

TITLE 7

Licensing and Regulation

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Licensing of Dogs and Regulation of Animals

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Sec. 7-1-1 Dog License Required; Definitions.

- (a) **License Required.** It shall be unlawful for any person in the Town of Stephenson to own, harbor or keep any dog more than five (5) months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (b) **Definitions.** In this Chapter, unless the context or subject matter otherwise require:
- (1) **Owner.** Any person owning, harboring or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns daily for a period of ten (10) days; such person is presumed to be harboring or keeping the dog or cat within the meaning of this Section.
 - (2) **At Large.** To be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog or cat within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog or cat, shall be deemed to be upon the owner's premises.
 - (3) **Dog** Any canine, regardless of age or sex.
 - (4) **Neutered.** A dog or cat having nonfunctional reproductive organs.
 - (5) **Animal.** Mammals, reptiles and birds.
 - (6) **Cruel.** Causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

- (7) **Law Enforcement Officer.** Has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Sec. 58.07, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.
- (8) **Farm Animal.** Any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
- (9) **Pet.** An animal kept and treated as a pet.

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

Sec. 7-1-2 Rabies Vaccination Required for License.

- (a) **Rabies Vaccination.** The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Stephenson after the dog has reached four (4) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination. The owner of a dog shall have the dog revaccinated against rabies by a veterinarian before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
- (b) **Issuance of Certificate of Rabies Vaccination.** A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and in the form approved by the Town stating the owner's name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer's serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Town.
- (c) **Copies of Certificate.** The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
- (d) **Rabies Vaccination Tag.** After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
- (e) **Tag to be Attached.** The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this

requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under Subsection (a).

- (f) **Duplicate Tag.** The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) **Cost.** The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

Sec. 7-1-3 Issuance of Dog and Kennel (Multiple Dog) Licenses.

(a) Dog Licenses.

- (1) It shall be unlawful for any person in the Town of Stephenson to own, harbor or keep any dog more than five (5) months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wis. Stats., relating to the listing, licensing and tagging of the same.
- (2) The owner of any dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date the dog becomes five (5) months of age, pay a license tax and obtain a license.
- (3) The minimum license tax under this Section shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (4) Upon payment of the required license tax and upon presentation of evidence that the dog is currently immunized against rabies, as required by Section 7-1-2 of this Chapter, the Town Treasurer or his/her deputy shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Treasurer or his/her deputy shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in Section 7-1-2(e).
- (6) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any law enforcement or humane officer shall seize, impound or restrain any dog for which a dog license is required which is found without such tag attached. Each day that any dog within the Town

of Stephenson continues to be unlicensed constitutes a separate offense for which a separate penalty applies. (7) Notwithstanding the foregoing, every dog specifically trained to lead blind or deaf persons is exempt from the dog license tax, and every person owning such a dog shall receive annually a free dog license from the Town Treasurer or his/her deputy upon application therefor. (b) **Multiple Dog/Kennel Licenses.**

- (1) Any person who keeps or harbors multiple dogs may, instead of the license tax for each dog required by this Chapter, apply for a multiple dog license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax in accordance with the Town Board's current fee schedule for a kennel in Sec. 1-3-1. Upon payment of the required multiple dog license tax and, if required by the Town Board, upon presentation of evidence that all dogs over five (5) months of age are currently immunized against rabies, the Town Treasurer or his/her deputy shall issue the multiple dog license and a number of tags equal to the number of dogs authorized to be kept in the kennel or premises.
- (2) The owner or keeper of multiple dogs shall keep at all times a multiple dog license tag attached to the collar of each dog over five (5) months old kept by the owner or keeper under a multiple dog license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. No dog bearing a multiple dog tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.

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

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

The Town issues dog licenses during Town tax collection periods, approximately December 15-January 31; at other times licenses may be obtained from the Town Treasurer without penalty of a late fee.

Sec. 7-1-5 **Rabies Quarantine.**

- (a) **Dogs and Cats Confined.** If a district or neighborhood is quarantined for rabies, all dogs and cats within the Town shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is declared a public nuisance and may be

impounded. All officers shall cooperate in the enforcement of the quarantine. The Town Clerk shall promptly post in at least three (3) public places in the Town notices of quarantine.

- (b) **Exemption of Vaccinated Dog or Cat from Town Quarantine.** A dog or cat which is immunized currently against rabies, as evidenced by a valid certificate of rabies vaccination or other evidence, is exempt from the Town quarantine provisions of Subsection (a) if a rabies vaccination tag or substitute tag is attached to the dog's or cat's collar.
- (c) **Quarantine or Sacrifice of an Animal Suspected of Biting a Person or Being Infected or Exposed to Rabies.**
 - (1) **Quarantine or sacrifice of dog or cat.** A law enforcement, humane or animal control officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. **If** a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.
 - (2) **Sacrifice of other animals.** A law enforcement, humane or animal control officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (d) **Quarantine of Dog or Cat.**
 - (1) **Delivery to isolation facility or quarantine on premises of owner.** A law enforcement, humane or animal control officer who orders a dog or cat to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than twenty-four (24) hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
 - (2) **Health risk to humans.** If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least ten (10) days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one (1) intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
 - (3) **Risk to animal health.**
 - a. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the

owner shall keep the animal leashed or confined for one hundred eighty (180) days. The owner shall have the animal vaccinated against rabies between one hundred fifty-five (155) and one hundred sixty-five (165) days after the exposure to a rabid animal.

- b. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for sixty (60) days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal. (4) **Sacrifice of a dog or cat exhibiting symptoms of rabies.** If a veterinarian determines that a dog or cat exhibits symptoms of rabies during the original or extended observation period, the veterinarian shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If the dog or cat is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.
- (e) **Delivery of Carcass; Preparation; Examination by Laboratory of Hygiene.** An officer who kills an animal shall deliver the carcass to a veterinarian or local health department. The veterinarian or local health department shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk or exposure to any rabies virus. The Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Town, the veterinarian or local health department which prepared the carcass and, if the animal is suspected to have bitten a person, that person or the person's physician.
- (f) **Cooperation of Veterinarian.** Any practicing veterinarian who is requested to be involved in the rabies control program by an officer is encouraged to cooperate in a professional capacity with the Town, the Laboratory of Hygiene, the local health department, the officer involved and, if the animal is suspected to have bitten a person, the person's physician.
- (g) **Responsibility for Quarantine and Laboratory Expenses.** The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination.

Sec. 7-1-6 Restrictions on Keeping of Dogs and Other Animals.

- (a) **Restrictions.** It shall be unlawful for any person within the Town of Stephenson to own, harbor or keep any dog or other animal which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the Town.
 - (2) Assaults or attacks any person or destroys property.
 - (3) Is at large within the limits of the Town.
 - (4) Habitually barks or howls to the annoyance of any person or persons. (See Section 7-1-7)
 - (5) Kills, wounds or worries any domestic animal.
 - (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
 - (7) In the case of a dog, is unlicensed.
- (b) **Vicious Dogs and Animals.**
- (1) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if, within any twelve (12) month period it bites two (2) or more persons or inflicts serious injury to one (1) person in unprovoked circumstances off the owner's premises. Any vicious dog which is found off the premises of its owner other than as hereinabove provided may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of said dog, by testimony under oath reduced to writing, be killed by the law enforcement or animal control authorities.
 - (2) No person shall harbor or permit to remain on his/her premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (c) **Animals Running at Large.**
- (1) No person having in his/her possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his/her animal tied or enclosed in a proper enclosure so as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Town Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.
 - (2) A dog shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it. All dogs shall be leashed or under the direct control of their owners in areas within the Town of Stephenson not zoned agricultural.
- (d) **Owner's Liability for Damage Caused by Dogs; Penalties.** The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damage caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.

Sec. 7-1-7 Barking Dogs and Crying Cats.

- (a) It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort

of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. The law enforcement or humane officer shall determine if a dog or cat is in violation of this Section and shall issue a warning or citation dependent upon the severity and regularity of the offense. A dog or cat is considered to be in violation of this Section when three (3) formal, written complaints are filed with the Town within anyone thirty (30) day period. (b) No person shall be found to be in violation of this Section unless first notified in writing, at least ten (10) days prior to the issuance of any citation or summons, of the fact of the complaints of noise.

Sec. 7-1-8 Impoundment of Animals.

- (a) **Animal Control Agency.**
- (1) The Town of Stephenson may contract with or enter into an agreement with such person, persons, organization or corporation to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.
 - (2) The Town of Stephenson does hereby delegate any such animal control agency the authority to act pursuant to the provisions of this Section.
- (b) **Impounding of Animals.** In addition to any penalty hereinafter provided for a violation of this Chapter, any law enforcement or humane officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of this Town, assaults or attacks any person, is at large within the Town, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding office must see or hear the violation of this Section or have in his/her possession a signed statement of a complaining witness made under oath alleging the facts regarding the violation and containing an agreement to reimburse the Town for any damages it sustains for improper or illegal seizure.
- (c) **Claiming Animal; Disposal of Unclaimed Animals.** After seizure of animals under this Section by a law enforcement or humane officer, the animal shall be impounded. The officer shall notify the owner, personally or through the U.S. Mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or unascertainable, the officer shall post written notice in three (3) public places in the Town, giving a description of the animal, stating where it is impounded and the conditions for its release, after the officer has taken such animal into his/her possession. **If** within seven (7) days after such notice the owner does not claim such animal, the officer may dispose of the animal in a proper and humane manner; provided, if an animal before being

impounded has bitten a person, the animal shall be retained in the Animal Shelter for fourteen (14) days for observation purposes. Within such times, the owner may reclaim the animal upon payment of impoundment fees, such fees to be established by resolution of the Town Board. No animal shall be released from the pound without being properly licensed if so required by state law or Town Ordinance.

