

CHAPTER 7. LICENSING AND REGULATION

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LICENSES - GENERAL PROVISIONS

SEC. 7.01 LICENSES REQUIRED.

A license shall be required for the activities listed in Section 3.40 of this Code of Ordinances or for the conduct of the business or activity as outlined in this Chapter 7, according to fees established in Section 3.40. The license fee shall be for a period of one (1) year unless otherwise indicated. A double fee shall be charged for any business or activity which is commenced prior to the issuance of the license.

SEC. 7.02 ISSUANCE AND REVOCATION OF LICENSES.

- (a) **License Required.** No person shall engage in any business or activity enumerated in Chapter 7 without a license or permit therefor as provided by this Section. The words "license" and "permit" as used throughout this Chapter shall be considered interchangeable.
- (b) **Application.** Application for a license under this Chapter shall be made to the City Clerk on a form furnished by the City. Such application shall contain such information as may be required by the provisions of this Chapter or as may be otherwise required by the Common Council.
- (c) **Payment of License Fee.** License fees imposed under Section 3.40 and investigation fees shall accompany the license application when allowed under state law. If a license is granted, the City Clerk shall pay the license fee to the City Treasurer, who shall issue a receipt therefor.
- (d) **Granting of Licenses.**
 - (1) The City Clerk may issue the following licenses subject to the standards established by this Chapter without prior approval of the Council:
 - a. Amusement devices.
 - b. Cigarettes.
 - c. Renewal of Operator (bartender) licenses (upon receipt of a favorable police report)
 - (2) All other licenses shall be granted by the Council unless otherwise designated.
- (e) **Terms of Licenses.** Licenses issued hereunder shall expire on June 30th in the year of issuance unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, or unless otherwise provided by these ordinances or state laws.
- (f) **Form of License.** All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the City Clerk and be impressed with the City Seal.
- (g) **Record of Licenses.** The City Clerk shall keep a record of all licenses issued.

- (h) **Display of Licenses.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the City upon request.
- (i) **Transfer of Licenses.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Council.
- (j) **Exemptions.** No license other than a liquor or beer license shall be required under this Section for any nonprofit educational, charitable, civic, military, or religious organization where the activity which would otherwise be licensed is conducted for the benefit of the members or for the benefit of the public generally.
- (k) **Consent to Inspection.** An applicant for a license under this Chapter thereby consents to the entry of police or authorized representatives of the City upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this Chapter all things found therein in violation of this Chapter or state law.
- (l) **License Investigation.** The following investigation procedure shall be followed prior to issuance of a license or permit for Class A or Class B licenses. The City Clerk shall notify the Chief of Police, Fire Inspector, Sanitarian, City Treasurer or other appropriate official of all license and permit applications. These officials shall inspect or cause to be inspected each application to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the City Clerk or Council in writing information derived from such investigation. No license shall be renewed without a report from the Chief of Police, Fire Inspector, Sanitarian, City Treasurer or other appropriate official.
 - (1) No license shall be issued for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.
 - (2) 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, if applicable. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City, if applicable.
 - (3) 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.
- (4) 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 or if the applicant has falsified the application. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council (or to the City Clerk in the case of amusement device and cigarette licenses), the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny, not renew or revoke a license.

Ordinance 2007, A 6/15/99, Sec. 7.02(d)(1)

SEC. 7.03 COMPLIANCE WITH ORDINANCES AND PAYMENT OF TAXES, ASSESSMENTS AND CLAIMS.

No license shall be issued under this Chapter for any premises for which taxes, assessments or other claims of the City are delinquent and unpaid or to any person delinquent in payment of such taxes, assessments or other claims to the City. It shall be a condition of holding a license under this Chapter that the licensee comply with all ordinances of the City.

SEC. 7.04 REVOCATION AND NON-RENEWAL OF LICENSES.

Except as provided in Section 7.90 and 7.101(m) and (n), any license issued under this Chapter may be revoked for cause by the Mayor and Common Council. The Common Council shall notify the licensee in writing of the City's intention to revoke or not renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action. If the licensee does not appear at the hearing, the allegations of the complaint shall be taken as true and if the Common Council finds the allegations sufficient, the license shall be revoked or not renewed. If the licensee appears pursu-

ant to the written notice, the licensee may produce witnesses, cross examine witnesses, and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his expense. The Common Council may suspend, revoke or not renew the license. The action of the Common Council in suspending, revoking or not renewing the license may be reviewed by the Circuit Court for Milwaukee County. The licensee shall have twenty (20) days from the date of the Common Council decision to file an action in the Milwaukee County Circuit Court to review the decision of the Common Council.

AMUSEMENT DEVICES AND ARCADES

SEC. 7.20 AMUSEMENT DEVICES.

(a) **Definitions.** The following definitions shall be applicable herein:

- (1) Amusement Device. An amusement device is an optical, mechanical or electronic machine which upon the insertion of a coin or some other method of payment is made at the machine or at a location away from the machine, operates a game, contest or amusement (except music) including but not limited to video, pinball, foosball, bowling, or film reviewing machines.
- (2) Person. Individual natural persons, partnerships, joint ventures, societies, associations, clubs, or corporations; or any officers, agents, employees or any kind of representatives of any thereof, in any capacity.
- (3) Premises. All lands, structures, places, and also the equipment and appurtenances connected or used herewith in any business, and also any personal property which is either affixed to, or is otherwise used in connection with any such business conducted on such premises.

(b) **Licenses Required.**

- (1) License to Be Obtained. It shall be unlawful for any person to place, lease or operate an amusement device within the City without first obtaining the required license therefore from the City Clerk.
- (2) Operator's License. No person shall place, lease or operate a mechanical or electronic amusement device within the City without first obtaining an operator's license therefor which shall be issued by the City Clerk upon payment of the required fee, as set forth in Section 3.40.
- (3) Machine License. In addition to the operator's license, a license is required for the operation of each mechanical or electronic amusement device, with an annual fee to be paid on each device as established by Section 3.40.

(c) **Registration Symbol.** Upon payment of the applicable license fees and registration fees, the City Clerk shall issue for each amusement device a registration symbol which shall not be transferable except upon registration of the transfer with the City Clerk. Any unregistered amusement device or any amusement device being used for purposes of gambling may be seized by the Police Department.

(d) **Limitation.** Not more than twelve (12) amusement device registrations shall be granted to any person for operation or use in a single premises. Any premise containing more than twelve (12) amusement devices shall be subject to Section 7.21 regulating arcades.

SEC. 7.21 AMUSEMENT ARCADES.

(a) **Declaration of Intent.**

- (1) It is the belief of the Common Council that such arcades are intended to, and in fact do, draw a major portion of their clientele from the juveniles and young people of the communities in which they are situated.
- (2) It is the policy of the Common Council that it is in the best interest of the community to closely monitor, regulate as necessary, and oversee the operation of those businesses that have a high degree of contact with the youth of the community.
- (3) It is the belief of the Common Council that without proper regulation, arcades may substantially interfere with the attainment of public education objectives and priorities for the youth of the community, create an environment for disorderly behavior and conduct, and threaten the peaceful enjoyment of the properties in the neighborhood; all contrary to the good order, safety, health and welfare of the community.
- (4) Therefore, it is determined that it is in the best interest of the health, safety and welfare of the community to establish reasonable regulations for the operation of arcade businesses, and to such purpose, this Section is hereby enacted.

(b) **Definitions.** The following definitions shall be applicable herein:

- (1) Amusement Device. See Section 7.20(a) of this Chapter.
- (2) Arcade. Any premises containing more than twelve (12) amusement devices for the primary use and entertainment of the public, except premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued by the City.
- (3) Fitness to Possess License. For the purposes of this Section, "fitness to possess license" shall mean that the person under consideration for an arcade license has exhibited conduct consistent with that of the average person with regard to reputation, citizenship, decency, honesty and respect for law and order. The following, without limitation due to enumeration herein, shall be considered to be evidence of activities inconsistent with "fitness to possess license", subject to the provisions of Sec. 111.335, Wis. Stats.:
 - a. Conviction within five (5) years preceding application for a license of a crime involving moral turpitude, except as set out below.
 - b. Conviction of the offenses of contributing to the delinquency of minors, exposing minors to harmful materials, liquor law violations involving minors, sex offenses or sexual assaults involving minors, or offenses

against the controlled substances act, which offenses are hereby deemed to be of special concern, affecting the health, safety and welfare of youth.

- c. Being a probationer or parolee under the jurisdiction of the State Department of Health and Social Services, Department of Community Corrections, or a similar agency of another state or the federal government.
 - d. In the event that any application for a license under this Section is denied on the grounds that a person named in the application is not of good moral character, such person may, using the procedures provided for in Chapter 68, Wis. Stats., demand the reasons therefor in writing and shall be afforded the opportunity to, if desired by such person, have a hearing as provided for under that chapter, and to present evidence on his behalf.
- (c) **License Required.** No person, firm or corporation shall operate an arcade without first having obtained a license therefor from the Common Council.
- (d) **Application for License.** An application for an arcade license shall be filed with the City Clerk on forms to be furnished by the Clerk, which form shall require the following information:
- (1) Name and address of the applicant;
 - (2) In case of a partnership, the names and addresses of all partners;
 - (3) In case of a corporation, the names and addresses of all officers, directors and stockholders of ten percent (10%) or more of the capital stock of the corporation;
 - (4) In case of clubs, associations or other organizations, the names and addresses of all officers;
 - (5) The location of the premises to be licensed and the name and address of the owner or owners of said premises;
 - (6) Whether or not any person or persons named in the application have ever been convicted of violating any federal or state law bearing a criminal penalty, or any county, local, or municipal ordinance in conformity therewith, or any offense described in Subsection (b)(3)b.
 - (7) The number and type of amusement devices to be located upon the premises to be licensed.
- (e) **License Fee.** The license fee shall be the amount established in Section 3.40 and shall accompany the application. In the event that a license is denied, one-half (1/2) of the fee shall be refunded to the applicant.
- (f) **Machine License.** In addition to a license for the operation of an arcade, a license is required for the operation of each mechanical device or electronic amusement devices for an annual license fee for each device as set forth in Section 3.40. If approved, the

City Clerk shall issue for each amusement device a registration symbol which shall not be transferable, except upon registration of the transfer with the City Clerk. Any unregistered amusement device or any amusement device being used for purposes of gambling shall be seized by the Police Department. Licensees shall prominently display said licenses in the licensed premises.

(g) **Issuance of Arcade Licenses.**

- (1) All licenses herein provided for shall be issued upon approval by the Common Council, and shall limit the holder thereof to operate an arcade only on the premises for which the license has been issued. All licenses shall expire on the thirtieth (30th) of June following date of issuance.
 - (2) Such license shall bear the date of issuance, the name of the licensee, the purpose for which issued, and the location of the room or building wherein the licensee is authorized to carry on and conduct such business. Such license shall not be transferable by the holder to any other person, firm or corporation, but such license may be transferred by the holder to another location provided that the license holder shall make written application for such transfer to the City Clerk and such transfer is approved by the Common Council. A transfer fee as set forth in Section 3.40 shall be paid by the applicant.
 - (3) A license issued to a partnership shall not be voided by the withdrawal of a partner so long as one of the original partners remains. A new license shall be required if a new partner becomes a member, unless he already holds a license. A license issued to a corporation shall be voided if an unqualified person becomes the principal officer or stockholder of ten percent (10%) or more of the capital stock in the corporation; such transfers shall be reported to the City Clerk within ten (10) days after they occur.
 - (4) The Common Council shall require the Oak Creek Police Department to make an investigation of all persons named in an application for a license and report the findings of such investigation to the City Clerk and the Council's License Committee.
 - (5) A license shall not be issued if the applicant, or any partner, or the principal officer, or any stockholder holding more than twenty percent (20%) of the capital stock of the corporation, if applicant is a corporation:
 - a. Is not fit to possess a license as defined above;
 - b. Is under eighteen (18) years of age.
- (h) **Location of Premises.** No license shall be granted to any person, firm or corporation to operate a business premises offering to the public an opportunity to use

amusement devices for a fee, the real estate boundary of a parcel of real estate having situated on it a school, church, hospital, public library, park or public playground.

SEC. 7.22 ARCADE OPERATOR'S LICENSES.

