be consistent with public, health safety and welfare.

2. Operation of Heavy Vehicles leaving the mining site shall be limited to Monday through Friday during daylight hours and not earlier than 6:00 a.m. and not later than 8:00 p.m. and on Saturday during daylight hours and not earlier than 6:00 a.m. and not later than 12:00 noon. There shall be no operation of Heavy Vehicles leaving the mining site on Sunday or named holidays. The Operator may submit a plan for extended hours as a special exception, if it can demonstrate that additional hours are necessary for the mining operation and it would be consistent with public, health safety and welfare.

3. The Operator shall schedule Heavy Vehicles to and from the mining site in a manner to avoid interfering with the safety of children being taken or returned from school, the safety of slow-moving farm vehicle traffic, or the safety of residents and commuters at times when traffic volume from commuters going to and from work is highest.

(d) Control of Light and Noise

1. The Operator shall limit night lighting on-site, to that which is minimally necessary for security and worker safety. Every effort consistent with the legal requirements for safety shall be made to minimize illumination of the night sky and neighboring properties. At a minimum such measures shall include the following:

- a. The use of full cutoff shrouds on all lights.
- b. Portable lighting shall be used only as necessary to illuminate temporary work areas.
- c. The use of berms of sufficient height coupled with other methods of visual screening to block light from neighboring properties.
- d. The design and location of access roads to minimize lights from traffic and operations to neighboring properties.

2. The Operator shall control off-site noise levels to the maximum extent practicable to avoid adverse impacts to adjoining landowners. The noise levels at the boundaries of the mining or processing site shall not exceed 60dB. The use and regulation of compression release engine brakes, commonly known as jake-brakes is prohibited except for emergencies.

(e) Control of Air Pollution

1. Regardless of the actual monthly production of the nonmetallic mine, the Operator shall cover all trucks hauling sand with secured tarps, and utilize all relevant dust control measures specified in Wis. Admin. Code §NR 415.075. Additionally, the Operator shall have an established protocol for additional dust control measures when the National Weather Service has issued a high wind warning for the area.

2. Air monitors.

a. If an applicant is applying for an Operator's license for a mining operation that includes a frac-sand processing plant, the Operator shall be required to monitor the ambient level of airborne particulate matter of 2.5 microns in size (PM<sub>2.5</sub>) and Total Suspended Particulates (TSP) as measured by the method described in Appendices L and B, respectively, of 40 C.F.R. part 50 (2011) or a method approved in writing by the City. The type and number of monitors needed, the location of the monitors, and frequency and duration of the monitoring program shall be determined by agreement of the Operator, the Common Council and its consultant, but all costs associated with monitoring shall be borne by the Operator.

b. If the air monitors show an exceedance of 35 micrograms per cubic meter of PM<sub>2.5</sub> in any 24 hour period, the Operator shall evaluate and implement additional best management practices to minimize PM<sub>2.5</sub> emissions.

c. If the air monitors show an exceedance of 150 micrograms per cubic meter of TSP in any 24 hour period, the Operator shall evaluate and implement additional best management practices to minimize TSP.

d. The Operator shall compile a monthly summary of monitoring results and report such results within 10 days of the end of each month to the City.

(f) Control of Waste Materials. The amount of waste material (non-marketable fines) returned to a mine site as part of the reclamation process shall not exceed the site specific ratio of waste to target material of the extracted raw material as determined prior to the processing of the raw material. A processing facility shall keep records of the tonnage of raw material drawn from each raw material source. The tonnage of waste byproduct that is returned to each mine reclamation site shall not exceed the tonnage of waste contained in the raw material received at the processing facility from that site.

(g) Standards Regarding Groundwater and Surface Water.

1. Impacts to Groundwater Quality.

a. The mine shall have at least one sentinel well at the boundary of the mining site that is down gradient of the groundwater flow. The Operator shall take quarterly samples of the sentinel well for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any chemical or residual of the chemical used as a flocculent and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made during the first 2 years of operation and twice a year in subsequent years.

b. The mining company shall sample private wells within 1/4 mile of the mine site down gradient of the groundwater flow every 2 years and private wells on the perimeter of other sides of the mine site every 3 years. In addition, monitoring at the sentinel well shall determine changes in the level of the groundwater table.

c. Prior to the onset of mining operations, all private wells within 1/2 mile of the property on which the mine site is located shall be sampled for lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity and any other toxic substance that may reasonably be believed to be present in the area or in the type of deposit from which the extraction will be made.

d. Mining operations shall not cause an exceedance of groundwater quality standards in Wis. Admin. Code Chapter NR 140.