- (d) **Sale of Impounded Animals.** If the owner doesn't reclaim the animal within seven (7) days, the animal warden may sell the animal to any willing buyer.
- (e) **Town Not Liable for Impounding Animals.** The Town and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this Section.

Sec. 7-1-9 Keeping Of Exotic Animals; Protected Animals, Fowl, Reptiles and Insects.

(a) **Intent.**

(1) **Purpose.** It is the purpose and intent of the Town of Stephenson in adopting this Section to protect the public safety, health and general welfare from the safety and health risks that the unregulated keeping or harboring of exotic animals can pose to the community and to protect the health and welfare of permitted exotic animals held in private possession. By their very nature, exotic animals are wild and potentially dangerous, and, typically, do not adjust well to a captive environment. This Section shall be liberally construed in favor of the Town's right and authority to protect the public health, safety and welfare.

(2) **Prohibition.** It shall be unlawful for any person to own, possess, maintain, harbor, bring into the Town, have in one's possession, act as a custodian for, or have custody or control on an exotic animal, except in compliance with this Section.

(b) **Definitions.** The following definitions and terms shall be applicable in this Section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive; the word "may" is nonmandatory and discretionary:

(1) **Animal.** For purposes of this Section, shall mean exotic animals.

(2) **Animal Control Officer.** Law enforcement officers, Building Inspector, Town Chairperson, animal control officers, humane society employees, or any other person designated by the Town of Stephenson to enforce or assist in the enforcement of this Section.

(3) **Animal Shelter.** Any premises designated or used by the Town for the purpose of impounding and caring for animals found in violation of this Section, or of any other Town ordinance regulating the keeping of and care of animals. Included within this definition are animal shelters whose services are secured by the Town through contract or intergovernmental agreement.

- (4) **At Large.** An animal is at large when:
- a. It is off the property of the owner and not properly confined or restrained in a manner such that the risk of uncontrolled or accidental contact by the animal with humans or domesticated animals has been minimized; or
 - b. It is on the property of the owner, but is improperly restrained or confined so as to pose a risk of leaving the property and having uncontrolled or accidental contact by with humans or domesticated animals off of the owner's property; or
 - c. It is so improperly, inadequately or negligently restrained or confined on the owner's property so to pose a risk of potentially dangerous contact with humans or domesticated animals which come on to the owner's property.
- (5) **Enclosure or Enclosure Area.** The indoor and/or outdoor area in which an animal is kept confined or restrained, including any structure(s) in which it is kept, confined or restrained.
- (6) **Exotic Animal (including USDA Dangerous Animals).** Any animal, fowl, insect, or reptile that is not normally domesticated in Wisconsin or is inherently wild by nature. Exotic animals include, but are not limited to, any or all of the following orders, families and/or species, whether bred in the wild or in captivity, and also hybrids with domestic species. The animals, fowl, insects, and reptiles listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list nor to limit the generality of each group of animals, fowl, reptiles or insects:
- a. Non-human primates and prosimians*, including chimpanzees (Pan); monkeys (Cercopithecidae); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus); and baboons (Papoi, Mandrillus).
 - b. Canidae*, excluding non-hybrid domesticated dogs, including wolves (Canis lupus); coyotes (Canis latrans); and all foxes and jackals.
 - c. Felidae*, excluding domesticated cats, including cheetahs (Acinonyx jubatus); jaguars (Panthera onca); leopards (Panthera pardus); lions (Panthera leo); lynxes (Lynx); pumas (Felis concolor) which are also known as cougars, mountain lions or panthers; snow leopards (Panthera uncia); tigers (Panthera tigris); and ocelots.
 - d. Ursidae*, including all bears.
 - e. Crocodylians (Crocodylia) thirty (30) inches in length or more, including alligators, caimans, and crocodiles.
 - f. Proboscidea*, including elephants (Elephas and Loxodonta).
 - g. Hyaenidea*, including all hyenas.
 - h. Artiodactyla*, including hippopotami (Hippopotamidae) and giraffes (excluding camels, cattle, swine, sheep and goats).
 - i. Procyonidae, including coatis (raccoons excluded).
Marsupialia, including kangaroos (opossums excluded).
 - k. Perissodactyla*, including rhinoceroses (Rhinocerotidae) and tapirs, excluding horses, donkeys and mules.

- I. Edentata, including anteaters, sloths and armadillos. m. Viverridae, including mongooses, civets and genets. n. Game cocks and other fighting birds.
- o. Varanidae, including only water monitors and crocodile monitors. p. Any other type of dangerous or carnivorous wild animal, fowl, or reptile. * *Species listed on the United States Department of Agriculture's dangerous species list.*
- (7) **Humane Society.** The Humane Society of Marinette County.
- (8) **Own/Owner/Owning.** Any person, corporation, partnership, limited liability corporation, organization, association, joint venture, trust, or other legal entity who possesses, harbors, keeps, controls, boards, or has in his/her custody an exotic animal in the Town, and any officer, member, shareholder, director, employee, agent or representative thereof. Any animal is being harbored if it is being fed and/or sheltered by such party.
- (9) **Section.** The same meaning as "this Ordinance."
- (10) **Solid Surface.** A surface constructed of cement, concrete, metal, asphalt, fiberglass or similar such hard, impervious surface.
- (11) **Town.** The Town of Stephenson, Marinette County, Wisconsin.
- (12) **Town Board.** The Town Board of the Town of Stephenson, and authorized committees and subunits thereof.
- (c) **Compliance with Federal Regulations.**
- (1) **Federal Code Requirements.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Department of Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
- (2) **Regulation of the Importation of Birds.** No person, firm or corporation shall import or cause to be imported into this Town any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This Subsection shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by American Indian Nations for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (d) **Exotic Animal Permit Requirement - Application for Permit.**
- (1) **Sale, Importation, Transfer, Purchase and/or Gifting of an Exotic Animal.** It shall be unlawful for any person to:
- a. Import, transfer, sell, own, or purchase an exotic animal in the Town without first obtaining a permit from the Town Board as prescribed by this Section, unless exempt from such permit requirement.
- b. Sell, transfer, deliver, or give an exotic animal to any other person in the Town without first obtaining a permit from the Town Board as prescribed by this Section, unless exempt from such permit requirement.

- (2) **Keeping, Harboring, Maintaining or Controlling an Exotic Animal.** It shall be unlawful for any person in the Town to own, keep, maintain, harbor, board, or control an exotic animal without first obtaining a permit from the Town Board as prescribed by this Section, unless exempt from such permit requirement.
- (3) **Exceptions to Exotic Animal Permit Requirement.** The exotic animal permit requirements of this Section shall not apply to:
 - a. Institutions accredited by the American Zoo and Aquarium Association (AZA).
 - b. State licensed humane societies.
 - c. Animal control or law enforcement officers acting in an official capacity.
 - d. State licensed veterinary hospitals or clinics.
 - e. Persons holding a Scientific Collectors Permit issued by the Wisconsin Department of Natural Resources.
 - f. Any person, company or organization presenting a transient or itinerant circus or carnival operating within the Town ten (10) days or less per year and holding all other required Town, county and state permits and/or licenses.
 - g. Wildlife rehabilitators licensed by the Wisconsin Department of Natural Resources who temporarily keep, nurture, rehabilitate, and care for exotic animals which are injured or in need of rehabilitation, with the primary purpose of returning such animals to the wild. No animal may be kept under this exception for a period of more than ninety (90) days. No animal may be kept under this exception that poses a danger to the community or domestic animals.
 - h. State licensed or accredited research or medical institution.
 1. Any person temporarily transporting an exotic animal through the Town if the transit time is not more than twenty-four (24) hours and the animal is at all times maintained within a confinement sufficient to prevent the exotic animal from escapmg.
- (4) **Application; Required Application Information.** An applicant for an exotic animal permit shall file an application with the Town Clerk containing the following information:
 - a. **Basic Application Information.** The applicant shall file the following information at the time of application filing:
 1. The name, address, and telephone number of the applicant.
 2. A description of each exotic animal the applicant possesses, or seeks to possess, including the scientific name, common name, sex, age, color, weight and any distinguishing marks or coloration that would aid in the identification of the animal.
 3. A photograph of each exotic animal.
 4. A description of the exact location and confinement facilities where the exotic animal will be kept.
 5. The names, addresses, and telephone number of the person from whom the applicant obtained the exotic animal, if known.

6. The name and address of the veterinarian providing veterinary care to the exotic animal and a certificate of good health for the exotic animal from that veterinarian.
 7. A plan for the prompt and safe recapture of the exotic animal if the exotic animal escapes. Each applicant/permittee shall have a plan for the quick and safe recapture of the exotic animal if the animal escapes, and, if recapture is impossible, then a plan for the destruction of the exotic animal.
 8. In the case of exotic animals included on the United States Department of Agriculture's dangerous animal list, proof of having obtained a minimum of one year's, paid in full liability insurance in an amount not less than Two Million Dollars (\$2,000,000) for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the exotic animal. [Failure to at all times keep such liability insurance in full force and effect during the life of the permit shall immediately terminate the validity of such permit; it is the responsibility of the permittee to immediately notify the Town Clerk, in writing, of any changes in his/her insurance status, validity or carrier]. The Town of Stephenson shall be listed as a co-insured solely for the purpose of notice of cancellation of such insurance policy.
 9. Copies of all United States Department of Agriculture, United States Department of Interior, Wisconsin Department of Natural Resources, and any other state or federal permits/ licenses issued to the applicant approving of or governing the applicant's possession of the species for which a Town exotic animal permit is being sought.
 10. Exotic animal permit application fee in the amount per animal prescribed by Sec. 1-3-1.
 11. Any other information required by Town authorities to properly consider the application.
- b. *Certified Information.* The applicant shall certify in writing that:
1. The applicant is eighteen (18) years of age or older.
 2. The applicant has not been convicted of or found responsible for violating a local or state law prohibiting cruelty, neglect, or mistreatment of animals or has not within the last ten (10) years been convicted for possession, sale or use of illegal narcotics or controlled substances.
 3. The facility and the conditions in which the exotic animal will be kept are in compliance with this Section and all other applicable state and local regulations.
 4. The applicant has regularly provided veterinary care to the exotic animal when needed and will provide such care in the future.
 5. Proof that a licensed veterinarian has spayed or neutered the exotic animal.