- (a) **Requirement For.** A licensed arcade operator shall be on the licensed premises at all times during the hours the arcade is open to the public, in order to provide supervision necessary to maintain proper order.
- (b) **Issuance.**
 - (1) An arcade operator's license shall entitle the holder thereof to work as an operator upon premises licensed under this Section. Such licenses will be issued by the Common Council only to persons who are fit to possess a license, as defined above, and who are eighteen (18) years of age or older.
 - (2) A written application shall be filed annually with the City Clerk stating the name, address, age and sex of applicant. The application shall be referred to the Chief of Police for report. A license fee must accompany the application. There will be no refund of the fee if the license is not subsequently granted.
- (c) **Fees.** There shall be an annual fee for an arcade operator's license as established in Section 3.40. There shall be a charge for the issuance of a duplicate license as set forth in Section 3.40.
- (d) **Posting.** Each arcade operator's license shall be posted in a conspicuous place where the licensee is employed.

SEC. 7.23 CONDUCT OF ARCADE BUSINESSES AND MISCELLANEOUS REGULATIONS.

- (a) **Regulations.** All arcade licenses and arcade operator's licenses shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other ordinances and regulations of the City applicable thereto:
 - (1) Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there found in violation of City ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - (2) 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.
 - (3) There shall be upon premises operated under an arcade license at all times some person who

shall have an arcade operator's license, and who shall be responsible for the acts of all persons employed at said premises.

- (4) No premises licensed under this Section shall be permitted to remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day.
- (5) No patrons or guests shall be permitted to enter or remain on the licensed premises during the closing hours provided in Subsection (4), above.
- (6) Nothing in this Chapter shall be construed to authorize or permit or license any gambling device of any nature whatsoever.
- (7) No person, while using or operating a game of amusement or amusement device, or while on the licensed premises, shall gamble or make any bets.
- (8) Rooms in which games of amusement are located and used by the public shall, at all times, be kept in a clean, healthful and sanitary condition with ample and approved lighting and ventilation in accordance with municipal code requirements and as hereinafter set forth.
- (9) No person, while on a premises licensed hereunder, shall have in his possession any intoxicating liquor or fermented malt beverage.
- (10) No person under the age of eighteen (18) years shall be permitted on the licensed premises where the use of games of amusement or amusement devices is offered to the public for a fee before the hour of 3:00 p.m. on any day that the Oak Creek public schools are in session unless accompanied by his or her legal parent or guardian.
- (11) The licensee of the premises shall provide a minimum unobstructed area of two (2) feet perpendicular to the front of each game, device, machine or table for customers to stand while using same; in addition, an unobstructed aisle for the safe passage of customers of at least three (3) feet shall be provided in front of each game, device, machine or table.
- (12) In no event shall occupation by more persons than allowed by the provisions of the Oak Creek Fire Prevention Code, as applicable to the licensed premises, be permitted. The operator shall cause a notice as to the maximum number of persons permitted in the licensed premises to be posted in a prominent location on said premises and it shall be the operator's responsibility to monitor the number of persons on the premises.
- (13) All areas of the licensed premises shall, during business hours, have a sustained minimum white light illumination of thirty (30) foot candles, measured on a plane thirty (30) inches above the floor.

- (14) The licensed premises shall afford front window treatment of such design to allow full observation of the interior of the premises from the public way at all times.
- (15) The licensee of the premise shall provide a bicycle storage area sufficient to take care of the needs of all customers, which shall be located off the public way.
- (b) **Exemptions.** Exceptions from the provisions of this Section shall be:
 - (1) Education, religious, charitable institutions and fraternal organizations which do not permit use of amusement devices on their premises by the general public and which are nonprofit organizations.
 - (2) Any premises licensed by the City to sell fermented malt beverages and/or intoxicating liquors.
 - (3) Other commercial premises primarily used for the conducting of a business other than the business of operating an arcade, which offer the use of less than twelve (12) amusement devices shall be exempt from the provisions of this Section.
- (c) **Penalties.** Any action taken to revoke, suspend or deny a license issued under this Section shall not preclude prosecution, conviction and punishment for violations of this Section as provided in the general penalty provision of this Code of Ordinances. Each day that any violation is permitted to continue shall be deemed to be a separate offense.

ANIMAL REGULATIONS

SEC. 7.40 DOG LICENSING AND REGULATION.

- (a) **License Required.** Every person residing in the City who owns a dog which is more than five (5) months of age on January 1 of any year shall annually, at the time and in the manner prescribed by law, obtain a license therefor, as provided for in Sec. 174.05, Wis. Stats.
- (b) **Fees.** Such owner shall pay to the City Treasurer annually the fees established in Section 3.40.
- (c) **Issuance of License.** Upon payment to the City Treasurer of the license fees, the Treasurer shall issue to such person a license to keep such dog, which license shall not be issued for less than one (1) year. Such person shall, upon obtaining the license, place upon such dog a collar with a tag furnished by the City Treasurer.
- (d) **State Regulations.** Ch. 174, Wis. Stats., relating to licensing of dogs is made a part of this Section by reference.
- (e) **Running at Large Prohibited.** It is unlawful for the owner or keeper of a dog to permit the same to run at large in the City of Oak Creek. A dog shall not be deemed to be at large, if such dog is kept on the premises of its owner or keeper, or if any person holds such dog on a leash not longer than ten (10) feet.
- (f) **Impoundment, Repossession or Disposal of Dogs.**
 - (1) Every police officer or humane officer finding a dog at large shall seize such dog and impound it in the place provided by the Wisconsin Humane Society or Milwaukee Area Domestic Animal Control Commission (MADACC) or their successor organization.
 - (2) The possession of any licensed dogs so seized or impounded may be obtained by the owner upon payment of said fee as set forth in the Section 3.40 to the City, plus the daily boarding fee to the Wisconsin Humane Society, MADACC, or their successor organization for keeping such dog for each day or fraction thereof during which the said dog may be obtained by the owner. The possession of an unlicensed dog may be obtained by the owner after obtaining a license and paying the fee provided in Section 3.40. If any dog that has been impounded for seven (7) days has not been reclaimed by its owner, said dog may be disposed of by the Wisconsin Humane Society, MADACC, or their successor organization in the most humane manner.
- (g) **Vicious Dogs Prohibited.**
 - (1) It is unlawful for any person to harbor or keep a vicious dog within the City of Oak Creek, except a dog used as part of the police canine unit. A dog is declared to be vicious within the mean-

ing of this Section when it shall have bitten any person or when a propensity to attack or bite human beings or other animals shall exist and is known or ought reasonably to be known to the owner or any member of the owner's immediate family.

- (2) The biting of a person by a dog shall be presumed to be due to an unprovoked attack. Provocation of the dog by the person who is bitten may be considered in mitigation and if the amount of provocation is substantial; the court in its discretion may accept the provocation as a defense.
- (3) Any person who owns or harbors a vicious dog that has been the basis of two (2) or more previous violations of this Section shall be required to have such dog destroyed. Failure to comply with this provision of this Section shall constitute a separate offense and subject such person to the general penalty provision of this Code of Ordinances, and such dog may be taken into custody by the police or other authorized agents of the City for the purpose of having such dog destroyed.
- (4) This Section shall not apply to an attack or biting by a dog when such dog is within the confines of a fenced-in or enclosed building area, if such building or fenced-in area has a sign stating "Beware of Vicious Dog."

SEC. 7.41 RABID ANIMALS.

- (a) **Regulations.**
 - (1) Any police officer or the Health Officer may kill or impound any animal which he believes, from the appearance or conduct of such animal, to be infected with rabies.
 - (2) Any person who suspects that any animal is infected with rabies shall report to the police or health authorities, describing the animal and giving the name of the owner, if known. Any such animal shall, upon demand of any police or Health Officer, be delivered to such officer, and if, upon examination by the health authorities, the animal shall prove to be infected with such disease, the animal may be killed by any such officer.
 - (3) No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by any animal known to have been infected with rabies. No person shall fail to report to the police or health authorities the existence of an animal known to be infected with rabies.
- (b) **Quarantine for Rabies.** During the time the City or any part thereof is quarantined for rabies pursuant to Sec. 95.21, Wis. Stats., all animals within the district quarantined shall be kept securely confined or tied,

leashed or muzzled. Any animal not so kept is a public nuisance and may be impounded by any animal officer or Health Officer.

SEC. 7.42 ANIMALS BITING PERSONS.

Any animal known to have bitten any person shall be immediately seized and restrained by an officer and said officer shall report the same at once to the Police Department for its observation and attention. Said animal so seized shall be placed in a veterinary hospital in Milwaukee County or with the Humane Society or its successor organization for observation for a period of ten (10) days at the expense of the owner of said animal, unless other quarantine arrangements are approved by the City Health Officer. If the animal has not been seized, the owner shall on order of an officer immediately, and in no case less than twenty-four (24) hours from the date the order is issued, deliver said animal to a veterinary hospital within Milwaukee County or the Humane Society or its successor organization to be held for a period of at least ten (10) days for observation in an isolation facility at the expense of the owner of such animal, in accordance with the rates of the veterinary clinic where the impoundment takes place or the rates of the Humane Society or its successor organization. The ten (10) day period may be extended pursuant to Sec. 95.21(5)(c), Wis. Stats. Reports at the end of such observation shall be made without delay to the Health Officer by telephone and confirmed in writing.

SEC. 7.43 OPENING DOOR OR GATE TO ALLOW DOG AT LARGE PROHIBITED.

All persons, excepting the owners, are prohibited from opening any door or gate or any private premises for the purpose of setting any dog at large or otherwise enticing or enabling any dog to leave any private premises within which such dog may be, for the purpose of setting such dog at large.

SEC. 7.44 LIMITATION OF TOTAL OF THREE DOGS.

No owner, person or family residing within the City shall keep more than three (3) dogs on premises occupied by him or them with the exception of a litter of pups which may be kept for not more than five (5) months from birth.

Ordinance 2811, A 6/21/16, Sec. 7.44

SEC. 7.45 DOG LITTER.

(a) **Prohibition.** It shall be unlawful for the owner or person in charge of any dog to permit fecal matter which is deposited by such dog while off its own premises to remain on any street, alley, sidewalk, lawn, field or any property, and it shall be solely the responsibility of such owner or person in charge of said dog to immediately after deposit remove all fecal matter by shovel, scoop or like instrument and deposit said fecal matter in a manner approved by state or other local regulations.

- (b) **Complaints.** Any adult person alone or together with other adults may seek relief from dog fecal matter deposits as hereinabove described by a complaint to the Oak Creek Police Department. Such Department, or any member thereof, shall notify the owner or person in charge, in writing, of the alleged violation and the provisions of this Section. If such complainant(s) subsequently observe a violation involving the same dog, he or they may submit a written petition to the Police Department for commencement of prosecution to obtain compliance with this Section. Such written petition shall contain the following:
- (1) Name and address of complainant(s).
 - (2) Description of dog(s) and address of owner.
 - (3) Dates and times violations were noted.
 - (4) Date reported to the Police Department.
 - (5) Statement that petitioner(s) will be willing to sign complaint and testify in court.

SEC. 7.46 MISCELLANEOUS ANIMAL REGULATIONS.

- (a) **Injury to Property by Animals.** It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate or urinate thereon.
- (b) **Barking Dogs and Crying Cats.** It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog, animal or cat is considered to be in violation of this Section when two (2) formal, written complaints are filed with the Police Department within a four (4) week period.
- (c) **Trapping of Animals.**
- (1) In the interest of public health and safety, it shall be unlawful for any person to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal.
 - (2) This Section shall prohibit the use of all traps including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps designed to kill, wound or close upon a portion of the body of an animal except live trapping with box traps as defined in Ch. 29 Wis. Stats. to remove nuisance animals including but not limited to skunks, raccoons, squirrels, and rabbits, or removal or transportation from one loca-

tion to a more appropriate location shall be allowed.

- (3) All such traps set, placed or tended shall comply with Chapter 29 of the Wisconsin Statutes as they relate to trapping.
- (4) This Section shall not apply to trapping on private property.
- (5) Nothing in this Section shall prohibit or hinder the City of Oak Creek or its employees or agents from performing their official duties.

SEC. 7.47 PROHIBITED AND PROTECTED ANIMALS, FOWL, REPTILES AND INSECTS.

(a) Protected Animals.