2. Impacts to Groundwater Quantity.

a. At least 60 days prior to commencement of non-metallic mining operations, the Operator shall place sufficient test wells to verify the groundwater elevations on the mine site. Test wells located in the down-gradient direction of groundwater flow shall be located so that they can serve as permanent sentinel monitoring wells during the course of operations.

b. Mining operations shall not extract materials at a depth below the point that is 5 feet above the maximum established groundwater table.

c. Mining operations shall not cause a significant reduction in the quantity of groundwater available for reasonable use by current users within 1/2 miles of the mine site. A significant reduction includes a drop in the water table that results in a substantial adverse impact on a private well including but not limited to the inability of a well to provide water on a continuous basis.

3. Impacts to Surface Water Base Flow. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters within 1/4 mile of the mine site, including but not limited to, a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operation.

4. Impacts to Surface Water Use. Mining operations shall not cause a lowering of the groundwater table that results in adverse effects on surface waters which serve as a critical source of water for agricultural, recreational or municipal functions such as fire protection within 1/2 mile of the mine site. Adverse effects include but are not limited to a reduction of water in streams and tributaries to or below base flows established prior to the beginning of mining operations.

5. The Operator shall undertake all measures necessary for the control of surface water runoff from nonmetallic mining operations in order to prevent pollution and erosion of sediment onto neighboring properties, surface water and groundwater, and shall also comply with the standards for erosion control under Wis. Admin. Code Chapters NR 216 and NR 151, as applicable.

6. In the event that the site contains areas adjacent to the nonmetallic mining operations that are being used for agricultural, commercial or residential purposes, the Operator shall undertake all measures necessary to control surface water runoff from those areas from entering mining operations or otherwise causing contamination of surface water and groundwater.

(h) Hazardous materials.

1. All hazardous chemicals shall be stored, used and disposed of in accordance with applicable state and federal law.

2. The Operator shall not use as landfill material or dispose of onsite, any waste material that contains a toxic amount of a hazardous chemical or a toxic residual.

3. The Operator shall have a plan for responding to spills of any hazardous materials on the site.

(i) Special Exceptions.

1. The Operator can request a special exception from the minimum standards of this section if it can demonstrate that the intent of this Chapter can be achieved through the use of alternative measures; and that the public health, safety and welfare will not be adversely affected thereby; and agrees to post a full coverage bond for any future damage caused as a result of any exceptions granted.

2. The Common Council may, at any time, impose requirements in addition to or exceeding the minimum standards if it has evidence that the public health safety and welfare is not being or will not be adequately protected without the imposition of additional measures.

(8) ANNUAL REPORT AND LICENSE RENEWAL

(a) Annual Report.

1. No later than October 1st of each calendar year, the Operator shall submit an annual report to the City for all active and intermittent mining sites and processing facilities for which the Operator has a license in the City. The reporting period shall be from the date of the issuance of the first Operator's license to September 30th, and thereafter from October 1st to September 30th.

2. The annual report shall include the following information:

a. An identification of the Operator and location of the mining site.

b. A map or drawing accurately showing the area of excavation, the unclaimed area and any the reclaimed area including a calculation of the number of acres for each type.

c. A description of activities and operations on the site for the previous calendar year.

d. A description of activities and operations on the site anticipated for the following calendar year.

e. A written report demonstrating how the Operator has been in compliance with all terms and conditions of its license and this Chapter. The report shall include all groundwater, surface water and other monitoring results, as well as a copy of all annual reports submitted to all other agencies.

f. A summary of all areas of non-compliance, and a plan for bringing non-compliant areas into compliance.

(b) License Renewal

1. The Operator shall make written request to the City Administrator for a renewal of the license to operate the mine no later than October 1st of the year in which the license will expire. The application shall be accompanied by the payment a fee in an amount in accordance with the reimbursement provisions set forth in Section 12.41 (5) (c).