(e) **Review of Exotic Animal Permit Application; Issuance; Conditions of Permit Issuance; Renewals.**

- (1) **Consideration of Application.** Upon receipt of the application, application fee and all of the information required by Subsection (d)(4) above, the Town Clerk shall schedule consideration of the application before the Town Board, duly noticing the consideration of the application on the notice/agenda for such meeting in compliance with the Wisconsin Open Meeting Law. All neighboring property owners and residents located within three hundred (300) feet of the applicant's property shall receive written notice of the meeting at which the application is to be considered by the Town Board a minimum of seven (7) days prior to the meeting date.
- (2) **Town Board Action.** Upon consideration of the application, the Town Board may issue an exotic animal permit if the Board is satisfied that:
 - a. All of the application and insurance requirements required by Subsections (d)(4) and (e)(4) have been fully satisfied;
 - b. The applicant has provided credentials, satisfactory to the Town Board, establishing that the applicant/owner is properly trained to handle, care for, restrain, and recapture the type of animal for which the permit application is being made;
 - c. The applicant has provided either application information or oral testimony at the application review meeting demonstrating ownership of, and training and proficiency with, tranquilizing and restraint equipment that is species-appropriate, to the satisfaction of the Town Board, and shall demonstrate adequate training and certification in first aid and CPR;
 - d. The exotic animal and the manner in which it will be kept will be fully in compliance with the requirements of this Section and that the animal will be kept in such manner so as not pose a threat to public safety and health;
 - e. The applicant has demonstrated that the animal will be kept in a humane manner consistent with this Section and all other applicable federal and state standards; and
 - f. The site is properly zoned for such use.
- (3) **Validity.**
 - a. A copy of the exotic animal permit shall be displayed, in plain view, on or reasonably near the animal's confinement area.
 - b. An exotic animal permit is not transferable without re-application under this Section.
 - c. Permits for each exotic animal shall be valid for one (1) year. The permit year shall commence on January 1 or as soon thereafter as officially issued and expire on December 31 of that year.
 - d. In addition to the application fee under Subsection (d)(4), the fee for an annual exotic animal permit, or renewal thereof, shall be as prescribed in Sec. 1-3-1 for each exotic animal.

(4) **Permit Renewal; Issuance Criteria.**

- a. Exotic animal permit renewal applications shall be submitted to the Town Clerk on or before November 15 of the permit year.
- b. Along with each permit renewal application, the applicant shall submit the required renewal fee, a current certificate of good health for the animal(s), update in full all information required for the original permit, and provide proof of the required continued paid-Up liability insurance [such proof of insurance shall be no more than thirty (30) days old.]
- c. The Town Board shall consider renewals in the same manner as with the issuance of original permits.
- d. The Town Board shall not issue or renew a permit if it determines that:
 1. The applicant has been convicted of cruelty to animals within the previous ten (10) years;
 2. The applicant has failed to provide, withheld or falsified any required permit application or renewal information; or
 3. The applicant is, or has been, unable to comply with the requirements necessary to obtain a permit or has failed to comply with the provisions of this Section at any time during the permit year.

(5) **Permit Revocation.** The Town Board may revoke a permit for violation of this Section after giving written notice of the reasons for revocation to the permit holder. The Town shall give the permittee notice, by certified mail with receipt requested, of intent to consider revocation of the exotic animal permit. The Town shall give the permittee an opportunity to respond to the notice and address the issues identified at an open, noticed Town Board meeting, after which the Town Board shall make its determination, with the reasons therefor included in the record of the Board's meeting.

(6) **Permit Transfer.** If an owner can no longer properly care for his/her exotic animal, that person may only transfer his/her exotic animal to another person who has been issued a valid exotic animal permit by the Town Board. An owner/permittee shall notify the Town Clerk of any changes central to the validity of the permit, including the death of the exotic animal.

Confinement Standards for Exotic Animals.

(f) (1) **Prohibited Confinement.** An exotic animal shall not be tethered, leashed, chained outdoors, or allowed to run at large.

(2) **Confinement Standards.**

- a. All exotic animals governed by this Section shall be confined in a building or secure enclosure that has a floor, a secure roof and sides, constructed and maintained so as to securely confine the animal and provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of animal debilitation, stress, abnormal behavior patterns, or the professional opinion of a veterinarian, a qualified animal trainer, or experts

from the United States Department of Agriculture (USDA), United States Department of Interior, or Wisconsin Department of Natural Resources.

- b. For each exotic animal, the permittee shall comply with the AZA's "Minimum Guidelines" for animal care and maintenance or the USDA's standards for the humane handling, care and treatment of exotic animals [9 CFR Subchapter A (Animal Welfare, Part 3)], whichever is more restrictive. These standards shall provide the basis against which to assess the sufficiency of space or facility for animals for which a permit is sought or held.
 - c. The Town recognizes that exotic animals typically require extra care in the provision of confinement and care due to the climate and conditions of their original place of origin.
- (3) **Minimum Outdoor Area Standards.** The outdoor area of an exotic animal's enclosure shall, at a minimum:
- a. Have two (2) sets of wire enclosures with a minimum of four (4) inches separation between them;
 - b. Have the sides of the wire enclosure extend downward and be buried a minimum of twelve (12) inches below ground;
 - c. Incorporate a roof design with independent fencing separate from and located between the roof and floor of the enclosure so as to prevent escape in the event high winds damage the roof over the enclosure;
 - d. Have a floor with a minimum six (6) inch perimeter of breaker rock-grade aggregate around the borders of the enclosed area and a minimum five (5) inch uniform depth of Class Five gravel for the floor, or a floor with a minimum four (4) inch uniform depth of concrete or asphalt over the remainder of the enclosure floor;
 - e. Be provided with shelter that allows the exotic animal, if kept outdoors, to remain dry and warm during snow/sleet/rain;
 - f. In the alternative, present to and secure approval from the Town Board for an alternative outdoor confinement system that substantially complies with the safeguards of this Section.
 - g. In addition to the structural requirements of the exotic animal's outdoor enclosure, the permittee shall:
 - 1. Ensure that the outdoor area is maintained in a safe and healthful manner;
 - 2. Keep the outdoor area free of standing water, accumulated waste, and debris;
 - 3. Ensure that sufficient shade, by natural or artificial means, is available when the animal is outdoors; and
 - 4. Maintain the structural soundness of the outdoor structure in good repair to protect the exotic animals from injury and to prevent escape.
- (4) **Minimum Indoor Area Standards.** The indoor area of an exotic animal's enclosure shall:

- a. Be an insulated, moisture-proof and windproof structure of adequate area to accommodate the need of the animal for adequate freedom of movement;
- b. Contain a solid floor of no less than four (4) inches thick to prevent the animal from escaping;
- c. Incorporate a roof design with independent fencing separate from and located between the roof and floor of the enclosure so as to prevent escape in the event high winds blow off the roof over the enclosure;
- d. Locate the entrance to the building in which the animal is housed facing away from prevailing winds; and
- e. Have a self-closing door over the human and animal entryway during the winter months to protect the animal from cold temperatures. f. In addition to the structural requirements of the animal's indoor enclosure area,

the owner of an animal shall:

1. Ensure that the indoor enclosure area remains at an ambient temperature that will maintain the good health of the exotic animal;
2. Provide proper ventilation of the indoor structure by natural or mechanical means to provide fresh air for the animal and to prevent moisture condensation;
3. Ensure that the animal has natural or artificial lighting and adequate heat and ventilation to properly provide for the health of the animal at all times;
4. Ensure that the animal has proper bedding in sufficient quantity for insulation against the cold and dampness and that is changed regularly; and
5. Maintain the indoor enclosure area in good repair to protect the animal from injury and to prevent escape.

- (g) **Notification Signs.** All owners/permittees of an exotic animal(s) shall have continuously posted and displayed at each normal entrance onto the premises where an exotic animal is kept a conspicuous sign, clearly visible, and easily readable by the public, warning that there is an exotic animal on the premises. At least one such sign shall be located within twenty (20) feet of the animal's confinement area using the words "BEWARE OF _____", with the last word to indicate the type of exotic animal that is being confined.

In addition, the permittee shall conspicuously display a sign with a warning symbol that adequately informs children of the presence of an exotic animal.

- (h) **Escape and Liability for Escape.**

(1) **Notification of Escape.**

- a. An owner/permittee shall immediately notify the Town Chairperson, local Humane Society, the Town's animal control officer and the County Sheriff's Department of the escape of any exotic animal for which a permit is required
- b. No person may intentionally release an exotic animal. If an exotic animal is released by any party, authorized or unauthorized, the owner/permittee is liable for all expenses associated with efforts to recapture the animal, and may, in addition, be subject to a forfeiture.

(2) Liability.

- a. The owner/permittee shall be liable for all costs incurred by any public authority or their agents and resulting from the escape of any animal for which a permit is required, including boarding, placement, veterinarian and legal fees.
- b. Neither the Town or any agent of the Town shall be liable for the loss, death, injury or destruction of any animal for which a permit is required, nor shall the Town be liable for any injury or damage caused by any animal for which a permit is required and issued under this Section.