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

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

- (1) All poisonous animals and reptiles including rear-fang snakes.
- (2) Apes: Chimpanzees (*Pan*); gibbons (*Hylobates*); gorillas (*Gorilla*); orangutans (*Pongo*); and siamangs (*Symphalangus*).
- (3) Baboons (*Papoi*, *Mandrillus*).
- (4) Bears (*Ursidae*).
- (5) Bison (*Bison*).
- (6) Cheetahs (*Acinonyx jubatus*).
- (7) Crocodilians (*Crocodylia*), thirty (30) inches in length or more.
- (8) Constrictor snakes, six (6) feet in length or more.
- (9) Coyotes (*Canis latrans*).
- (10) Game cocks and other fighting birds.
- (11) Hyenas (*Hyaenidae*).
- (12) Jaguars (*Panthera onca*).
- (13) Leopards (*Panthera pardus*).
- (14) Lions (*Panthera leo*).
- (15) Lynxes (*Lynx*).
- (16) Ostriches (*Struthio*).
- (17) Pumas (*Felis concolor*); also known as cougars, mountain lions and panthers.
- (18) Sharks (class *Chondrichthyes*).
- (19) Snow leopards (*Panthera uncia*).
- (20) Tigers (*Panthera tigris*).
- (21) Wolf hybrids or any animal resulting from the breeding of a wolf with a domestic dog.
- (22) Wolves (*Canis lupus*).
- (23) Poisonous insects.
- (24) Except in properly zoned districts, horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens, poultry or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.

- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a state-licensed game farm; a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat or cat shows or trials; public or private educational institutions; zoological gardens; if:

- (1) Their location conforms to the provisions of the zoning ordinance of the City.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) Animals are maintained in quarters so constructed as to prevent their escape.

SEC. 7.48 DANGEROUS ANIMALS RESTRICTED.

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Oak Creek:

- (1) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats, but excluding potbellied pigs.
- (2) Any animal having poisonous bites.

Ordinance 2015, A 7/6/99

SEC. 7.49 LICENSING OF CATS.

- (a) Every owner of a cat more than five (5) months of age on January 1st of any year, or five (5) months of age within the license year, shall annually or within thirty (30) days from the date such cat becomes five (5) months of age, pay his cat license tax and obtain a license from the City Treasurer.
- (b) Such owner shall pay to the City Treasurer annually the fees prescribed in Section 3.40.

SEC. 7.50 MILWAUKEE COUNTY REGULATIONS.

Chapter 26 of the General Ordinances of Milwaukee County, pertaining to licensing of cats, is made a part of this Section by reference.

SEC. 7.51 IMPOUNDING.

If any cat which has been impounded for a period of seven (7) days and has not been reclaimed by its proper owner at the expiration of this period, said cat may be disposed of by the appointed authority in a humane manner.

KENNELS, PET STORES AND GROOMING ESTABLISHMENTS

SEC. 7.60 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this Subchapter:

- (a) **Approved.** Approved by the Sanitarian.
- (b) **Cat.** All domestic members of *Felis Domestica*, male or female.
- (c) **Dog.** All domestic members of *Canis Familiaris*, male or female.
- (d) **Domesticated.** Any bird or animal of any species which usually lives in or about the habitation of man, which is usually raised and tended by man.
- (e) **Grooming.** Care or service provided to the exterior of any animal to change its look or improve its comfort, but shall not mean the treatment of physical disease or deformities.
- (f) **Grooming Establishment.** A business establishment wherein any domesticated bird or animal is received for grooming.
- (g) **Kennel.** A business establishment wherein more than two (2) animals, other than those generally termed as farm livestock, over the age of five (5) months are kept for the purpose of temporarily housing the animals. A veterinary clinic is not a kennel.
- (h) **Owner.** Any person, firm, corporation or their agent owning a kennel. The terms "owner" or "operator" shall be considered to be the same, and to be interchangeable.
- (i) **Person.** Any individual, firm or corporation.
- (j) **Pet Shop.** A business establishment where mammals, birds or reptiles are kept for sale; provided, however, a kennel shall not be included within the definition.
- (k) **Sanitarian.** The City's designated Sanitarian.

SEC. 7.61 KENNEL PERMIT REQUIRED.

No person shall operate a kennel unless he holds a valid license authorized by the Common Council of the City of Oak Creek. When all applicable provisions of this Section have been complied with by the applicant and such compliance has been certified by the Sanitarian and a valid occupancy permit has been issued by the Building Inspector, the Sanitarian shall issue a permit to operate upon the payment of a fee as listed in Section 3.40. Every such permit shall expire on the last day of December.

SEC. 7.62 KENNEL OPERATION.

Kennels shall be operated in accordance with the following requirements:

- (a) **Animal Care, Treatment and Disposal.**
 - (1) All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.

- (2) Programs of disease control and prevention, euthanasia, and adequate veterinary care shall be established and maintained under the supervision and assistance of a doctor of veterinary medicine.

- (3) Each animal shall be observed daily by the animal caretaker in charge or by someone under his direct supervision. Sick or diseased, injured, lame or blind animals shall be provided with veterinary care or humanely disposed of; provided, however, that the provision shall not affect compliance with any state law requiring the holding, for a specified period, of an animal suspected of being diseased.

- (4) Dead animals shall be removed from the licensed premises within twelve (12) hours for reduction in a pathological incinerator, or for other proper disposal. They shall not be buried within the boundaries of the City of Oak Creek in any case.

- (b) **Animal Facilities.** All animals shall be kept in a way that has benefit of sufficient ventilation, sufficient heat during the winter and shade during the summer. In general, conditions shall be maintained that are conducive to the preservation of good health. The quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair in accordance with the following requirements:

- (1) Facilities, Indoor.

- a. *Heating.* Indoor housing facilities for animals shall be sufficiently heated when necessary to protect the animals from cold, and to provide for their health and comfort. The ambient temperature shall not be allowed to fall below fifty degrees Fahrenheit (50°F) for animals not acclimated to lower temperatures.

- b. *Ventilation.* Indoor housing facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts, odors and moisture condensation. Auxiliary ventilating, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is eighty-five degrees Fahrenheit (85°F) or higher.

- c. *Lighting.* Indoor housing facilities for animals shall have ample light, by natural or artificial means, or both, of good quality and well distributed. Such lighting shall provide uniformly illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working pe-

- riod. Primary enclosures shall be so placed as to protect the animals from excessive illumination.
- d. *Interior Surfaces.* The interior building surfaces of indoor housing facilities shall be constructed and maintained so that they are impervious to moisture and may be readily sanitized.
 - e. *Drainage.* A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.
- (2) Facilities, Outdoor.
- a. *Shelter From Sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
 - b. *Shelter From Rain or Snow.* Animals kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
 - c. *Shelter From Cold Weather.* Shelter shall be provided for all animals kept outdoors when the atmospheric temperature falls below fifty degrees Fahrenheit (50°F). Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which the animals are acclimated.
 - d. *Drainage.* A suitable method shall be provided to rapidly eliminate excess water.
- (3) Primary Enclosures. All primary enclosures for animals shall conform to the following requirements:
- a. *General.*
 1. Primary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain them, and to keep predators out.
 2. Primary enclosures shall be constructed and maintained so as to enable the animals to remain dry and clean.
 3. Primary enclosures shall be constructed and maintained so that the animals contained therein have convenient access to clean food and water as required in this Subsection.
 4. The floors of the primary enclosures shall be constructed so as to protect the animals' feet and legs from injury.
 - b. *Additional Requirements for Primary Enclosures Housing Cats.*
 1. In all enclosures have a solid floor, a receptacle containing sufficient clean litter shall be provided to contain excreta.
 2. Each primary enclosure shall be provided with a solid resting surface or surfaces which, in the aggregate, shall be of adequate size to comfortably hold all occupants of the primary enclosure at the same time. Such resting surface or surfaces shall be elevated in primary enclosures housing two (2) or more cats.
- (4) Space Requirements.
- a. *Dogs and Cats.* Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each dog and cat to turn about freely and to easily stand, sit and lie in a comfortable normal position.
 - b. *Dogs.* In addition to any of the foregoing provisions, each dog housed in any primary enclosure shall be provided a minimum space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six (6) inches, expressed in square feet. Not more than two (2) adult nonconditioned dogs shall be housed in the same primary enclosure.
- (5) Dog Houses With Chains. If dog houses with chains are used as primary enclosures for dogs kept outdoors, the chains used shall be so placed or attached that they cannot become entangled with the chains of other dogs or any other objects. Such chains shall be of a type commonly used for the size dog involved and shall be attached to the dog by means of a well-fitted collar. Such chains shall be at least three (3) times the length of the dog as measured from the tip of its nose to the base of its tail and shall allow the dog convenient access to the dog house.
- (6) Cats. In addition to the provisions of the foregoing Sections, each adult cat housed in any primary enclosure shall be provided a minimum of two and one-half (2-1/2) square feet of floor space. Not more than twelve (12) adult nonconditioned cats shall be housed in the same primary enclosure.
- (7) Sanitation.
- a. Excreta shall be removed from primary enclosures at least daily, and as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning a primary enclosure commonly known as a cage, any animal contained therein shall be re-

- moved from such enclosure during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.
- b. Prior to the introduction of nonconditioned animals into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in Subsection (b)(7)d below.
 - c. Primary enclosures for animals shall be sanitized often enough to prevent an accumulation of debris or excreta, or a disease hazard; provided, however, that such enclosures shall be sanitized at least once every two (2) weeks in the manner provided in Subsection (b)(7)d below.
 - d. Cages, rooms and hard-surfaced pens or runs shall be sanitized by washing them with hot water [one hundred eighty degrees Fahrenheit (180° F)] and soap or detergent as in a mechanical cage washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam. Pens or runs using gravel, sand or dirt shall be sanitized by removing the soiled gravel, sand or dirt and replacing it as necessary.
 - e. Housekeeping premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Subsection. Premises shall remain free of accumulations of trash, and excreta removed from pens or other enclosures shall be stored in tightly covered metal containers until final disposal if sanitary sewers or sewerage treatment facilities are not available on the premises.
 - f. Food supplies shall be stored in rodent-proof containers, and food and water containers shall be kept clean.
 - g. Litter and/or bedding material shall be changed as often as necessary to prevent any odor nuisance.
 - h. Yards, pens, premises and animals shall be kept free of insect infestations.
 - i. No odor nuisances shall be permitted.
- (8) Feeding and Watering.
- a. *Feeding.*
 1. Animals shall be fed at least once each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal, and must be made available in suitable containers.
 2. Food receptacles shall be accessible to all and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be sanitized at least once every week. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration or caking of food.
 - b. *Watering.*
 1. Potable water shall be kept available at all times for all animals.
 2. Watering dishes or receptacles shall be kept clean and shall be sanitized at least once each week.
- (9) Operator and Employees.
- a. A sufficient number of employees shall be utilized to maintain the prescribed level of animal husbandry prescribed herein. They shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.
 - b. There shall be one or more operators or employees on the premises during business hours who are prepared and qualified to care for resident animals.
- (10) Dogs to Be Immunized Against Rabies. No kennel operator shall sell or offer for sale any dog six (6) or more months old unless the dog has been vaccinated against rabies by use of an approved live, attenuated rabies virus vaccine administered by a licensed veterinarian. A certificate of vaccination identifying the dog, including its approximate age, date of vaccination, and signed by the vaccinating veterinarian shall be given the purchaser at the time the sale is made.
- (11) Record of Sale. A record of sale shall be kept for each animal held for sale, or sold at the kennel establishment, setting forth the date and source of acquisition date of rabies vaccination, the date of sale, and the name and address of the purchaser. Such records shall be maintained for at least two (2) years following the date of sale of each dog and cat, and such records shall be open to inspection by the sanitarian at all times during which the pet shop is open to the public.
- (12) Undomesticated Animals. No wild (undomesticated) animal, or wild-domestic animal mix,

shall be kept in or sold at a licensed kennel property.

- (13) **Statutory Provisions.** Full compliance with provisions of the Wisconsin Statutes shall be mandatory.

Ordinance 2817, A 8/1/16, Sec. 7.62(b)(9)b

SEC. 7.63 PET SHOPS.