2. The written request for renewal shall incorporate by reference the annual report from the previous calendar years in accordance with the provisions of sub. (a).

3. The City Administrator shall review the renewal application within 60 days of receipt to determine whether the application is complete and upon a determination that it is complete shall forward it to the Common Council.

4. The Common Council shall review the application to determine if additional information or expertise is necessary to properly evaluate the application. The City shall retain an engineer or other qualified person with appropriate expertise to inspect the mine site unless the site is reported as being inactive during the past year, in which case a member of the Common Council or the City Administrator may be assigned to inspect the site. If no additional information or expertise is deemed necessary the Common Council shall schedule the application for a decision under par. (7).

5. If the Common Council determines that additional expertise is required, the City shall authorize hiring an engineer or other qualified person with appropriate expertise to advise the City and shall give written notice to the applicant of the additional administrative fee to be charged beyond the base administrative fee to cover the cost of additional review by the retained expert. The additional fee shall be paid before additional review is undertaken.

6. Once the applicant has submitted any additional information and has paid the fee in the amount charged, the retained expert shall report to the Common Council on whether the renewal application meets the requirements of this Chapter. The City Administrator shall place the request on the agenda of the next regular meeting or a special meeting of the Common Council prior to the expiration of the license.

7. The Common Council shall grant the request for renewal if it finds:
  - a. There have been no material violations of the Chapter or the license which have not been appropriately remedied, and
  - b. The Operator has not received multiple or recurring citations or orders for violations of the Operator's license or this Chapter.
  - c. All applicable fees have been paid and financial responsibility requirements have been met.
8. If the Common Council denies the request for renewal, the City shall notify the Operator and provide the Operator with an opportunity for a hearing under Section 12.41 (9) (c).

**(9) INSPECTION, ENFORCEMENT, PROCEDURES AND PENALTIES**

(a) Inspection. In addition to an inspection pursuant to Section 12.41 (8) (b), the Common Council or other authorized representative of the City, may make inspections to determine the condition of nonmetallic mining sites in the City in order to safeguard the health and safety of the public and determine compliance with the minimum standards under this Chapter upon showing proper identification, and upon reasonable notice.

(b) Violations. The following are violations under this Chapter:

1. Engaging in nonmetallic mining without an Operator's license granted by the Common Council.
2. Failure to comply with the applicable minimum standards and other terms of this Chapter.
3. Making an incorrect or false statement in the information and documentation submitted during the licensing process or during inspection of the operation by the City or its duly appointed representative.
4. Failure to timely file the annual operational report under Section 12.41 (8).
5. Failure to take appropriate action in response to a notice of violation, citation, request for additional financial assurance under Section 12.41 (10) or other order issued by the City.

(c) Hearings.

1. Any person affected by a notice and order issued in connection with the enforcement of this Chapter under sub. (d), or upon denial of an application for a license or license renewal, may request and shall be granted a hearing on the matter before the Common Council, provided such person shall file with the City Administrator, a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty days of the date the notice and order are served or upon 30 days upon denial of an application for a renewal. Upon receipt of the petition, the City Administrator shall set a time and place for a hearing before the Common Council and shall give the petitioner written notice thereof.
2. After the hearing, the Common Council by a majority vote, shall sustain, modify or withdraw the notice under sub. (d), or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Chapter have been complied with, and the petitioner shall be notified within ten days in writing of such findings.
3. The proceedings of the hearing, including the findings and decision of the Common Council and the reasons therefore shall be summarized in writing and entered as a matter of public record in the office of the City Administrator. Such record shall also include a copy of every notice and order issued in connection with the case.

(d) Remedies. The City may take any appropriate action or proceeding against any person in violation of this Chapter, including the following:

1. Issue a stop work order.
2. Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
3. Issue a citation in accord with the City ordinances.
4. Refer the matter to legal counsel for consideration and commencement of legal action including the assessment of penalties under sub. (f) and injunctive relief.
5. Suspend or revoke the Operator's license under sub. (e).

(e) License Suspension or Revocation. After giving notice and a hearing, the Common Council may suspend or revoke an Operator's license for a violation under sub. (b).

(f) Penalties.