(i) **Inspection.** The owner/permittee of an exotic animal, at all reasonable times, shall allow designated inspectors of the Town, humane officers and law enforcement authorities to enter the premises where the animal is kept to ensure compliance with this Section as a condition of permit issuance. Town representatives shall conduct a minimum of three (3) periodic, unannounced inspections of the outdoor and indoor enclosure areas per twelve (12) month period for USDA-designated dangerous exotic animals, and a minimum of one (1) such unannounced inspection per twelve (12) month period for non-dangerous exotic animals, to ensure that said areas are being maintained in the manner required by this Section.

(j) **Restraint and Impoundment.**

(1) Animals At Large May Be Impounded.

- a. All exotic animals shall be kept confined or under proper restraint by their owners as provided herein and shall not be permitted to run at large. Unrestrained exotic animals and animals running at large may be taken into custody in accordance with Chapter 173, Wis. Stats., and impounded at any facility deemed appropriate for the protection of the public and with facilities and equipment that permit the facility to adequately care for the animal. Such animals shall be considered to be abandoned.
- b. Law enforcement authorities, designees of the Town Board, humane officers or law enforcement officers, upon receipt of information indicating probable cause of a violation of this Section, may in his/her discretion, and after investigation, seize and impound an animal in emergency situations or where previous written notice has failed to produce compliance and when otherwise authorized by law.

(2) Failure to Reclaim; Costs.

- a. If an owner fails to reclaim an exotic animal within seven (7) days of taking the animal into custody, the Town Board shall consider the animal to be unclaimed, as authorized by Section 173.23(1m), Wis. Stats., and shall take such steps as authorized by law. The Town may contact the American Zoo and Aquarium Association for further assistance.
- b. The animal's owner is liable for the costs of capture, care and placement for the exotic animal from the time of confiscation until the time of return to the owner, until the animal is disposed of, or until the time the animal has been relocated to an approved facility, such as a proper wildlife sanctuary.

- c. If an exotic animal is confiscated due to the animal being kept in contravention of this Section, the animal's owner is required to post a security bond or cash deposit with the Town and/or animal control authority in an amount sufficient to guarantee payment of all reasonable costs expected to be incurred in caring and providing for the animal, including, but not limited to, the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The posting of the bond or cash deposit shall not prevent the Town or animal control authority from disposing of the animal as permitted by law at the end of the thirty (30) days.
- d. An exotic animal may be returned to its owner only if, to the satisfaction of the Town Board, the possessor has a valid Town exotic animal permit, has corrected the conditions resulting in the confiscation, and has paid in full the cost of placement and care of the animal while under the care and control of the Town or Humane Society.
- e. If the owner of a confiscated exotic animal cannot be located or if a confiscated animal remains unclaimed, the Town or Humane Society may, at its discretion, contact an approved facility, such as an institution accredited by the American Zoo and Aquarium Association (AZA), allow the animal to be adopted by a party who can satisfy the permit requirements of this Section, or may euthanize the animal as permitted by law.
- f. If an escaped exotic animal cannot be recaptured safely and is posing a threat to public health and safety, authorities may euthanize the animal as permitted by law.

Animal Care.

- (k) (1) **Food and Water.** No owner shall fail to provide an exotic animal in his/her care with sufficient food, potable water, or shelter when needed.
- (2) **Humane Treatment.** No person shall ill-treat, beat, torment or otherwise abuse an exotic animal.

Incidents Causing Injury.

- (l) (1) **Notification.** All incidents in the Town in which an exotic animal injures or is suspected of injuring any person or domesticated animal shall be reported by the permittee to the Town Chairperson or Town Clerk within two (2) hours of the incident.
- (2) **Liability.** The owner of an exotic animal shall be responsible for all expenses incurred as a result of an injury inflicted or suffered by an exotic animal, whether expenses are incurred by the family of the victim, the victim, the Town or on behalf of the animal involved.

Sanitation.

- (m) (1) **Fecal Matter; Odor.** Any person who owns, harbors, keeps, or controls an exotic animal shall be responsible for keeping his/her property properly clean of fecal matter and to keep obnoxious odors under control.

- (2) **Waste Disposal.** Disposal of all animal waste shall be in a manner that is consistent with normal agricultural practices and adequately protects human and animal health.
- (n) **Limitation on Exotic Animal Numbers.** No person shall own, harbor or keep in his/her possession on anyone parcel of property more than two (2) exotic animals over five (5) months of age at anyone time, nor shall any person retain a litter/offspring, or portion thereof, of exotic animals longer than five (5) months following birth.
- (0) **Compliance; Enforcement**
- (1) **Transition Period.**
- a. As a measure deemed necessary by the Town Board to protect the public safety, health and welfare, this Section shall apply to owners of exotic animals in the Town and who possess, harbor, board or keep an exotic animal(s) on the effective date of this Section.
 - b. All such existing exotic animal owners shall file with the Town Clerk the location, species, gender and age of each such exotic animal within thirty (30) days of the effective date of this Section.
 - c. All such existing exotic animal owners shall comply with this Section, including applying for an exotic animal permit, within ninety (90) days of the effective date of this Section.
 - d. An exotic animal permit may be issued by the Town Board under the standards and procedures of this Section. Failure to apply for, and be granted, an exotic animal permit shall result in the animal being removed from its owner by the Town, or its designees, within six (6) months of the effective date of this Section.
- (2) **Enforcement.** The Town Chairperson, with the assistance of the Humane Society and other law enforcement authorities, and such veterinarian assistance as may be needed shall be primarily responsible for the enforcement of this Section. The Town Board may appoint additional persons as may be necessary to assist with the enforcement of this Section.
- (p) **Wolf/Dog Hybrid Regulation and Confinement.** The provisions of this Subsection address the unique public health and safety concerns involved with the keeping of wolf/dog hybrids:
- (1) **Definitions.** A "wolf/dog hybrid" is defined as any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote jackal or dingo or resulting from the mating of any wolf/dog hybrid and another wolf/dog hybrid or a domesticated dog. As used herein:
- a. *Canine Animal.* Includes all members of the family *canidae* except foxes.
 - b. *Domesticated Dog.* *Canis familiaris.*
 - c. *Wolf.* Includes both *canis lupus* and *canis niger.*
 - d. *Coyote.* *Canis latrans.*
 - e. *Jackal.* *Canis Aurens.*
 - f. *Dingo.* *Canis dingo.*
- (2) **Prohibition on Unregistered Animals.** No person shall harbor, keep or maintain within the Town of Stephenson any wolf/dog hybrid which has not been registered

pursuant to Subsection (p)(11) below on or before January 30,2009. This prohibition shall not apply to animals being transported through the limits of the Town of Stephenson within a one (1) hour period of time. A pup born to a female wolf/dog hybrid so registered shall be removed from the Town of Stephenson before it has reached the age of five (5) months. Wolf/dog hybrids permitted in the Town of Stephenson shall be confined as set forth in this Subsection.

- (3) **Removal; Impoundment.** Whenever any person is charged with harboring, keeping or maintaining a wolf/dog hybrid in the Town of Stephenson which has not been registered on or before January 30, 2009, that person shall remove said animal from the Town of Stephenson until a trial on the citation. If said animal has not been so removed within forty-eight (48) hours of the service of the citation, the said animal may be impounded as directed by the Town Board until the trial on the citation. In that case, the owner of any such animal shall pay all expenses incurred due to such impoundment, including but not limited to the cost of shelter, food, handling and veterinary care. If it is determined by plea or trial that said animal is a wolf/dog hybrid not registered pursuant to Subsection (p)(11) on or before January 30, 2009, it shall be removed from and not returned to the Town of Stephenson.
- (4) **Confinement Requirements.** The owner of any wolf/dog hybrid permitted to be kept in the Town of Stephenson, and the owner of any property on which such wolf/dog hybrid is kept, shall see that the animal is at all times confined according to the minimum requirements of this Subsection. A wolf/dog hybrid may be kept only in enclosures that meet the following minimum requirements:
- a. The first enclosure shall be constructed of not less than nine- (9-) gauge galvanized chain link fencing, with mesh openings not greater than two (2) inches, which shall be securely anchored by stainless steel or copper rings, placed at intervals not greater than six (6) inches apart, to a poured concrete base as described herein. Such enclosure shall be not less than five hundred (500) square feet in area, plus two hundred fifty (250) square feet for each additional canine animal kept therein. Such enclosure shall be the location in which any wolf/dog hybrid is primarily kept.
 - b. The first enclosure shall extend to a height of not less than eight (8) feet, and shall be surrounded from ground level to a height of not less than four (4) feet by one-quarter (1/4) inch galvanized mesh screening.
 - c. The first enclosure shall have a full top, which shall also be constructed of not less than nine- (9-) gauge chain link fencing with mesh openings not greater than two (2) inches, and which shall be securely anchored to the sides of the enclosure. The entire base of the first enclosure shall be a poured concrete slab floor at least four (4) inches thick.
 - d. The second enclosure shall consist of a securely anchored fence at least eight (8) feet in height, which shall entirely surround the first enclosure, and no part of

which shall be neared than eight (8) feet in height, which shall entirely surround the first enclosure, and no part of which shall be nearer than six (6) feet from any part of the first enclosure. Said fence shall be a "vision barrier" fence, no more than five percent (5%) open for through vision, except, however, that the portion of said fence facing the dwelling of the owner of said animals or of the property on which they are kept shall be constructed of not less than nine- (9-) gauge chain link fencing, to provide for observation of said animals. If any portion of said fence is made of wood, the finished or painted side thereof shall face outward from the first enclosure.