- (a) **Operation.** Pet shops shall be operated in accordance with the requirements set forth in Section 7.62(b).
- (b) **Dogs to Be Immunized Against Rabies.** No pet shop operator shall sell or offer for sale any dog six (6) or more months old unless the dog has been vaccinated against rabies by use of an approved live, attenuated rabies virus vaccine administered by a licensed veterinarian. A certificate of vaccination identifying the dog, including its approximate age, date of vaccination, and signed by the vaccinating veterinarian shall be given the purchaser at the time the sale is made.
- (c) **Record of Sale.** Every pet shop operator shall keep a record of every dog and cat sold by his establishment setting forth the date and source of acquisition, date of rabies vaccination if applicable, the date of sale, and the name and address of the purchaser. Such records shall be maintained on the pet shop premises for at least one (1) year following the date of sale of each dog and cat, and such records shall be open to inspection by the Sanitarian at all times during which the pet shop is open to the public.
- (d) **Statutory Compliance.** Full compliance with provisions of Ch. 951, Wis. Stats., shall be mandatory.

SEC. 7.64 GROOMING ESTABLISHMENTS.

Animal-grooming establishments shall be operated in accordance with the following requirements:

- (a) The floor of any room in which grooming operations are conducted or in which animals are kept shall be covered with an impervious, smooth, cleanable surface. The floors shall be cleaned and sanitized (disinfected) daily.
- (b) All animal hair and manure shall be moved from the floors daily and shall be stored in tightly covered, waterproof containers in such a manner as to prevent a nuisance until final disposal.
- (c) No dogs or other animals shall be kept in any grooming establishment between the hours of 9:30 p.m. and 7:00 a.m. Nothing in this Subsection shall apply to an establishment where grooming is incidental to the operation of a veterinary hospital, or licensed pet shop, or a licensed kennel.
- (d) Grooming establishments shall be operated in accordance with the requirements set forth in Section 7.62(b) above.

- (e) The premises shall be maintained and operated in a nuisance-free manner.

SEC. 7.65 ENFORCEMENT.

Enforcement of Sections 7.60 through 7.64 shall be prescribed in this Section:

(a) **Inspection.**

- (1) **Consent to Inspection.** Any applicant for a license to operate a kennel consents, by virtue of his application, to the entry of authorized City employees and agents. Specifically, police officials, the Sanitarian, Health Officer, Building Inspector, Plumbing Inspector, Electrical Inspector and any Humane Officer designated by the City of Oak Creek Common Council shall have the right of entry, inspection and examination of animals and premises.
- (2) **Scope of Right.** The right of entry, inspection and examination shall include the right to take photographs, obtain biological samples and remove ill or injured animals from the premises for treatment and evidence.
- (b) **Violations.** Whenever, upon inspection of any establishment or place regulated under Sections 7.60 through 7.64, the Sanitarian finds that conditions or practices exist which are in violation of the provisions herein, the Sanitarian shall issue a written order setting forth the character of the violation or violations. This order, which may be served personally or by certified or registered mail to the operator or licensee of such establishment or place, shall direct him to correct such practices or conditions within a reasonable period of time, to be determined by the Sanitarian. With respect to the operation of a kennel, such order shall also contain the notification that if such practices or conditions have not been corrected within that period of time, the license to operate such establishment will be suspended.
- (c) **Suspension of License.** If at the end of such period of time, a reinspection of the kennel by the Sanitarian reveals that such practices or conditions have not been corrected, he may suspend the license and give notice in writing to the operator that the latter's license has been suspended pending a license revocation hearing.
- (d) **Forfeiture.** In addition to any other enforcement action brought by the Sanitarian, any violation of Sections 7.60 through 7.64 shall be subject

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

SEC. 7.80 STATE STATUTES ADOPTED.

The provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this Chapter by reference. A violation of any of such provisions shall constitute a violation of this Chapter. Any future amendments, revisions, or modifications of the statutory regulations in Ch. 125 incorporated herein are intended to be made a part of this Chapter in order to secure to the extent legally practicable uniform statewide regulation of alcoholic beverages.

SEC. 7.81 LICENSES; AUTHORIZATION REQUIRED.

- (a) **When Required.** No person except as provided by Sec. 125.06, Wis. Stats., shall within the City of Oak Creek serve, sell, manufacture, rectify, brew or engage in any other activity for which this Chapter or Ch. 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this Chapter.
- (b) **Separate License Required for Each Place of Sale.** Except for licensed public warehouses, a license shall be required for each location or premises which is in direct connection to each other where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale.

SEC. 7.82 CLASSES OF LICENSES

The following classes and denominations of licenses may be issued by the City Clerk under the authority of the Common Council after payment of the fees specified in a resolution adopted by the Common Council, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Secs. 125.17, 125.25, 125.26, and 125.51; Wis. Stats. Except as otherwise provided in this Section, the full license fee shall be charged for the whole or fraction of any year:

- (a) **Retail “Class A” Intoxicating Liquor License.** A retail “Class A” intoxicating liquor license, when issued by the City Clerk under the authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (b) **Retail “Class B” Intoxicating Liquor License.** A retail “Class B” intoxicating liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the

glass on the licensed premises, or may sell individual glasses or cups of mixed drinks and wine in to-go containers for off-site consumption provided the containers have a “tamper evident seal”, or in the original package or container in any quantity to be consumed off the premises.

- (c) **Class “A” Fermented Malt Beverage Retailer’s License.** A Class “A” retailer’s fermented malt beverage license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
- (d) **Class “A” Cider License.** A Class “A” cider license, when issued by the City Clerk, under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale alcohol beverages that are obtained from the fermentation of the juice of apples or pears and that contain not less than 0.5 percent alcohol by volume and not more than 7.0 percent alcohol by volume.
- (e) **Class “B” Fermented Malt Beverage Retailer’s License.** A Class “B” fermented malt beverage retailer’s license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.
- (f) **Temporary Class “B” Fermented Malt Beverage 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.
- (g) **Temporary “Class B” Wine 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.

(h) **Retail “Class C” Licenses.**

- (1) In this Subsection, “barroom” means a room that is primarily used for the sale or consumption of alcohol beverages.
- (2) A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- (3) A “Class C” license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the City’s quota prohibits the City from issuing a “Class B” license to that person. A “Class C” license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
- (4) A “Class C” license shall particularly describe the premises for which it is issued.

(i) **Reserve “Class B” licenses.** A reserve “Class B” license may be granted by the Common Council and issued by the City Clerk pursuant to Sec. 125.51(4)(a)4, Wis. Stats.

(j) **Operators.**

- (1) Should any applicant be denied a license, an amount will be refunded as set forth in a resolution adopted by the Common Council.
- (2) Operator’s licenses may be granted to individuals who have attained the age of eighteen (18) by the Common Council in accordance with Sec. 125.32(2) and 125.68(2), Wis. Stats.
- (3) Operator’s licenses shall be issued only on written applications on forms provided by the Clerk.
- (4) Operator’s licenses shall be valid for two (2) years and shall expire on June 30th and shall be encased in plastic.
- (5) Operator’s licenses may be granted on a temporary basis as provided in Sec. 125.17(4), Wis. Stats. Police record check, beverage server training class and fees shall not be required.
- (6) An operator’s license may be issued to anyone who qualifies for said license under Sec. 125.04, Wis. Stats. An operator’s license may not be issued to anyone who has been convicted within a five (5) year period prior to license application of possession or delivery of a controlled substance.
- (7) A provisional license may be issued upon the following conditions:
 - a. A provisional license may be issued only to a person who has applied for an operator’s license. A provisional license may not be

issued to any person who has been denied an operator’s license.

- b. The fee for a provisional license shall be as set forth in a resolution adopted by the Common Council.
 - c. A provisional license expires sixty (60) days after its issuance or when an operator’s license is issued to the holder, whichever is sooner.
 - d. The provisional license may be revoked if it is determined that the licensee fails to qualify for an operator’s license.
- (8) Waitresses whose primary duty is serving food and who also serve intoxicating liquor or fermented malt beverages are not required to obtain an operator’s license if a licensed operator is on the premises.

Ordinance 2095, A 11/21/00, Sec. 7.82(i) and (j)

Ordinance 3014, A 08/17/21, Sec. 7.82

SEC. 7.83 LICENSE APPLICATION.

- (a) **Form.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the State Department of Revenue, or governing body for operators’ licenses and filed with the City Clerk. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall and if applicable, picnic areas and beer gardens.
- (b) **License Investigation.** The City Clerk shall notify the Chief of Police, Fire Inspector, Inspection Department, and City Treasurer of all license and permit applications. These officials shall inspect or cause to be inspected each application to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the Council in writing information derived from such investigation. No license shall be renewed without report from the Chief of Police, Fire Inspector, Inspection Department, and City Treasurer.
 - (1) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the City are delinquent and unpaid.
 - (2) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the City.

- (3) 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.
- (4) 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), if the applicant has habitually been a law offender, or if the applicant has falsified the application. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Common Council, the Common Council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Council, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

Ordinance 3014, A 08/17/21, Sec. 7.83(b) repealed
Ordinance 3014, A 08/17/21, Sec. 7.83(c) renumbered to (b) and recreated

SEC. 7.84 LICENSE RESTRICTIONS.

- (a) **Statutory Requirements.** Licenses may be issued to anyone who qualifies for said license under Sec. 125.04, Wis. Stats.
- (b) **Location.**
 - (1) No retail Class "A", Class "B", "Class A", "Class B" or "Class C" 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 main entrance of such school, church or hospital to the main entrance of the premises covered by the license.

- (2) 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 estate within three hundred (300) feet thereof by any school, hospital or church.
- (c) **Health and Sanitation Requirements.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Industry, Labor and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the City.
- (d) **Corporations.** No license or permit may be issued to any corporation unless the agent of the corporation and the officers or the directors of the corporation meet the qualifications of this Section.
- (e) **Issuance for Sales in Dwellings Prohibited.** No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.
- (f) **Building and Zoning Codes.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" license shall be issued to any premises which do not conform to the requirements of the building code, plumbing code or electrical code of the State Department of Industry, Labor and Human Relations and to all ordinances and regulations adopted by the City.
- (g) **Drive-In Windows.** Intoxicating liquors or fermented malt beverages shall not be sold or served through a drive-in or drive-up window.
- (h) **Nude Dancing Prohibited.**
 - (1) It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a "class A", "class B", class "B", class "A" or "Class C" licensed establishment which:
 - (a) Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or
 - (b) Shows any portion of the female breast below a point immediately above the top of the areola; or
 - (c) Shows the covered male genitals in a discernibly turgid state.
 - (2) The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic center and dinner theaters where live dance, ballet, music and

dramatic performances of serious artistic merit are offered on a regular basis and in which the predominate business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(i) **License Quota; “Class A” Licenses.**

(1) “Class A” Licenses. The number of “Class A” liquor licenses issued and in effect in the City shall be one for each one thousand two hundred (1,200) population or fraction thereof as determined by the most recent Wisconsin Department of Administration estimate and such license shall be issued only to the premises in which such use is a permanent use.

(2) “Class B” Licenses. The quota for “Class B” licenses shall be as set forth in Section 125.51 Wis. Stats. And any future amendments or revisions thereto.

(j) **Abandonment of Licensed Premises.**

Any licensee of a retail “Class A” or “Class B” license that abandons its licensed premises shall be subject to revocation or nonrenewal pursuant to Sec. 7.90 of this Chapter. For purposes of this Chapter, “abandonment” is defined as the failure or refusal of the licensee to exercise the privileges granted under the subject license for the purposes thereof by remaining open to the public for business for a period of 180 days in succession, unless extended by the Common Council.

- Ordinance 1981, A 02/02/99, Sec. 7.84(i)*
- Ordinance 2155, A 09/04/01, Sec. 7.84(j)*
- Ordinance 2581, A 01/19/10, Sec. 7.84(h)*
- Ordinance 2592, A 07/06/10, Sec. 7.84(f)*
- Ordinance 2684, A 06/04/13, Sec. 7.84(j)*
- Ordinance 2738, A 12/02/14, Sec. 7.84(i)(1)*
- Ordinance 2928, A 02/05/19, Sec. 7.84(i)(1)*
- Ordinance 3014, A 08/17/21, Sec. 7.84(b)(1), (c) and (f)*

SEC. 7.85 FORM AND EXPIRATION OF LICENSES.

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 and unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided. The City Clerk shall affix an affidavit as required by Sec. 125.04(4), Wis. Stats.