1. Any person or entity who is adjudicated for a violation shall pay a forfeiture of not less than \$100 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief each day a violation exists is a separate violation.

2. Any person or entity adjudicated for violation of this Chapter shall pay court costs and reasonable attorney's fees. The remedies provided herein shall not be exclusive of other remedies.

(g) Non-Waiver. A failure by the City to take action on any past violation(s) shall not constitute a waiver of the City's right to take action on any present violation(s).

(10) FINANCIAL ASSURANCE

(a) Financial assurance shall be provided to the City as a condition of license approval in the amount necessary for the following:

1. Road repair. An amount necessary for the repair and maintenance of City streets, roads, alleys and other methods of public transportation used for truck traffic transporting materials to or from the site.

2. Water Supply. An amount necessary to provide an alternative water supply to potentially affected residences or agricultural operations within 1/2 mile of the site or such other area shown to be impacted by the Operator's operations.

(b) The form of financial assurance made to the City shall be that form agreed to by the Common Council and may include escrow accounts, irrevocable letters of credit or other measures agreed upon by the Common Council.

(c) In the event the City determines that the amount of financial assurance must be increased to meet specific road repair or water supply needs, or the amount available has been utilized, the City shall notify the Operator of the additional amount needed and the basis for the request. The Operator shall have 30 days to provide the increased amount.

(d) The Operator shall also provide to the City proof that it has provided the financial assurance for reclamation required under Wisconsin law.

(11) DAMAGES TO PRIVATE WATER SUPPLIES

(a) A property owner within 1/2 mile of the mine site may seek remedies under subs. (b)-(5) for any of the following damages to private water supply:

1. A maximum contaminant level, preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property.

2. A substantial adverse impact on the quantity of water from a private well on the owner's property occurs, including but not limited to the inability of any such well to provide water on a continuous basis.

3. A lowering of surface waters which serve as a source of water for personal, agricultural or municipal functions on the owner's property to levels below base flow levels for more than 5 days.

(b) Any property owner under sub. (a) seeking a remedy under this Section shall simultaneously file a notice with the City and the mine Operator of the occurrence of the event under sub.(a) explaining the nature and extent of the problem.

(c) Within 24 hours of receipt of such notice under sub. (b), the City may use funds provided under Section 12.14 (10) to provide an adequate interim water supply. The City shall also use funds under Section 12.41 (10) to indemnify the City for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the City has approved the report or plan under sub. (d).

(d) Within 20 days of receipt of notice under sub. (b), the mine Operator shall provide to the property owner and to the City a report that demonstrates that the impact to the property owner was not attributable to the mining operation or to present a plan for a permanent alternative water supply to be paid by the Operator.

(e) The City shall in consultation with the property owner review the report or plan and approve or deny such plan. If the City determines that the mine Operator was not the cause of damage to the private water supply, the Operator may elect to be reimbursed by the property owner for the costs of supplying water during a period not exceeding one year.

(f) A property owner beyond 1/2 mile of the mine site may apply to the City for use of funds under Section 12.41 (10) to remedy damages to a private water supply identified in sub. (a), provided that the property owner can demonstrate to the City that the damage to the private water supply was caused by the mine. If the City determines that the damage was caused by the mine, the property owner can utilize the remedies in subs. (b) to (d).

(12) SEVERABILITY, INTERPRETATION, AND ABROGATION

(a) Severability.

1. Should any section, clause, provision or portion of this Chapter be adjudged unconstitutional, invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, including all applicable appeals, the remainder of this Chapter shall remain in full force and effect.

2. If any application of this Chapter to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

(b) The provisions of this Chapter shall be liberally construed in favor of the City and shall not be construed to be a limitation or a repeal of any other power now possessed or granted to the City.

(c) This Chapter is not intended to repeal, annul or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Chapter.

(13) MINING AGREEMENT. Any of the provisions of this Chapter, including the license term, may be modified by the development of a Mining Agreement between the City and the Operator if the Common Council determines that the intent of this Chapter can be achieved through the use of alternative measures, and that the public health, safety and welfare will not be adversely affected thereby.

(14) EFFECTIVE DATE. Following passage by the Common Council, this Chapter shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 60.80.