- e. Both enclosures shall be kept locked with case hardened locks at all times when an animal is unattended by an adult. The first (innermost) enclosure shall have double entrance gates or doors situated and constructed in such a fashion as to prevent an animal from escaping past an open gate or door. The gates or doors providing access to the first (innermost) enclosure shall be spring-loaded, so as to shut on their own accord behind anyone entering that enclosure.
 - f. Within the first enclosure, shelter shall be provided adequate to protect the animals confined against weather extremes. The first enclosure shall be regularly cleaned to remove excreta and other waste materials, dirt and trash, in a manner adequate to minimize health hazards and avoid offensive odors.
 - g. The above described enclosures shall be located in the rear yard of any property on which a wolf/dog hybrid is kept, as defined in the applicable Zoning Code.
- (5) **Transportation and Muzzling of Animals.** A wolf/dog hybrid may be transported only if confined in a secure, locked container, covered with one-fourth (1/4) inch galvanized fine mesh screen. This paragraph shall not prohibit the walking of such animals, provided they are muzzled and restrained by a leather lead, at least one (1) inch in diameter and not exceeding three (3) feet in length, attached to a metal choker-type collar, under the control of an adult. The muzzle must be made in a manner that will not cause injury to the wolf/dog hybrid or unduly interfere with its vision or respiration, but will prevent it from biting any person or animal.
- (6) **Right of Inspection.** To insure compliance with this Subsection, any person possessing any registration papers, certificate, advertisement or other written evidence relating to the bloodlines or ownership of a canine animal found within the Town shall produce the same for inspection on demand of any law enforcement, conservation or public health officer or court.
- (7) **Limitation on Numbers.** No person shall own, harbor or keep in his/her possession on anyone parcel of property more than two (2) wolf/dog hybrids over five (5) months of age at anyone time, nor shall any person retain a litter or portion of a litter of wolf/dog hybrids longer than five (5) months.
- (8) **Veterinary Exception.** The foregoing provisions of this Subsection shall not apply to doctors of veterinary medicine in temporary possession of wolf/dog hybrids in the ordinary course of their practice.

- (9) **Abandonment or Negligent Release.** No person shall willfully or negligently release or abandon a wolf/dog hybrid as defined herein within the Town.
- (10) **Nonconforming Enclosures.** As to any person keeping wolf/dog hybrids in existing enclosures in the Town of Stephenson on the date of passage of this Section, Subsection (p)(4) shall take effect on January 30, 2009; for all other persons, said Subsection shall take effect and be in force from and after passage and publication as provided by law. The remaining provisions of this Subsection shall take effect and be in force from and after passage and publication as provided by law.
- (11) **Wolf/Dog Hybrid Registration.** All owners of any wolf/dog hybrid in the Town of Stephenson shall, on or before January 30, 2009, and annually thereafter on or before January 30th of each year, register such animal and provide a current color photograph of such animal with the Town Clerk's office and pay an annual registration fee as prescribed in Sec. 1-3-1. At the time of registration, each owner of any wolf/dog hybrid kept within the Town limits shall provide to the Town Clerk proof of liability insurance in the amount of at least One Million Dollars (\$1,000,000.00) for any acts of property damage, personal injury or other liability incurred by virtue of any injury or damage inflicted by such wolf/dog hybrid. Such insurance shall name the Town of Stephenson as co-insured solely for the purpose of notice of cancellation of such insurance policy.
- (12) **Warning Sign.** The owner or keeper of a wolf/dog hybrid shall display on the premises on which such animal is kept signs warning that there is a wolf/dog hybrid on the property as provided herein. Such signs shall be visible and capable of being read within at least twenty (20) feet of their placement, but shall not be more than two (2) square feet in area, and shall state in bold, capital letters, on a white background, the following: "WARNING - WOLFIDOG HYBRIDS PRESENT". One such sign shall be placed in the front yard of any property on which any wolf/dog hybrid is kept, and additional such signs shall be placed on all gates or doors providing access through the second (outermost) enclosure required above.
- (q) **Penalties.** The following penalties shall apply to all violatons of this Section, including Subsection (p) governing wolf/dog hybrids:
- (1) **Forfeiture.** Any person who fails to comply with the provisions of this Section shall, upon adjudication of the violation, be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) per violation, plus the costs of prosecution and any assessments and expenses related to enforcement authorized elsewhere in this Section. Each day of violation shall constitute a separate offense. This penalty is in addition to any other remedies for non-compliance set forth elsewhere in this Section.
- (2) **Interference With Enforcement.** It is unlawful for a permittee/owner or any other person harboring, keeping, boarding or maintaining an exotic animal to fail to comply with the provisions of this Section, and/or for any person on the permittee's premises to interfere with the enforcement or administration of this Section.

Sec. 7-1-10 Penalties.

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

Title 7 ► Chapter 26

Fermented Malt Beverages and Intoxicating Liquor

ArticleA Fermented Malt Beverages and Intoxicating Liquor

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Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

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

State Law Reference: Ch. 125, Wis. Stats.

Sec. 7-2-2 Definitions.

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age", "Premises," "Sell," "Sold," "Sale," "Restaurant," "Club," "Retailer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, Wisconsin Statutes.

Sec. 7-2-3 License Required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

Sec. 7-2-4 Classes of Licenses.

- (a) **Retail "Class A" Intoxicating liquor license.** A retail "Class A" intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

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- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at anyone (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (c) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Town on December 1, 1997, and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorized the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorized the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at anyone time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the prenuses.
- (d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (e) **Class "B" Fermented Malt Beverage Retailer's License.**
 - (1) **License.** A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
 - (2) **Application.** Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (f) **Temporary Class "B" Fermented Malt Beverage License.**
 - (1) **License.** As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local

fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds . The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Town Board.

(2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class "B" license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility. (g) **Temporary "Class B" Wine License.**

(1) **License.** Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.

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- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. **If** the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.
- (h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Town Clerk under authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
- (i) **Retail "Class C" Licenses.**
- (1) In this Subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
 - (2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
 - (3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
 - (4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

There shall be the following classes of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7-2-4 of this Code of Ordinances and Chapter 125, Wis. Stats.: (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

- (b) **Class "B" Fermented Malt Beverage License.**
- (1) The annual fee for this license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (2) A Class "B" fermented malt beverages license may also be issued to bona fide clubs, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering and at a meeting of the post. The fee for the license shall be as prescribed by the Town's Fee Schedule in Sec. 1-3-1.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be per event in accordance with the Town Board's current fee schedule in Sec. 1-3-1. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
- (h) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Town on December 1, 1997, and that is counted under Sec. 125.51 (4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at anyone time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

Sec. 7-2-6 **Application for License.**

- (a) **Contents.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department

of Revenue and shall be sworn to by the applicant as provided by Sees. 887.01 to 887.04, Wis. Stats., and shall be filed with the Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.

- (b) **Corporations.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The Town Clerk shall publish each application for a Class "A", Class "B", "Class A" or "Class B" or "Class C" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51 (10), Wis. Stats. The application shall be published once in a newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **License Quotas.** Retail intoxicating liquor licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

Sec. 7-2-7 Qualifications of Applicants and Premises.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A", "Class B" or "Class B" Reserve intoxicating liquor license shall be granted only to persons, or their agents, who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
 - (I) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the

agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply *if* the corporation has terminated *its* relationship with all of the individuals whose actions directly contributed to the conviction.

- (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation *is* held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, *firm*, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (h) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or pennit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or pennit, the license or permit last issued is void. If both licenses or pennits are issued simultaneously, both are void.
- (i) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or pennit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or pennit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
- (1) A hotel.
 - (2) A restaurant whether or not it is a part of or located in any mercantile establishment.
 - (3) A combination grocery store and tavern.

- (4) A combination sporting goods store and tavern in towns, villages and 4th class cities.
- (5) A combination novelty store and tavern.
- (6) A bowling alley or recreation premises.
- (7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Town Clerk shall notify the Fire Inspector of each new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Town Clerk in writing, who shall forward to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

Sec. 7-2-9 Approval of Application.

- (a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Town.
- (c) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been

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

Sec. 7-2-10 Granting or Denial of License.

- (a) In the event the application is for a "Class A" or a "Class B" intoxicating liquor or fermented malt beverage license at a site not previously licensed under this Chapter, the Town Clerk shall schedule public hearings before the Town Board on the granting of the licenses and shall notify all property owners situated in the block of the site for which the license is sought and all property owners within a radius of three hundred (300) feet of the proposed site of the dates of the hearings. The notice shall be given at least ten (10) days before the hearing and may be given by mail.
- (b) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town. The full license fee shall be charged for the whole or fraction of any year.
- (c) If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Town Board meeting at which the application is to be reconsidered.

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

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk.

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

Sec. 7-2-12 Numbering of License.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Town Clerk shall affix to the license his/her affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

Sec. 7-2-13 Posting Licenses; Defacement.

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

Sec. 7-2-14 Conditions of License.

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

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person under the age of eighteen (18), as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B" or Class "B" or "Class C" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B", Class "B" or "Class C" license unless he/she possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A", Class "B", "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school building, hospital building or church building.
- (g) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) **Credit Prohibited.** No retail Class "A", Class "B", "Class A" or "Class B" liquor or fermented malt beverage or "Class C" wine licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a

resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

- (i) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (j) **Improper Exhibitions.** It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
- (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Exposes any portion of the female breast at or below the areola thereof; or
 - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

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

Sec. 7-2-15 Closing Hours.

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

(a) **Class "8" Licenses.**

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

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

Sec. 7-2-16 **Restrictions on Temporary Fermented Malt Beverage or Wine Licenses.**

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

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.
- (c) **Fencing.** If necessary due to the physical characteristics of the site, the Town Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
- (d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale*of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- (e) **Licensed Operators Requirement.** A licensed operator shall be stationed at-all points of sales at all times.