SEC. 7.86 TRANSFER OF LICENSES.

(a) **As to Person.** No license shall be transferable as to licensee except as provided by Sec. 125.04(2), Wis. Stats.

(b) **As to Place.** Licenses issued pursuant to this Subchapter may be transferred as provided in Sec. 125.04(12), Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

(c) **Surrender or Non-renewal of a Retail “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage Retailer’s License.** In the event a Retail “Class B” Intoxicating Liquor License issued pursuant to Sec. 7.82(b) and a Class “B” Fermented Malt Beverage Retailer’s License issued pursuant to Sec. 7.82(e) is surrendered or not renewed by the licensee or is revoked or not renewed by the Common Council and in the event that the City does not receive an application from another person other than the current holder of a Reserve “Class B” License in the City of Oak Creek for that license within seventy-two (72) hours of the date that the Retail “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage Retailer License is surrendered or not renewed by the licensee or revoked or not renewed by the Common Council the holder of a Reserve “Class B” license granted by the Common Council shall be notified via certified mail of the holder’s right to a Retail “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage License. Priority for said license shall be on the basis of the earliest date of granting of the reserve “Class B” license by the Common Council. The holder of a Reserve “Class B” license shall have fifteen (15) days from the date it receives notice via certified mail of the right to the Retail “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage Retailer’s License to apply for said license. If the holder of a Reserve “Class B” License fails to apply within fifteen (15) days of notice, the Reserve “Class B” Licensee shall forfeit its right to the Retail “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage Retailer’s License.

- Ordinance 2095, A 11/21/00, Sec. 7.86(c)*
- Ordinance 3014, A 08/17/21, Sec. 7.86(c)*

SEC. 7.87 POSTING AND CARE OF LICENSES.

Every license or permit shall be framed and posted and at all times displayed as provided in Sec. 125.04(10), Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

SEC. 7.88 REGULATION OF LICENSED PREMISES AND LICENSEES.

(a) **Gambling and Disorderly Conduct Prohibited.** Each licensee and permitted premises shall at all

times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any such premises.

- (b) **Employment of Underage Persons.** No licensee shall employ an person under eighteen (18) years of age to serve, sell, dispense or give away any alcohol beverage.
- (c) **Sales by Clubs.** No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
- (d) **Safety and Sanitation Requirements.** Each licensed premise shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

SEC. 7.89 CLOSING HOURS.

- (a) Class "A" fermented malt beverage and "Class A" intoxicating liquor licensed premises may remain open between the hours of 9:00 p.m. and 6:00 a.m. for the conduct of regular business, but may not sell fermented malt beverages or liquor between the hours of 9:00 p.m. and 6:00 a.m.
- (b) Class "B" fermented malt beverage and "Class B" intoxicating liquor licensed premises must be closed between 2:00 a.m. and 6:00 a.m. Mondays through Fridays and between 2:30 a.m. and 6:00 a.m. on Saturday and Sunday. On January 1st, the premises are not required to close.
- (c) No package, container or bottle sales may be made between 9:00 p.m. and 8:00 a.m. at Class "B" fermented malt beverage or "Class B" intoxicating liquor licensed premises for off-premises consumption.
- (d) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons and bowling alleys and golf courses may remain open for the conduct of their regular business but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours as specified in Subsections (b) and (c).

Ordinance 3082, A 09/05/23, Sec. 7.89(a)

SEC. 7.90 REVOCATION AND SUSPENSION OF LICENSES; NONRENEWAL OF LICENSES.

Proceedings for the revocation or suspension of any license issued under this Chapter, or the nonrenewal of any license issued under this Chapter, may be instituted in the manner and under the procedures established by Sec. 125.12, Wis. Stats.

SEC. 7.91 VIOLATIONS BY AGENTS AND EMPLOYEES.

A violation of this Chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

SEC. 7.92 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.

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

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Code of Ordinances. 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 Common Council 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 Common Council 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 City and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the City of Oak Creek. The applicant may be required to furnish a performance bond prior to being granted the license.

SEC. 7.93 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.

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

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

shall be either disconnected, disabled or made inoperable.

SEC. 7.94 TRAINING COURSE FOR OPERATOR'S LICENSE.

- (a) Except as provided in Subsection (b) below, the City 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 or an on-line course approved by the Wisconsin Department of Revenue 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 City 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.

Ordinance 3014, A 08/17/21, Sec. 7.94(a)

SEC. 7.95 PROVISIONAL RETAIL LICENSE.

- (a) Provisional retail licenses may be issued by the City Clerk only to persons applying for Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor, or "Class C" wine authorizing only the activities allowed under that type of license.
- (b) The fee shall be as set forth in a resolution adopted by the Common Council.
- (c) A provisional license expires sixty (60) days after issuance or when the person is issued a retail license. The license may be revoked by the municipal officer if he or she discovers the holder made false statements in the application.
- (d) The City Clerk may not issue a provisional "Class B" license if the quota prohibits the issuance of such a license.
- (e) No person may hold more than one (1) provisional retail license for each type of license applied for per year.

Ordinance 3014, A 08/17/21, Sec. 7.95(b)

MOBILE HOMES AND MOBILE HOME PARKS

SEC. 7.100 DEFINITIONS.

For purpose of this Chapter, the terms “dependent mobile home,” “licensee,” “licensing authority,” “mobile home,” “mobile home park,” “non-dependent mobile home,” “park,” “person,” “space” or “unit” shall have the definitions as set forth in Sec. 66.05(1) Wis. Stats. and any future amendments or revisions thereto. The following definitions shall also be applicable in this Chapter:

- (a) **Licensee.** Any person licensed to operate and maintain a mobile home park or mobile home under this Section.
- (b) **Licensing Authority.** The City of Oak Creek.
- (c) **Parks.** Mobile home park.
- (d) **Person.** Any individual, firm, trust, partnership, association or corporation, whether tenant, owner, licensee, lessee or their agent, heir or assigns.
- (e) **Mobile Home.** Any vehicle, house car, camp car, trailer, coach or any portable or mobile vehicle or housing unit constructed with wheels, or designed to be so constructed (whether or not such wheels have been removed) so that it can be towed on its own chassis, which is used or is designed for residential living, sleeping or other dwelling purposes. A mobile home cannot be construed as a “single family residence” unless permanent attachments, additions, annexes, foundations and appurtenances equal or exceed fifty percent (50%) of the market value of the mobile home.
- (f) **Dependent Mobile Home or Dependent Trailer.** A mobile home which does not have complete bathroom and cooking facilities.
- (g) **Non-dependent Mobile Home.** A mobile home equipped with complete bath and toilet facilities, all furniture, cooking, heating appliances and complete year-round facilities.
- (h) **Unit.** A mobile home.
- (i) **Mobile Home Park.** Any plot, plots of ground upon which any two (2) or more mobile home units, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for such accommodation.

SEC. 7.101 STANDARDS FOR MOBILE HOME PARKS.

- (a) **Parking Outside of Parks Prohibited.** No person shall park any mobile home anywhere in the City other than in a licensed mobile home park, except for sales display by mobile home dealers. This Section shall not apply to the parking on one (1) unoccupied unit per residential backyard, which unit shall not be connected with water, electrical or fuel supply facilities, or sanitary facilities; and which unit shall not

have its wheels or tires removed, nor shall it have any permanent foundation.

- (b) **License Required.**
 - (1) No person shall construct, maintain, or operate a mobile home park in the City without a license authorized by the Council pursuant to this Section. Original applications and renewal applications shall be on a form filed with the City Clerk.
 - (2) Applications shall be in writing, signed by the applicant, and shall contain the following:
 - a. Name and address of applicant.
 - b. Location and legal description of the mobile home park.
 - c. Name and address of owner of the real estate on which the mobile home park is located.
- (c) **Drawings Required.** The following items shall be submitted with mobile home park applications:
 - (1) Scale drawing.
 - (2) Site grading and drainage plan.
- (d) **Site Grading and Drainage Plan.** Every original application shall be accompanied by a site grading and drainage plan prepared by a registered professional engineer, registered surveyor or registered architect and certified by him as such. This plan of a scale of one (1) inch to one hundred (100) feet (or larger scale) shall provide the following minimum information:
 - (1) Exterior boundaries of property.
 - (2) Location of parking lots, drives and other proposed hard surfaced areas.
 - (3) Details for adjoining streets, i.e. centerline, existing pavement, roadside ditches and pertinent elevations for same.
 - (4) Existing storm sewers and channels adjacent to site, with invert elevations at manholes, inlets, etc.
 - (5) Existing elevations at all property corners and points of significant grade change.
 - (6) Location, size and invert elevations of site storm sewer. The grades of the property shall be set in such manner that all interior site drainage shall be intercepted by the site storm sewer.
 - (7) Proposed site grades for all interior streets, parking lots and other significant points.
 - (8) Proposed routing of site surface drainage.
 - (9) Location for the proposed sanitary sewer and watermain.
- (e) **Scale Drawings.**
 - (1) Every original application shall be accompanied by a scale drawing of the mobile home park prepared by a registered professional engineer, registered surveyor or registered architect and certified by him as such. No original application shall be deemed sufficient unless such scale drawing is attached to the written application.

- The drawing must be in conformance to the approved planned development design and its conditions and restrictions. The drawing shall contain the following detailed information:
- a. Accurate dimensions of the park in feet.
 - b. All roads and approaches and the methods of ingress and egress from and dimensions and locations of public highways.
 - c. Complete electric service distribution design and the location of poles, wire service outlets and lighting facilities.
 - d. A complete layout of lots and the number of square feet therein, together with the dimensions thereof. Each space shall bear a number in accordance with a numbering system prescribed by the City Assessor.
 - e. The location of electric power distribution systems, watermains or wells for water supply outlets for domestic water users, location of sanitary facilities, washrooms, garbage disposal units, incinerators, sanitary sewers, sewer drain lines and any other building or structure contemplated to be used by the applicant in connection with said business and as approved as part of the planned development regulations adopted for the project.
- (2) Every renewal application shall be accompanied by a scale drawing in accordance with the foregoing requirements for an original application where any changes have been made or are proposed which were not shown on previous submittals.
 - (3) All applicants shall obtain building permits prior to the construction of or erection of any unit or building, regardless of description, to be located upon the park.
- (f) **License Period.** License periods shall be for one (1) year and shall commence as of January 1st and shall expire on December 31 of the same year. Renewal applications shall be filed no later than October 1 of each year.
 - (g) **Inspection Certificates.** No original or renewal license shall be granted to any person within the City until the applicant has erected and installed all necessary equipment, roads, sanitary, lighting, water and other facilities which may be required in the actual operation of said business and a certificate certifying as to such compliance on the part of the operator shall have been filed by the Building Inspector. In addition thereto a certificate of approval of sanitary facilities erected on the park shall be obtained by the applicant from the Plumbing Inspector and filed with the City Clerk. A certificate of approval of electrical facilities on the site shall also be obtained by the applicant from the Electrical Inspector and filed with the City Clerk.
 - (h) **Permit for Change in Park.** No alteration, extension, addition, modification or change shall be made in the mobile home park, its facilities, spaces, electrical service, water supply, plumbing and sanitary facilities, mobile homes, buildings or structures without first securing a permit from the Building Inspector, Plumbing Inspector or Electrical Inspector depending on the work to be accomplished. Application for a permit must be accompanied by scale drawings and such other information as the appropriate inspector may require. Permits shall be issued only where the requirements and conditions of this Section and other ordinances of the City and laws of Wisconsin are met.
 - (i) **Permit Required for Mobile Homes.** No mobile home shall be allowed to remain in any mobile home park without a permit secured by its owner or person in charge thereof from the Building Inspector within five (5) days after entry into such park; and no licensee shall allow to remain in his park any mobile home which has not received such permit. The permit shall be good for an indeterminate period, but only within the mobile home park for which it was originally issued. In the event a mobile home is moved from one (1) park to another, a new permit shall be obtained from the Building Inspector. This paragraph shall not apply to transients remaining no more than seventy-two (72) hours. The permit shall be issued to a mobile home arriving in a park after the effective date of this Section only upon a showing that the mobile home and the space it is to occupy in the park meets the requirements and conditions of this Section and the other ordinances of the City and laws of Wisconsin.
 - (j) **Minimum Construction Requirements.** No licensee shall allow to enter or remain in his park or camp a mobile home or trailer, nor shall a permit be issued for such mobile home which does not meet the following minimum standards:
 - (1) Nine hundred (900) cubic feet of sleeping space per person. Sleeping space shall be determined by dividing the unit's cubical area by the number of persons intended to sleep therein.
 - (2) Materials, construction and sanitary facilities adequate to safeguard the public health and welfare certified by the Mobile Home Manufacturers Association, and the Building Inspector.
 - (k) **Zoning Code.** All mobile home parks proposed for development, or additions to those existing on the date of adoption of this Section, shall comply to the City zoning code and to those provisions, regulations, conditions and restrictions set forth in any ordinances granting planned development status to a mobile home park.
 - (l) **Inspection.** All mobile home parks, mobile homes and all other structures and facilities therein shall be subject to inspection by the Building Commissioner,

Building Inspector, Deputy Inspector, Plumbing Inspector, Health Officer, Sanitarian, City Assessor and Fire Chief during reasonable hours, emergency excepted.

- (m) **Revocation of License.** Any license granted under the provisions of this Section may be revoked or suspended by the Council if the holder thereof shall violate any of the provisions of this Section or of the building code of the City or of any local rule or regulation of the City Board of Health or the Wisconsin Department of Health and Social Services, Bureau of Public Health.
- (n) **Proceedings for Revocation or Suspension of Licenses.** Proceedings for revocation or suspension of a license shall be commenced upon complaint, indicating a violation(s) of the provisions of this Chapter, non-payment of monthly mobile home parking fees, other relevant provisions of this Code, the laws of the State of Wisconsin, or other just cause, filed with the City Clerk signed by any law enforcement officer, health officer, sanitarian, building commissioner, or City Treasurer. The licensee shall be given twenty (20) days' notice in writing of a hearing to consider suspension or revocation of the license and the licensee shall be served with a copy of the complaint. If the licensee does not appear at the hearing, the allegations of the complaint shall be taken as true and if the Common Council finds the allegations sufficient, the license shall be revoked or suspended. If the licensee appears, the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his expense. The Common Council may suspend or revoke the license. Any licensee whose license is revoked or suspended by the Common Council may, within twenty (20) days of the date of such revocation or suspension, appeal therefrom to the Circuit Court of Milwaukee County by filing a written notice of appeal with the City Clerk, together with a bond executed to the City in the sum of Five Hundred Dollars (\$500.00) with two (2) sureties or a bonding company approved by the Clerk, conditioned upon the faithful prosecution of such appeal and the payment of costs which may be adjudged against him.
- (o) **Water Service (Meter).** Water service shall be provided to each mobile home site on a continuous and twenty-four (24) hours-per-day basis and the water system serving the mobile home park shall be adequate and approved by the City Plumbing Inspector. The applicant shall consult with the Engineering Department and the Utility Manager regarding the requirement and installation of a water meter.

SEC. 7.102 ANNUAL LICENSE FEES.

- (a) **Annual Fee.** An annual license fee shall be charged each applicant to whom a license is granted as set

forth in Section 3.40 and the Wisconsin Statutes. A full license fee shall be charged for the full year or fraction thereof.

- (b) **Transfer of License.** Any license granted pursuant to this Section may be transferred to another person during the license year upon filing an application therefor and payment of a transfer fee as set forth in Section 3.40.

SEC. 7.103 MINIMUM PARK STANDARDS.

No license shall be issued except as otherwise provided in Section 7.105 unless the Council shall have received a recommendation from the City Plan Commission and unless the Council shall find from the application and the plans, specifications and drawings that the applicant has complied with all the requirements set forth in the City's Zoning Code.

SEC. 7.104 REGISTER TO BE MAINTAINED.

Every licensee shall maintain upon the park premises a registration of all mobile home occupants which shall be available for inspection by every City police officer, Health Officer, Building Commissioner, Building Inspector or the City Assessor which shall contain the following information:

- (a) Name and address of each occupant.
- (b) Unit manufacturer's name and year of construction.
- (c) Space number and city permit number.
- (d) Date and arrival in park.

SEC. 7.105 TIME FOR COMPLIANCE.

- (a) **Compliance.** Every mobile home park existing at the time of the original adoption of this Chapter shall comply with all the applicable and foregoing regulations, except lot or site area lot widths and parking within ninety (90) days after the effective date of this Chapter; except that for parks heretofore constructed, the Common Council, upon application of a park licensee, may extend such time for compliance from year to year but not exceeding three (3) years, if such extension shall not affect the sanitation requirements of the City or create or permit to continue any imminent hazard to the welfare and health of the community or residents of said parks. Such extension of time to be upon such conditions as the Council may require to insure that the requirements of this Section will be met in a reasonable time; provided, however, that after the ninety (90) day compliance period or after the possible three (3) year compliance extension period, no permit will be issued to any requirements and conditions of this Chapter and Section.
- (b) **Exceptions.** Minimum construction requirements as required by Section 7.101(j) may be waived by the Council upon application of a mobile homeowner if the reconstruction costs would be prohibitive and the Council determines that such waiver would not constitute a hazard to the public health and welfare; but

such waiver shall apply only to mobile homes which occupy space in a mobile home parks within the City on the day this Chapter was originally adopted (1954).

SEC. 7.106 COMPLIANCE WITH ZONING CODE.

No mobile home park shall thereafter be constructed except in conformity with the zoning laws of the City.

SEC. 7.107 MONTHLY PARKING PERMIT FEE.

- (a) The provisions of Sec. 66.058, Wis. Stats., are hereby adopted by reference.
- (b) There is hereby imposed on each non-exempt mobile home, occupying space or lots in a mobile home park in the City, a monthly parking fee as determined in accordance with Sec. 66.058, Wis. Stats. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees which shall then be paid to the City Treasurer on or before the tenth (10th) day of the month following the month for which such parking permit fee is due.
- (c) Licensees of mobile home parks shall furnish to the City Clerk and City Assessor information on mobile homes added to their park within five (5) days after arrival of such home on forms furnished by the City Clerk in accordance with Sec. 66.058(3)(c) and (e) Wis. Stats. Any mobile home park owner failing to comply with the reporting requirements of Sec. 66.058(c) or (e) shall be subject to a forfeiture of not more than Twenty-five Dollars (\$25.00). Each failure to report shall be regarded as a separate offense.

TAXICABS AND TAXI DRIVERS

SEC. 7.120 DEFINITIONS.

Ordinance 2209, repealed 8/6/02

TRANSIENT MERCHANTS

SEC. 7.140 TRANSIENT MERCHANTS LICENSE REQUIRED.

It shall be unlawful for any transient merchant to engage in sales within the City of Oak Creek without obtaining a license for that purpose as provided herein.

SEC. 7.141 DEFINITIONS.

The following definitions shall be applicable in this Section:

- (a) **Transient Merchant.** Any individual who engages in the retail sale of merchandise at any place in the City of Oak Creek temporarily, and who does not intend to become and does not become a permanent merchant. For purposes of this Subsection, 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.
- (b) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Section to said merchant:
 - (1) Has continuously operated an established place of business in the local trade area among the communities bordering the place of sale; or
 - (2) Has continuously resided in the local trade area among the communities bordering the place of sale and now does business from his residence.
- (c) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.
- (d) **Charitable Organization.** Shall include any benevolent philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.
- (e) **Clerk.** The City Clerk.

SEC. 7.142 EXEMPTIONS.

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

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers in such merchandise;
- (c) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchan-

dise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;

- (d) Any person who has an established place of business where the merchandise being sold 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;
- (e) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer;
- (f) Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise;
- (g) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (h) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the 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 Section.
- (i) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant; provided that there is submitted to the Clerk proof that such person has leased for at least one (1) year, or purchased, the premises from which he has conducted business in the market area for at least one (1) year prior to the date the complaint was made;
- (j) Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (k) Individual transient merchants participating in a fair, carnival or other gathering in which two or more transient merchants are engaged in the retail sale of merchandise, provided that the person or organization conducting the fair, carnival or other gathering, which is either authorized under City Code or authorized by action of the Common Council, at which more than one transient merchant is engaged in the retail sale of merchandise obtains a transient merchants' license for the event.

SEC. 7.143 APPLICATION.

- (a) Applicants for a transient merchant's license must complete and return to the City Clerk a registration form furnished by the Clerk which shall require the following information:
 - (3) Name, permanent address and telephone number, and temporary address, if any;

- (4) Date of birth, height, weight, color of hair and eyes;
 - (5) 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;
 - (6) Temporary address, including general locations where sales attempts will take place, and telephone number from which business will be conducted, if any;
 - (7) Nature of business to be conducted and a brief description of the merchandise, and any services offered;
 - (8) Proposed methods of delivery of merchandise, if applicable;
 - (9) Make, model and license number of any vehicle to be used by the applicant in the conduct of his business;
 - (10) Most recent cities, villages, towns, not to exceed three (3), where the applicant conducted his business;
 - (11) Place where the applicant can be contacted for at least seven (7) days after leaving the City of Oak Creek.
 - (12) Statement as to whether the applicant has been convicted of any crime or ordinance violation within the last five (5) years, and the nature of the offense and the place of conviction.
- (b) Applicants shall present to the Clerk for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required;
 - (2) A state certification of examination and approval from the sealer of weights and measures where the applicant's business requires the use of weighing and measuring devices approved by state authorities;
 - (3) A state health officer's certificate where the applicant's business involves the handling of food and is required to be certified under state law; such certificate to state that the applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) At the time the application is filed, a non-refundable fee as prescribed by Section 3.40 shall be paid to the Clerk to cover the cost of processing said application. The applicant shall sign a statement appointing the Clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.

SEC. 7.144 INVESTIGATION.

- (a) Upon receipt of each application, the Clerk shall refer it immediately to the Chief of Police who shall make and complete an investigation of the statements made in such applicant.
- (b) Every applicant who is not a resident of Milwaukee County or who represents a firm whose principal place of business is located outside of the State shall file with the City Clerk a surety bond in the amount of Five Hundred Dollars (\$500.00), guaranteeing that the applicant will comply with all provisions of the ordinances of the City and the State laws regulating 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.
- (c) The Common Council may refuse to grant a license to the applicant if it is determined, pursuant to the investigation above, that:
 - (1) The application contains any material omission or materially inaccurate statement;
 - (2) Complaints of a material nature have been received against that applicant by authorities in the most recent cities, villages and towns, in which the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years; or
 - (3) The applicant failed to comply with any applicable provision of Sec. 7.143(b) above.
- (d) If the Common Council grants a transient merchant's license, the Clerk shall issue the license upon payment of the fee as listed in Sec. 3.40; the Police Department shall issue an identification badge to the applicant.

SEC. 7.145 REGULATION OF TRANSIENT MERCHANTS.

(a) Prohibited Practices.

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

- (2) A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or characteristics of any merchandise offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization transient merchant shall specifically disclose what portion of the sale price of the 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 is conducting business.
 - (6) No transient merchant involved in the sale of meat, fish or poultry shall sell or deliver such products unless:
 - a. They are refrigerated below forty degrees Fahrenheit (40°);
 - b. The interior of the vehicle where the product is stored is cleaned at the end of each day;
 - c. Vermin or harmful bacteria are not present in the vehicle in which the product is stored; and
 - d. The vehicle is annually inspected by the City Sanitarian.
- (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 is affiliated with, if any, and the identity of merchandise or services he offers to sell.
 - (2) If any sale of merchandise is made by a transient merchant, or any offer 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 typed or printed notice of that fact. Such notice shall conform to the requirements of Secs. 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats., or any further amendments or modifications to said statutes.
 - (3) If the transient merchant takes a sale order for the later delivery of merchandise, he shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (c) **Display of License/Identification Badge.** Any person licensed under this Section shall display his identification badge while engaged in licensed activities and shall carry his license while engaged in licensed activities and shall display such license to any officers of the City or any person with whom he does business upon request.

SEC. 7.146 RECORDS.

The Chief of Police shall report to the Clerk all convictions for violation of this Chapter and the Clerk shall note any such violation on the record of the licensee convicted.

SEC. 7.147 PENALTY.

Any person adjudged in violation of any provision of this Chapter shall forfeit not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00) for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense.