- (f) **Waiver.** The Town Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of Stephenson. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

Sec. 7-2-17 **Revocation and Suspension of Licenses; Non-Renewal.**

- (a) **Procedure.**
 - (1) The Town of Stephenson shall follow the procedure outlined in Ch. 125.12, Wis. Stats., when taking suspension/revocation action against any alcohol beverage license issued by the Town Board.
 - (2) If the action is initiated by a citizen or a board member, the Town Board may take immediate action and upon notice hold a hearing under Sec. 125.12, Wis. Stats.
 - (3) If the action is resulting from the arrest of a license holder, or agent thereof, and upon conviction in circuit court, the Town Board shall hold a hearing under Sec. 125.12, Wis. Stats., for all second and subsequent convictions.
- (b) **Penalties.**
 - (1) All actions being affirmed by the Town Board, or any conviction under Ch. 125, Wis. Stats., in Circuit Court against an Alcohol Beverage License holder, shall be considered as a violation under this Section.
 - (2) Violations shall be counted from date of said violation and shall accrue for a period of thirty-six (36) months.
 - (3) All actions where the complaint is found true by the Town Board shall result in the following penalties:
 - a. First action approved by the Board shall result in a minimum ten (10) day to a maximum nineteen (19) day suspension.
 - b. Second action approved by the Board shall result in a minimum twenty (20) day to a maximum twenty-nine (29) day suspension.
 - c. Third action approved by the Board shall result in a minimum thirty (30) day to a maximum forty (40) day suspension.
 - d. Fourth action approved by the Board shall result in a twelve (12) month revocation.

(c) **Continuing Business License Requirements.**

- (1) It shall be a condition of maintaining and keeping a license in the Town of Stephenson, that the licensee continue in business. Issuance of, or retention of, a license by a party not doing business or intending to resume doing business under conditions of this Chapter, as defined as follows, is declared to be against public policy, and thus lacking in usefulness.
- (2) Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Stephenson Town Board by amendments or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such law restrictions and regulations, his/her license may be revoked in accordance with this Chapter. In the event of revocation of any license or any violations of any provisions of this Chapter, or by the court for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.
- (3) "Business continuation" of a license is hereby defined to mean as follows: Should a license issued under this Chapter not be used within sixty (60) days after its issuance and/or adoption of this Chapter, such situation may be grounds for cancellation of the license in accordance with the provisions of this Section. In addition, all persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eight (180) days, in which event this Subsection shall not apply.
- (4) Holders of such licenses are required to possess the following: A premise (facility) from which to conduct business, sanitary permit, building permits, Conditional Use Permits (CUPs) when required in accordance with the applicable Zoning Code and/or Marinette County Shoreland Protection Ordinance, and meeting of any other requirements under the provisions of the Marinette County Ordinance. Further, holders of such licenses must possess necessary federal I.D. numbers, State of Wisconsin sales tax numbers, and shall meet and continue to meet on an ongoing basis all other state and federal requirements. Approval by the Town of Stephenson Town Board must also be obtained.
- (5) Exceptions to these requirements to continue to possess a necessary license would be any act of God which may damage or destroy the facility for which the license has been issued to operate the business from. In such cases, the holder of the license will be allowed a maximum of one (1) year to repair damages or rebuild the damaged or destroyed facility and again resume operating the business from the premises for which the license issued was intended. The holder of a license of a damaged or destroyed business shall also be required to meet with the Town Board at that Board's

discretion to discuss the situation and progress. Again, the Board reserves the right to revoke such license if, in its opinion, progress toward repair or rebuilding is not progressing in a timely manner. In such cases, the holder of the license has the express right to request a hearing, and any other appeal avenues which may be available to the license holder.

- (6) In the event any licensed party violates this Chapter, disciplinary action may be taken by the Town Board, including reprimand, suspension of the license for a specified number of days [maximum of ninety (90) days], or revocation of the license. Any license that has been revoked shall not be reinstated within the following six (6) months. Any disciplinary action taken shall follow notice to the licensee prior to a hearing. Both the hearing notice, which will specify the reason for the hearing, and the subsequent decision of the Board, will be sent by first class mail to the last known address of the licensee, or personally served, at the option of the Town Chairperson.
- (7) In the event disciplinary action is taken against a licensee, the state procedure mandated under present Sec. 125.12, Wis. Stats., or its successor, will be followed. At present, said procedure requires personal service of the hearing notice (summons and complaint), and a hearing within three to ten (3-10) days thereafter.
- (8) As specified by law, there shall be no refund of any license fee paid to a party whose license is revoked.
- (9) In lieu of a hearing, the Town Board may accept surrender of the license, and the Town Board shall then determine the time period before another application for the same type of license will be accepted from the former licensee.
- (10) Evidence and testimony at the hearing shall be done in open session. Pursuant to Sec. 19.85(1)(a), Wis. Stats., the Board may go into closed session to deliberate with regard to its decision, where that possibility and option have been properly and legally listed on the hearing notice posted and/or published. The Town Clerk shall see that the hearing notice is posted and/or published, in format acceptable to the Town Chairperson.

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

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

- (a) The licensee or agent of a corporate licensee shall notify the Town at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Town Clerk during normal working hours. After a non-alcohol event notice has been

- given, the licensee may cancel an event(s) only by giving like notice to the Town in accordance with the provisions of this Subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.
- (b) During the period of any non-alcohol event a notice card prescribed by the Town shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Town to a requesting licensee.
 - (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
 - (d) During the period of any non-alcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

Sec. 7-2-19 Outdoor Commercial License for Class IIB" Licenses.

- (a) **Intent.** The intent of this Section is to regulate and provide for the safety of the general public and also comply with state laws on serving of fermented malt beverages.
- (b) **Scope.** This Section regulates outdoor commercial Class "B" licenses serving fermented malt beverages.
- (c) **Payment of Fee.** A fee per Sec. 1-3-1, per Section 125.26(4), Wis. Stats., will be required for any license and shall be paid at the office of Town Clerk before the granting of a license under this Section. No fee paid shall be refunded unless the license is denied. The outdoor commercial license shall be in addition to the base Class "B" license.
- (d) **Application; Determination.**
 - (1) Unless otherwise provided, application for a license shall be made to the Town Clerk. The applicant shall furnish a site plan as to the locations of the proposed activity and other such facts as may be required for or be applicable to the granting of such license.
 - (2) Approval of the Town Board is required prior to the issuance of any license. No outdoor commercial license shall be issued for any premises or to any person which would come under Secs. 125.10 through 125.13, Wis. Stats., for authority to approve, deny or regulate licenses.
 - (3) Unless otherwise provided by action of the Town Board, the license year shall end on June 30th of each year.

- (4) Unless otherwise provided by action of the Town Board, no license fee under this Section shall be prorated.
 - (5) No license fee shall be refunded if a license is surrendered or revoked for cause.
 - (6) As a condition of license issuance, the Town Board may impose limitations on the size of the outdoor area that is licensed.
- (e) **Suspension or Revocation of License.** Except as otherwise provided by action of the Town Board, any outdoor license granted under this Section may be suspended or revoked by the Town Board for cause after giving the licensee an opportunity to be heard, as prescribed elsewhere in this Chapter.
- (f) **Regulations Regarding Outdoor Licenses.**
- (1) **Inspection of Premises.** The Town Clerk shall notify the State Sanitarian, Marinette County Sheriffs Department, Town of Stephenson Village of Crivitz Fire Department, if applicable, and the Town Building Inspector of all license applications. These officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. No license provided for in this Section shall be issued without the approval of the Town Board.
 - (2) **Search of Licensed 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 the Marinette County Sheriffs Department and/or Town of Stephenson authorized officials without warrant, and the application for the license hereunder shall be deemed to consent to this provision. Any refusal to permit such inspection or refusal to cooperate with any lawful police investigation shall automatically operate as a revocation of any license hereunder and shall be deemed a violation of this Section. (Please note the provisions of Sec. 125.12, Wis. Stats.).
 - (3) **Safety and Sanitation Requirements.** Each licensed premises shall be maintained and conducted in a sanitary and safe manner and conform to the sanitary, safety and health requirements of the Wisconsin Department of Commerce pertaining to buildings and plumbing, and to the rules and regulations of the Wisconsin Department of Health applicable to restaurants [Sec. 125.68(5), Wis. Stats.] and to all such ordinances adopted by the Town Board.
 - (4) **Posting of License.** Every license required by this Section shall be framed and posted and at all times displayed as provided in Sec. 125.04(10), Wis. Stats. License certificates shall show the name of the licensee, date of issue, activity licensed and the terms of the license issued. License certificates shall be signed by the Town Clerk. The Clerk shall keep a record of all licenses issued.
 - (5) **Gambling and Disorderly Conduct Prohibited.** Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct or gambling (except as permitted by state law) shall be allowed at any time on such premises. Any Marinette County Sheriffs Department personnel or duly

authorized Town of Stephenson official may order any disorderly premises closed until 8:00 a.m. the following day when, in reasonable view of the Sheriff's Department or authorized Town personnel the licensee or person in charge failed to maintain peace and order or the Department otherwise believes that the public peace and safety is served by such closing by reason of threat to bodily security, property or peaceful repose of any member of the general public.

- (6) **Employment of Underage Person.** No licensee shall employ any underage person who does not have a valid operators license to serve, sell, dispense or give away any alcohol beverage.
- (7) **Permitted Cups and Cans Only.** Intoxicants will be sold outdoors only in foam or plastic cups or original cans. The use of glass bottles or containers is prohibited.
- (8) **Fencing.** A licensed outdoor area shall be enclosed by a fence or structure at least six (6) feet in height impervious to the passing of alcohol beverages to or from the licensed premises. In lieu of the six (6) foot fence, a double wide standard snow fence at least three (3) feet apart may be used.
- (9) **Noise.** No musical instruments, radios, juke boxes or other means of electric sound amplification may be used or operated in a licensed outdoor area after 12:00 midnight and before 9:00 a.m.
- (10) **Lighting.** Glare from outdoor lighting associated with the premises licensed by the outdoor commercial license shall not excessively intrude upon neighboring properties.