RUNS, WALKS, TRIATHLONS, PARADES, PROCESSIONS AND ATHLETIC EVENTS

SEC. 7.160 LICENSING OF RUNS, WALKS, TRIATHLONS, PARADES, PROCESSIONS AND ATHLETIC EVENTS.

- (a) No person, club, organization, or group shall operate, conduct, or sponsor a run, walk, triathlon or other related athletic event in the City without first having secured a license therefore. Applications for such license shall be made in writing to the City Clerk at least thirty (30) days prior to the event and shall state thereon the name of the applicant, a representative of the club, group or organization, and a description of the triathlon or other related athletic events. The applicant shall attach a map to the application depicting the route of the run, walk, triathlon, parade, procession or other related athletic event, and must confer with the Police Department to establish a safe route for the run/walk triathlon, parade, procession or other related athletic event.
- (b) The fees for a person, group, club or organization shall be as established in Section 3.40.

PRIVATE ALARM SYSTEMS

SEC. 7.180 PURPOSE OF CHAPTER.

It is the purpose of this Chapter to regulate private alarm systems in the City of Oak Creek. It is recognized that private alarm systems can significantly contribute to the protection of persons and property within the City provided that the use of such alarm systems is properly coordinated within the Police and Fire Departments and that the alarm systems are maintained and operated in such a manner so as to minimize the unwarranted use of police and fire personnel and resources in responding to false alarms.

SEC. 7.181 LEGISLATIVE FINDINGS.

It is hereby found that those properties which are serviced with mechanical alarm systems for alerting either the Police Department or the Fire Department have substantially more service responses than other properties. The reasons are that alarms can be made easier by mechanical systems than by direct personal notification or personal notification through the telephone system; mechanical alarm systems are susceptible to the telephone system; mechanical alarm systems are susceptible to the intentional or inadvertent false alarms caused by employees, customers and others; mechanical alarm systems are also susceptible to false alarms activated by weather conditions and defects in basic equipment or in related telephone equipment. For all of these reasons, the properties serviced by mechanical alarm systems tend to cause the City more expense than properties not so serviced.

SEC. 7.182 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Alarm System.** Fire, burglar and/or other detection systems that are designed to be connected to the Police Department alarm panel or a commercial alarm company to alert the Police and Fire Departments of danger to persons and/or property.
- (b) **Intrusion Alarm System.** Any system designed to detect an unauthorized entry into a residence or place of business and which automatically sounds an alarm at the police station or a commercial alarm company.
- (c) **Fire, Smoke, Water Flow and Heat Detection Systems.** Any device designed to detect fire, smoke, water flow in a sprinkler system and extreme heat which automatically sounds an alarm at the Police or Fire Department or a commercial alarm company.
- (d) **Local Alarm System.** Any detecting device that gives a signal which is visible or audible to persons in the vicinity of the premises.

SEC. 7.183 GENERAL PROHIBITIONS.

- (a) No person, firm or corporation shall use or cause to be used any telephone or electronic device or at-

tachment which automatically connects to a primary telephone trunk line of the Police or Fire Department, for the purpose of activating a prerecorded message to report an emergency.

- (b) No person, firm or corporation shall maintain a private alarm system programmed to alert a central office unless it shall also maintain a patrol and maintenance service capable of immediately dispatching a company representative to respond within thirty (30) minutes to the location of the alarm.
- (c) All police alarm systems shall be designed and maintained to automatically reset or shut off the local portion of the alarm signal within ten (10) minutes of being activated. All fire alarm systems shall be designed and maintained to allow the Fire Department to reset or shut off the local portion of the alarm upon their arrival.

SEC. 7.184 EXEMPTIONS.

The following systems are not required to be licensed under this Chapter:

- (a) Private smoke detectors.
- (b) Alarm systems used solely to alert inhabitants of a single structure.
- (c) Municipal building alarms.

SEC. 7.185 PERMIT REQUIRED.

- (a) At least ten (10) days prior to the installation on private property, application must be made at the Fire Department for a permit to install a fire, smoke, waterflow or heat detection alarm system, or at the Police Department for an intrusion alarm system, local alarm system or other alarm system. Such application shall include the following:
 - (1) The name of the applicant (including the business name if a business alarm).
 - (2) The address of the premises where the alarm system will be installed and maintained.
 - (3) The identity of persons to be contacted in the event of an alarm activation [minimum of three (3) people with twenty-four (24) hour availability].
 - (4) A description of the alarm system to be used.
 - (5) Such other information as the Chiefs of the Police and Fire Departments may deem necessary for safe and proper emergency response by their Departments.
- (b) An alarm permit shall be issued by the Police Department or Fire Department, depending on the type of alarm, for a period of one (1) year, beginning on July 1st and ending the following June 30th, renewable automatically for each succeeding twelve (12) months for a fee as established in Section 3.40. The Police and/or Fire Department will mail all permit holders, prior to the expiration of the alarm permit, a form to be completed and returned to update the alarm permit data. Failure to return the completed

form may result in non-renewal. Any change resulting in a decrease of service by, or the identity of, the commercial alarm company, or a change of the ownership of the alarm permit holder, shall require a new permit.

- (c) The Fire Chief, in the case of fire, smoke, water flow and heat detection alarms, and the Police Chief in the case of all other alarms, may revoke any permit under this Chapter if in the judgement of such Chief the continued operation of the alarm system is not consistent with the stated purpose of this Chapter or if due to malfunction, improper maintenance or other cause, there are an unreasonable number of false alarms. Prior to revocation, the permit holder shall be given a thirty (30) day written notice of intent to revoke and shall be given an opportunity to be heard by the Licensing Committee.
- (d) Failure to disconnect alarm systems prohibited by this Section shall be considered a violation of this Section.
- (e) Subject to the exemptions in Section 7.184, no person, firm or corporation, or their employee or agent, may install or operate any alarm system within the City of Oak Creek without having first obtained an alarm permit therefore.

SEC. 7.186 PERMIT FEES.

- (a) **Alarm System.** Whenever an alarm system necessitates installation within the Police or Fire Department, the fire alarm system must be approved by the Fire Chief and the police alarm system must be approved by the Police Chief. Such system must have the approval of a recognized rating bureau and shall be subject to a permit fee as provided in Section 3.40.
- (b) **Other Alarm Systems Requiring Permits.** An initial fee as set forth in Section 3.40 is hereby established for all other alarm systems requiring a permit.

SEC. 7.187 CONDITIONS OF PERMIT ISSUANCE.

- (a) The City shall not be responsible for charges assessed by the telephone company to subscribers for connection of the alarm terminal to the Oak Creek Police Department or Oak Creek Fire Department.
- (b) After installation, the system shall be tested by the manufacturer or by the installer, in the presence of the permit holder (or his authorized agent) and by a representative of the Fire or Police Department to insure that said system operates in conformance to the specifications as approved. Subsequent tests shall be made at the frequency recommended by the manufacturer or as requested by the Fire and/or Police Chief.
- (c) In the event the Fire and/or Police Department respond to an alarm at the premises covered by the alarm system and neither the permit holder or his au-

thorized agent is present, the permit holder hereby authorizes police and/or fire officials to enter the premises to determine the source of the alarm. The permit holder can furnish an up-to-date key to the Police Department, or install a Knox Box or Supra System for Fire Department alarms, to allow access in the event of an alarm.

- (d) The permit holder consents to the imposition of the false alarm service charge.
- (e) The permit holder consents to a false alarm service charge where the names of the required person(s) to be notified in the event of an alarm activation have not been provided to the Police Department or such list of names is outdated and inaccurate.
- (f) The permit holder holds the City harmless for any and all damages or losses resulting from the maintenance of the permit holder's alarm system.

SEC. 7.188 FALSE ALARMS.

- (a) No person owning, using or possessing an alarm system shall intentionally cause or permit the giving of a false alarm.
- (b) Any person, firm or corporation having an alarm system requiring a permit shall be charged a fee for false alarms in accordance with Section 3.40 subject to the following:
 - (1) When the Chief of Police or Fire Chief determine that the cause of the false alarm was beyond the control of a permit holder, as requested and stated in writing by the permit holder, that false alarm may be exempted from this provision.
 - (2) The false alarm service charge will be billed through the City Clerk's office. If not paid within thirty (30) days of the billing date, the charge will be placed on permit holder's tax bill. If the permit holder does not pay property tax to the City, their alarm permit may be canceled due to non-payment of fees.

SEC. 7.189 REPLACEMENT OR COST OF ANY EXTINGUISHING AGENT, NEUTRALIZERS, CHEMICALS OR MATERIALS.

Any persons, firms or corporations are required to reimburse the City for personnel costs, equipment expenses and replacement costs of any extinguishing agent, chemical, neutralizer, or materials used in the extinguishment, confinement, neutralizing or cleanup of any flammable or combustible liquid, gas, solid, or any hazardous material or chemical involved in any fire or accidental spill.

SEC. 7.190 NUISANCE FIRE ALARMS.

Any person, industry, commercial establishment, railroad, apartment house complex or other who shall cause nuisance fires, including but not limited to multiple rubbish fires and grass fires, shall be liable for an amount as established in Section 3.40.

MISCELLANEOUS LICENSES

SEC. 7.200 PUBLIC DANCES.

(a) Licenses Required.

(1) Public Dance Halls. No person shall operate a public dance hall without a license obtained hereunder from the City Clerk. A public dance hall is any premises upon which dancing is permitted and to which the public may gain admission through the giving of a consideration of some kind. It shall not include premises upon which dancing instruction only is given. It shall not include premises licensed for the sale of fermented malt beverages or intoxicating liquors.

(2) Tavern Dance Halls. No licensee of a premises licensed for the sale of fermented malt beverages or intoxicating liquors shall permit dancing upon such premises without a license therefor obtained from the City Clerk hereunder.

(b) **License Fees**. The fees for such licenses shall be established in Section 3.40.

(c) **Exceptions**. No license shall be required for any public dance conducted by an educational institution or association or a civic, charitable or religious institution or organization, provided any such dance is supervised by adult members of such institution, association or organization or individuals employed by such association, institution or organization to provide supervision.

(d) **Investigations**. Upon filing of an application for a license hereunder, the City Clerk shall refer the application to the Building Inspector, the Health Officer, the Fire Chief and the Police Chief for their report and recommendation as to the suitability of the premises and the applicant for licensing under this Section.

(e) Regulations.

(1) Closing Hours. The closing hours for any dance hall licensed hereunder shall be the same as the closing hours listed in Section 7.89(b).

(2) Possession of Intoxicating or Fermented Malt Beverage. Except where the premises is licensed for the sale of intoxicating liquor and fermented malt beverages, no person shall have in his possession or shall consume on the premises licensed hereunder any intoxicating liquor or fermented malt beverages.

(3) Regulation of Minors. No person under the age of eighteen (18) years, unless accompanied by his parent, guardian or adult spouse, shall be permitted on any premises licensed hereunder which is also licensed for the sale of intoxicating liquor, except that such persons may attend dances sponsored by an organization exempt under Subsection (c) if access cannot be had

from the dancing area to the portion of the premises where the intoxicating liquors are dispensed. If minors are permitted on such premises, no intoxicating liquor or fermented malt beverages shall be served in the area in which dancing is permitted or in the immediate surrounding area.

SEC. 7.201 PAWNBROKERS AND SECOND HAND ARTICLE AND JEWELRY DEALERS.

The provisions of Sec. 134.71, Wis. Stats., dealing with pawnbrokers and secondhand article and jewelry dealers is hereby adopted by reference and made part of this Section as if fully set forth herein. Acts required to be performed or prohibited by such statute are required or prohibited by this Section. Any future amendments, revisions or modifications of the statute incorporated herein by reference are intended to be made part of this Code. The fees for such license shall be established in Section 3.40.

SEC. 7.202 AUTO SALVAGE YARDS.

(a) **License Required**. No person shall engage in the salvage of motor vehicles or the sale of parts thereof without obtaining a license from the City Clerk.

(b) **License Fee**. The fee for such license shall be as established in Sec. 3.40.

(c) **Fencing Required**. Any person licensed hereunder shall erect and maintain a fence of a material sufficient to conceal the area of salvage and storage from public view or access which fence shall be at least six feet in height and if made of wood shall be painted.

(d) Nuisances Prohibited.