Sec. 7-2-20 through Sec. 7-2-29 Reserved for Future Use.

Article B: Operator's License

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

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

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

Sec. 7-2-31 Procedure Upon Application.

- (a) The Town Clerk may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Town.
- (b) At the Town's option, all applications are subject to an investigation by law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. These authorities may conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any

community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the authorities may recommend, in writing, to the Town Clerk approval or denial of the application. If the authorities recommend denial, the authorities shall provide, in writing, the reasons for such recommendation.

Sec. 7-2-32 Duration.

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

Sec. 7-2-33 Operator's License Fee.

The annual fee for an operator's license or provisional license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1 for the term or part thereof, plus actual records check costs. The fee for a provisional license shall be in accordance with the Town Board's current fee schedule in Sec. 1-3-1.

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

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

- b. The financial responsibility of the applicant;
- c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
- d. Generally, the applicant's fitness for the trust to be reposed.

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

Sec. 7-2-35 Training Course.

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

Sec. 7-2-36 Display of License.

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

Sec. 7-2-37 Revocation of Operator's License.

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

Sec. 7-2-38 Temporary Operator's License

A temporary operator's license may be issued to persons employed by, or donating their services to, nonprofit corporations for special events such as, but not limited to, picnics and fundraisers, pursuant to Sec.125.17(4) (1999-00) of the State Stats. A police check shall be required for a temporary operator's license. No person may hold more than one license of this kind per year. This license is valid for one (1) to fourteen (14) days as stated on the license.

Sec. 7-2-39 Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

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

Title 7 ► Chapter 52

Cigarette License

7-3-1 Cigarette License

Sec. 7-3-1 Cigarette License.

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

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

Regulation of Large Assemblies of Persons

7-4-1 Permits for Large Public Gatherings

Sec. 7-4-1 Pennits for Large Public Gatherings.

(a) **Intent.**

- (1) It is the purpose of the Town Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Town of Stephenson, in order that the health, safety and welfare of all persons in the Town, residents and visitors alike, may be protected.
- (2) The purpose and intent of this Section is to establish site approval for locations in the Town of Stephenson used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Town Board that there will be compliance with the standards set forth in this Section.

(b) **Scope.** This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than one thousand (1,000) persons for an event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies or to church picnic events which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(c) **Definitions.** The following definitions shall be applicable in this Section:

- (1) **Person.** Any individual, partnership, corporation, firm, organization, company, association, society or group.
- (2) **Assembly.** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above.
- (3) **Public Gathering.** Shall be as defined in Subsection (b) above.

- (d) **Permit Required.** No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property, unless a Public Gathering Permit to hold the assembly has first been issued by the Town Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.
- (e) **Application for Permit.**
 - (1) **Applicant.** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.
 - (2) **Filing Period.** An application for a Public Gathering Permit shall be filed with the Town Clerk not less than forty-five (45) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.
- (f) **Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:
 - (1) The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.
 - (2) The name and mailing address of the promoter and/or sponsor of the gathering.
 - (3) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval two (2) feet above the ordinary highwater level.
 - (4) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of one thousand (1,000) or more persons.
 - (5) The nature or purpose of the assembly.

- (6) The total number of days and/or hours during which the assembly is to last.
 - (7) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the county if the assembly is to continue overnight.
 - (8) The maximum number of tickets to be sold, if any.
 - (9) The plans of the applicant to limit the maximum number of people permitted to assemble.
 - (10) The plans for fencing the location of the assembly and the gates contained in such fence.
 - (11) The plans for supplying potable water including the source, amount available and location of outlets.
 - (12) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.
 - (13) The plans for holding, collection and disposing of solid waste material.
 - (14) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
 - (15) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
 - (16) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
 - (17) The plans for camping facilities, if any, including facilities available and their location.
 - (18) The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.
 - (19) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
 - (20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
 - (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.
 - (22) The application shall include the bond required in Subsection (g) and the permit fee.
- (g) **Bond.** The Town Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Town Board, but not exceeding One Hundred Thousand Dollars (\$100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of this Section,

the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Town Clerk prior to the issuance of a permit.

- (h) **Charge for Increased Costs.** Where the Town Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Town Board may require the permittee to make an additional payment into the general fund of the Town in an amount equal to the increased costs.
 - (i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Town Board may conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Town Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.
- 1) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Town Clerk copies of properly executed contracts establishing the ability to fully provide the services required under this Section:
- (1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.
 - (2) Every site proposed for a Public Gathering Permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.
 - (3) Due to the physical characteristics of the site, the Town Board may require that the applicant shall provide proof that he/she will furnish, at his/her own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.
 - (4) The applicant shall provide proof that he/she has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.
 - (5) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences if the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of

- at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
- (6) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, a free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.
 - (7) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Town Chairperson that additional police protection shall be required, he/she may contact the County Sheriffs Department; and all costs for the additional protection required shall be deducted from the posted cash bond.
 - (8) The applicant shall provide proof that he/she will furnish, at his/her own expense before the assembly commences, fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and Wisconsin Statutes and ordinances of the county and Town, and sufficient emergency personnel to efficiently operate the required equipment.
 - (9) The applicant shall provide an adequate source of pure water with sufficient supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1) gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.
 - (10) The applicant shall provide enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one (1) toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
 - (11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

(12) If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Town and county, sufficient to provide camping accommodations for the maximum number of people to be assembled. (k) **Reasons**

for Denial. Applicants may be denied for any of the following non-exclusive reasons:

- (1) It is for a use which would involve a violation of federal or state law or any Town or county ordinance.
 - (2) The granting of the permit would conflict with another permit already granted or for which application is already pending.
 - (3) The application does not contain the information or does not properly satisfy the conditions required by this Section.
 - (4) The application is made less than the required days in advance of the proposed assembly.
 - (5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.
 - (6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.
 - (7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.
 - (8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (l) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Town ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.
- (m) **Recommendations of Governmental Agencies.** The Town Clerk may submit a copy of the application to the County Sheriffs Department and other governmental agencies for their recommendations.
- (n) **Permit Revocation.** Any law enforcement officer, the Town Chairperson, or the Town Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Town and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify

the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants. (0) **Fees.** The following fees shall be applicable under this Section:

- (1) **Gatherings of 1,000 to 2,500.** A fee in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (2) **Gatherings of 2,500 to 5,000.** A fee in accordance with the Town Board's current fee schedule in Sec. 1-3-1.
- (3) **Gatherings of Over 5,000.** A fee in accordance with the Town Board's current fee schedule.

Title 7 ► Chapter 60

Regulation and Licensing of Fireworks

7-5-1 Regulation and Licensing of Fireworks

Sec. 7-5-1 Regulation of Fireworks.

(a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length which does not contain magnesium, chlorate or perchlorate.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
- (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter (1/4) grain of explosive mixture.
- (12) A device this is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- (13) A cylindrical fountain that consists of one (1) or more tubes and that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (14) A cone fountain that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

- (b) **Sale.** No person may sell or possess with intent to sell fireworks, except:
 - (1) To a person holding a permit under Subsection (c)(3);
 - (2) To a municipality; or
 - (3) For a purpose specified under Subsection (c)(2)b-f.
- (c) **Use.**
 - (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Chairperson or from an official or employee of the Town as designated by the Town Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
 - (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance.
 - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Commerce.
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources.
 - d. The possession or use of explosive or combustible materials in any manufacturing process.
 - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
 - f. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.
 - (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
 - a. A public authority.
 - b. A fair association.
 - c. An amusement park.
 - d. A park board.
 - e. A civic organization.
 - f. An agricultural producer for the protection of crops from predatory birds or animals.
 - g. A group of resident or nonresident individuals.
 - (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
 - (5) **Bond.** The Chairperson, or designee, when issuing a permit under this Subsection, shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person

or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Town Clerk.

- (6) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
- a. The name and address of the permit holder.
 - b. The date on and after which fireworks may be purchased.
 - c. The kind and quantity of fireworks which may be purchased.
 - d. The date and location of permitted use.
 - e. Other special conditions prescribed by ordinance.
- (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the applicable Fire Chief at least two (2) days before the date of authorized use.
- (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (d) **Storage and Handling.**
- (1) **Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
 - (2) **Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
 - (3) **Fire Chief to be Notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
 - (4) **Storage Distance.** No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.
 - (5) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

Automobile and Motorcycle Races

7-6-1 Regulation and Licensing of Automobile and Motorcycle Races, Shows and Exhibitions

Sec. 7-6-1 Regulation and Licensing of Automobile and Motorcycle Races.

- (a) **Definitions.** As used in this Chapter, the following terms shall have the following meanings:
- (1) **Automobile.** A motor vehicle with a shipping weight of more than one thousand (1,000) pounds and designed primarily for the purpose of transporting persons rather than property but which does not have a passenger-carrying capacity sufficiently large to bring it within the definition of "motor bus."
 - (2) **Motorcycle.** Any two (2) or more wheeled motor-driven or power-driven cycle or motorized bicycle.
 - (3) **General Purpose Fire Extinguisher.** An extinguisher capable of putting out Type A, B or C fires.
- (b) **Applicability.** The provisions of this Chapter shall apply to all private or public races, shows or exhibitions in the Town of Stephenson whether specifically licensed, in all or part, by another ordinance or not.
- (c) **License Required.**
- (1) It shall be unlawful for any person, firm or corporation to conduct or operate any automobile or motorcycle race, whether for private or public attendance, whether free or for admittance to which a fee is charged, without having first secured a license therefor, from the Town Board when in session.
 - (2) Any person, firm or corporation intending to conduct a race shall present an application therefor in writing to the Town Board giving the name of the applicant (person, firm or corporation) desiring to conduct said race exhibition and designating the place where said show, race or exhibition is to be held.
 - (3) No license shall be granted unless the applicant has first complied with all of the provisions of this Chapter.
 - (4) The license fee hereunder shall be as prescribed in Sec. 1-3-1, payable to the Town Clerk at the time of application. In the event that the license applied for shall not be

granted, the license fee which has been paid to the Town shall be refunded to the applicant.

(5) Licenses issued shall be for a period of one (1) year commencing on July 1st. The license cannot be transferred by the person, firm or corporation to whom it is issued.

- (d) **Location Restrictions.** It shall be unlawful for any person, firm or corporation to conduct or operate any race within one thousand two hundred (1,200) feet of any residential or farm building.
- (e) **Fencing.** It shall be unlawful for any person, firm or corporation to conduct or operate any race unless the premises for which the license is issued is completely enclosed with an eight (8) foot fence, the design of which has been approved by the Town Board. Said fence shall be of a suitable construction to keep people from entering the licensed premises except at authorized entrance/exit points.
- (f) **Fire Extinguishers.** It shall be unlawful for any person, firm or corporation to conduct or operate any race unless a general purpose fire extinguisher is placed at five hundred (500) foot intervals along the race track. Said fire extinguishers shall be capable of a content capacity of ten (10) pounds or its equivalent.
- (g) **Sanitary Facilities.** It shall be unlawful for any person, firm or corporation to conduct or operate any race unless adequate sanitary facilities are provided in compliance with Wisconsin State Board of Health regulations, or other pertinent regulations, and such facilities are approved by the Town Board.
- (h) **Lighting.** It shall be unlawful for any person, firm or corporation to conduct or operate any race at night unless adequate lighting facilities are provided and approved by the Town Board.
- (i) **Security.**
 - (1) No person, firm or corporation required to have a license under this Chapter shall conduct or operate a race for free or for which an admittance fee is charged unless adequate security is provided. There shall be a minimum of one deputy sheriff, or other security personnel approved by the Town Board, for every two hundred (200) spectators in attendance.
 - (2) The holder of the license shall contract with the Marinette County Sheriffs Department for the services of an event supervisor on a basis agreeable to said Sheriffs Department and licensee; such contractual services shall be paid for by the licensee.
 - (3) Such officers engaged as event supervisors shall make an annual report to the Town Board regarding licensed shows, races and exhibitions supervised.
- (j) **Miscellaneous Provisions.** No person, firm, or corporation conducting a race under this Chapter shall:
 - (1) Allow at any such race the presence of intoxicated persons.
 - (2) Allow the consumption of alcoholic beverages on the premises or within one thousand two hundred (1,200) feet of said premises.

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

- (1) The Town Board may immediately revoke the license of any person, firm or corporation if any of the provisions of this Chapter are violated.
- (2) The Town Chairperson is authorized to suspend the license of any person, firm or corporation violating any of the provisions of this Chapter and such suspension of license shall be acted on at the next subsequent Town Board meeting, following public hearing.

Title 7 ► Chapter 66

Transient Merchants

7-7-1	Registration Required
7-7-2	Definitions
7-7-3	Exemptions
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7-7-8	Revocation of Registration Special Event
7-7-9	Vending Permit

Sec. 7-7-1 Registration Required.

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

State Law Reference: Sec. 66.0423, Wis. Stats.

Sec. 7-7-2 Definitions.

In this Chapter the following definitions shall be applicable:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in this state temporarily, and who does not intend to become and does not become a permanent merchant of such place. The term shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

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- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business in the Town or school district of which the Town is a part; or
 - (2) Has continuously resided in the Town and now does business from his/her residence.
- (c) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (d) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, association or corporation, or one purporting to be such, including, for example, Boy Scouts, Girl Scouts, 4-H Clubs and school organizations.
- (e) **Clerk.** The Town of Stephenson Clerk or Deputy Clerk.
- (f) **Person.** All humans of any age or sex, partnerships, corporations, associations, groups, organizations and any other description of a collection of human beings working in concert or for the same purpose or objective.

Sec. 7-7-3 Exemptions.

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

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown;
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person;
- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;

- (i) **Charitable Organizations; Limited Exemptions.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Town Clerk proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Town Clerk that such person is a transient merchant, provided that there is submitted to the Town Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Town or school district for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (1) Town Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Town Board.
- (m) **Resident Minors.** Minors under eighteen (18) years of age who are residents of the Public School District of which the Town of Stephenson is a part.
- (n) **Solicitors.** Persons not engaged in commercial activity and are soliciting support for political, religious, or similar non-commercial programs or organizations.

Sec. 7-7-4 Registration.

- (a) **Registration Required.** It shall be unlawful for any transient merchant to engage in sales within the Town of Stephenson without being registered for that purpose as provided herein.
- (b) **Registration Information.** Applicants for registration must complete and return to the Town Clerk a registration form furnished by the Clerk which shall require the following information:
 - (1) Full name, permanent address and telephone number, and temporary address, if any;
 - (2) Height, weight, color of hair and eyes;
 - (3) Date of birth and Social Security number, driver's license number and issuing state and expiration date;
 - (4) Name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
 - (5) Temporary address and telephone number from which business will be conducted, if any;
 - (6) Nature of business to be conducted and a brief description of the merchandise offered and any services offered;

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- (7) Proposed method of delivery of merchandise, if applicable;
 - (8) Make, model and license number of any vehicle to be used by applicant in the conduct of his business;
 - (9) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business just prior to making this registration.
 - (10) Place where applicant can be contacted for at least seven (7) days after leaving this Town;
 - (11) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five (5) years, the nature of the offense and the place of conviction.
- (c) **Identification and Certification.** Applicants shall present to the Town Clerk for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (d) **Registration Fee.**
- (1) At the time of filing applications, a fee as prescribed in Section 1-3-1 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file a separate registration form.
 - (2) The applicant shall sign a statement appointing the Town Clerk his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
 - (3) Upon payment of said fees and the signing of said statement, the Town Clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-7-5(b) below.
- (e) **Bond.** Every applicant who is not a resident of Marinette County or who represents a firm whose principal place of business is located outside of the State shall file with the Town Clerk a surety bond in the amount of Five Hundred Dollars (\$500.00), conditioned that the applicant will comply with all provisions of the ordinances of the Town and the State laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be

accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on such bond may be brought by any person aggrieved.

Solicitors. Solicitors of funds or donations for charitable or other organizations shall be exempt from registration.

Sec. 7-7-5 Investigation.

- (a) Upon receipt of each application, the Town Clerk may refer it immediately to an appropriate member of the Town Board or Town-designated law enforcement agencies for an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
- (b) The Town Clerk shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of Section 7-7-4(b) above.

Sec. 7-7-6 Appeal.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Town Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats.

Sec. 7-7-7 Regulation of Transient Merchants.

(a) **Prohibited Practices.**

- (1) A transient merchant shall be prohibited from: calling at any dwelling or other place between the hours of 9:00 p.m. and 8:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

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- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
- (3) No transient merchant shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
- (5) No transient merchant shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.

(b) Disclosure Requirements.

- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant shall expressly disclose his name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
- (2) If any sale of merchandise is made by a transient merchant or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
- (3) If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.

Sec. 7-7-8 Revocation of Registration.

- (a) Registration may be revoked by the Town Board after notice and hearing if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation

in the course of engaging in direct sales, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling. (b) Written notice of the hearing shall be served personally or pursuant to Section 7-7-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 7-7-9 Special Event Vending Permit.

- (a) **Permit Required.** There shall be a per day charge as prescribed in Section 1-3-1 for a special event vending permit. The Town Board will determine whether the applicant qualifies for a special event vending permit. The permit shall set forth the exact dates on which and the exact location where such business shall be carried on and shall be valid only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.
- (b) **Exclusive Vending Rights During Special Events.**
 - (1) During a special event the Town Board may by resolution and after public hearing suspend specifically enumerated restrictions on transient merchants on any street, alley, sidewalk or public square and public park. Alternative rules and procedures may be established by the Town Board for the special event.
 - (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public square or public park, the Town Board may by resolution and after public hearing reserve up to ten (10) days during any vending year when transient merchant permits will not be valid at a particular location and when some or all categories of transient merchant permits will not be valid in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Town Board shall take precedence.
 - (3) For each such specific day during which certain or all vending permits have been declared to be not valid, the Town Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Town Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Town Board as to any specific day during which a transient merchant permit will not be valid shall be by resolution adopted at least four (4) weeks in advance of such specific day. Transient merchant permits shall be subject to invalidation for up to ten (10) days each vending year of anyone (1) location as provided in this subdivision.

No person holding a transient merchant permit may sell or offer for sale any goods or foods during a special event when his/her license is not valid unless authorized by the sponsor of the special event as specified above.

Title 7 ■ Chapter 74

Licensees to Pay Local Claims; Appellate Procedures

7-8-1	Licensees Required to Pay Local Claims, Taxes, Assessments and Appellate Procedures Duty of Clerk
7-8-2	Regard to Licenses

Sec. 7-8-1 Licensees Required to Pay Local Taxes, Assessments and Claims.

- (a) **Payment of Claims.** The Town shall not issue or renew any license to transact any business within the Town of Stephenson:
- (1) For any purposes for which taxes, assessments or other claims of the Town are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Town; or
 - b. Of any forfeiture resulting from a violation of any Town Ordinance.
- (b) **Exemption.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearings.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
- (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time, and Town ordinances.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Town Board or its assignee shall notify the applicant in writing of the Town's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Town Board. If the applicant shall fail

to appear before the Board on the date indicated on the notice, the Board shall deny the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Town Board shall conduct a hearing with respect to the matter. At the hearing, both the Town and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Town Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

- (e) **Appeals.** Where an individual, business or corporation wishes to appeal the Town Clerk's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Town Clerk that the matter be referred to the Town Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Town Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

Sec. 7-8-2 Duty of Clerk with Regard to Licenses.

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