(1) Accumulations of waste material prohibited. No person licensed hereunder shall permit an accumulation of waste materials or junk upon the licensed premises sufficient to create a hazard of fire or of infestation by rodents or vermin or having a tendency to emit-noxious odors.

(2) Burning prohibited. No licensee shall burn on the licensed premises combustible material causing the emission of noxious or dangerous smoke or ashes.

SEC. 7.203 ADULT ENTERTAINMENT

1. Findings of fact.

Based on public testimony and other evidence and information before it, the Common Council makes the following findings of fact:

(a) The secondary effects of the activities defined and regulated in this section are detrimental to the public health, safety and general welfare of the citizens of the city and, therefore, such activities must be regulated as provided in this section.

- (b) Regulation of the adult entertainment industry is necessary because, in the absence of such regulation, significant criminal activity has historically and regularly occurred. This history of criminal activity in the adult entertainment industry has included prostitution, narcotics and liquor law violations, breaches of the peace and the presence within the industry of individuals with hidden ownership interests and outstanding arrest warrants.
- (c) The Common Council, based on the experience of other cities including Seattle and Renton, Washington, and Detroit, Michigan, has previously determined that adult oriented establishments can contribute to the impairment of the character and quality of surrounding residential neighborhoods, and contribute to the decline and the value of surrounding properties.
- (d) The Common Council has reviewed studies distributed by the National Obscenity Law Center in a three volume set that documents the secondary effects of adult entertainment establishments that affect property values, contribute to physical deterioration and blight, have a deleterious effect on both existing businesses around them and surrounding residential areas, including increased transiency, increased levels of criminal activities including prostitution, rape, assaults and other sex related crimes. The Common Council is also aware that similar studies have been done in other communities across the United States such as St. Paul, Minnesota; Indianapolis, Indiana; Austin, Texas, and Phoenix, Arizona.
- (e) The Common Council believes that the experiences and studies of other communities set forth herein are relevant in addressing the secondary effects adult oriented establishments can have upon areas surrounding such establishments in the City of Oak Creek.
- (f) It has been found in Milwaukee and Kenosha Counties, Wisconsin; Chattanooga, Tennessee; Newport News, Virginia; and Marion County, Indiana, that the viewing booths in adult oriented establishments have been and are being used by patrons of said establishments for engaging in sexual acts, particularly between males, including but not limited to intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths.
- (g) Contact between entertainers and patrons of adult entertainment businesses facilitates prostitution and other related crimes and the concern over unlawful sexual activities and related crimes is a legitimate health concern of the city which demands reasonable regulation of adult entertainment businesses in order to protect the health and well-being of the citizens.
- (h) Licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (i) It is necessary to license entertainers in the adult entertainment industry to prevent the exploitation of minors, to ensure that each such entertainer is an adult, to ensure that such entertainers have not assumed a false name which would make regulation of the entertainer difficult or impossible and to ensure that such entertainers are not involved in criminal activity.
- (j) It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as such establishments are offering adult entertainment so that there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.
- (k) The license fees required in this section are nominal fees imposed as necessary regulatory measures designed to help defray the substantial expenses incurred by the city in regulating the adult entertainment industry.
- (l) Hidden ownership interests for the purpose of skimming profits and avoiding the payment of taxes have historically occurred in the adult entertainment industry in the absence of regulation. These hidden ownership interests have historically been held by organized and white-collar crime elements. In order for the city to effectively protect the public health, safety and general welfare of its citizenry, it is important that the city be fully apprised of the actual ownership of adult entertainment establishments.
- (m) The Common Council desires to prevent these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.
- (n) It is not the intent of this section to suppress any speech activities protected by the First Amendment or Article I, Section 3 of the Wisconsin State Constitution, but to enact content neutral regulations which address the secondary effects of adult entertainment businesses,

as well as the health problems associated with such businesses.

- (o) The City is empowered to enact such ordinances pursuant to the Constitution and Laws of the State of Wisconsin.

2. **Purpose and intent.**

It is the purpose of this section to regulate adult entertainment businesses and related activities, to promote health, safety, morals, and general welfare of the citizens of Oak Creek, and to establish reasonable and uniform regulations to prevent the establishment and operation of adult entertainment businesses in locations within the city which would have a harmful effect on the residents of the city. The purpose of this section is to alleviate undesirable social problems that accompany adult entertainment businesses, and to enact content neutral regulations which address the secondary effects of adult entertainment businesses as well as health problems associated with such business, not to curtail the First Amendment expression, namely dancing or entertainment. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the state or federal constitutions, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene materials.

3. **Definitions.**

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

- (a) Adult entertainment means any dance, amusement, show, display, merchandise, material, exhibition, pantomime, modeling or any other like performance of any type for the use or benefit of a member or members of the public or advertised for the use or benefit of a member of the public where such is characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” as defined herein, or the exhibition of “specified sexual activities,” also defined herein, or in the case of live adult entertainment performances, which emphasizes and seeks to arouse or excite the patrons’ sexual desires. For the purpose of this section, any patron of an adult entertainment business, as defined in this section, shall be deemed a member of the public.

- (b) Adult entertainment business means any establishment providing adult entertainment as defined herein, including, but not limited to, adult arcade, adult bookstore, adult novelty store, adult video store, adult motion picture theater, and exotic dance studio, more specifically defined as follows:

- (1) Adult arcade means a commercial establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, computer-generated or enhanced pornography, panoram, peep show, or similar machines, or other image-producing machines, for personal viewing, are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which provide material for individual viewing by patrons on the premises of the business which are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”
- (2) Adult Bookstore means an establishment which has a facility or facilities, including but not limited to booths, cubicles, rooms or stalls, for the presentation of adult entertainment, including adult oriented films, movies or live performances for observation by patrons therein; or an establishment having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined below.
- (3) Adult motion picture theater means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities” are regularly shown for any form of consideration.
- (4) Adult retail establishment means any bookstore, adult novelty store, adult video store, or other similar commer-

cial establishment, business, service, or portion thereof, which for money or any other form of consideration provides as a significant or substantial portion of its stock-in-trade the sale, exchange, rental, loan, trade, transfer, and/or provision for viewing or use off the premises of the business adult entertainment material as defined in this section. For purposes of this provision, it shall be a rebuttable presumption that thirty (30) percent or more of a business' stock-in-trade in adult retail material, based on either the dollar value (wholesale or retail) or the number of titles of such material, is significant or substantial.

In determining whether or not the presumption is rebutted, the Common Council may consider the following factors, which are not conclusive:

- (a) Whether minors are prohibited from access to the premises of the establishment due to the adult entertainment nature of the inventory;
- (b) Whether the establishment is advertised, marketed, or held out to be an adult merchandising facility;
- (c) Whether adult entertainment material is an establishment's primary or one of its principal business purposes; or
- (d) Whether thirty (30) percent or more of an establishment's revenue is derived from adult entertainment material.

An establishment may have other principal purposes that do not involve the offering for sale or rental of adult entertainment materials and still be categorized as an adult retail establishment. Such other business purposes will not serve to exempt such establishments from being categorized as an adult retail establishment so long as one (1) of its principal business purposes is offering for sale or rental, for some form of consideration, the specified adult entertainment materials.

The Common Council shall have full discretion to give appropriate weight to the factors set forth above as well as other factors considered depending on the particular facts and circumstances of each application.

- (5) Exotic dance studio, also known as "topless bar" and "adult cabaret," means a nightclub, bar, restaurant, or similar commercial establishment, or any premises or facility to which any member of the public is invited or admitted and where an entertainer provides live performance to any member of the public, which performances are characterized by an emphasis on the depiction, description or simulation of "specified anatomical areas" or "specified sexual activities," or which emphasize and seek to arouse or excite the patron's sexual desires.
- (6) Adult motel means a hotel, motel or similar commercial establishment that:
 - a. offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproduction; or
 - b. offers a sleeping room for rent for a period of time that is less than 24 hours; or
 - c. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 24 hours.
- (c) Adult entertainment material means any books, magazines, cards, pictures, periodicals or other printed matter, or photographs, films, motion pictures, video tapes, slides, or other photographic repro-

- ductions, or visual representations, CD roms, DVDs, disks, electronic media, or other such media, or instruments, devices, equipment, paraphernalia, toys, novelties, games, clothing or other merchandise or material, which are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities.”
- (d) Booths, Cubicles, Rooms Compartments or Stalls means enclosures as are specifically offered to the public or members of an adult entertainment business for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures where-in the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment” or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee.
- (e) City means the city of Oak Creek, Wisconsin.
- (f) Employee means any and all persons, including managers, entertainers, and independent contractors, who work in or at or render any services directly related to the operation of any adult entertainment business offering adult entertainment, whether or not such person is paid compensation by the operator of said business.
- (g) Entertainer means any person who provides live adult entertainment in an adult entertainment business whether or not an employee of the operator and whether or not a fee is charged or accepted for such entertainment.
- (h) Establish means and include any of the following:
1. To open or commence any adult entertainment business as a new business; or
 2. To convert an existing business, whether or not an adult entertainment business, to any adult entertainment businesses defined herein; or
3. To add any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or
 4. To relocate any such adult entertainment business.
- (i) License means a license to operate, manage or entertain at any premises that is classified as an adult entertainment business.
- (j) Licensed premises means any premises that requires a license and that is classified as an adult entertainment business.
- (k) Licensee means a person in whose name a license to operate, manage or entertain at an adult entertainment business has been issued, as well as the individual listed as an applicant on the application for a license.
- (l) Manager means any person appointed by an owner or operator of an adult entertainment business who manages, directs, administers or is in charge of the affairs and/or the conduct or operation of an adult entertainment business and includes assistant managers.
- (m) Operator means and includes the owner, permit holder, custodian, manager, operator, or person in charge of, conducting or maintaining an adult entertainment business.
- (n) Panoram or peep show means any device which, upon insertion of a coin or by any other means, exhibits or displays a picture or view by film video, or by any other means.
- (o) Person means any individual, firm, joint venture, co-partnership, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver or any other group or combination acting as a unit.
- (p) Specified anatomical areas means:
1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of areolae; or
 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (q) Specified sexual activities means:
1. The caressing, touching, fondling or other intentional or erotic touching of male genitals, female genitals, pubic region, buttocks, anus, or female

- breasts of oneself or of one person by another; or
2. Sex acts, normal or perverted, actual or simulated, including masturbation, intercourse, oral copulation, flagellation, sodomy, bestiality, or any sexual acts which are prohibited by law; or
 3. Human genitals in a state of sexual stimulation, arousal or tumescence or visual state of sexual stimulation, arousal or tumescence, even if completely and opaquely covered.
 4. Excretory functions as part of or in connection with any of the activities set forth in 1-3 above.
 5. Sadomasochistic conduct, including but not limited to, needle play and blood drawing.
4. **Administration of licensing.**
The Common Council is responsible for granting, denying, revoking, renewing, suspending, and canceling adult entertainment business licenses. The Clerk is responsible for granting, renewing, suspending and canceling manager's and entertainer's licenses. The Director of Community Development and the Building Commissioner or their designee are responsible for ascertaining whether a proposed adult entertainment business for which an adult entertainment business license is being applied for complies with all building code and land use requirements enumerated herein and all other applicable building code and zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of this section.
5. **License required – Fee.**
- a. Adult entertainment business license required.
 1. No person or entity shall use any property or premises for an adult entertainment business within the City of Oak Creek except within those areas authorized for location of said businesses and no adult entertainment business shall be established, operated or maintained in the City unless the owner or operator thereof has obtained an adult entertainment business license from the clerk. It is unlawful for any entertainer, employee, or operator to knowingly work in or about the City or to knowingly perform any service directly related to the operation of an unlicensed adult entertainment business.
 2. The annual license fee for all adult entertainment businesses subject to this chapter shall be as set forth in Sec. 3.40. This amount shall be used for the cost of administration of this section.
 3. The above-referenced licenses expire annually on December 31 and must be renewed by January 1.
 4. The applicant must be eighteen (18) years of age or older.
- b. License for managers and entertainers required.
1. No person shall work as an entertainer at an adult entertainment business without having first obtained an entertainer's license from the clerk. No person shall work as a manager of an exotic dance studio, adult arcade, adult motion picture theatre or other adult entertainment businesses providing onsite entertainment without having first obtained a manager's license from the clerk, the purpose being to require licensed managers at adult entertainment business establishments to monitor the conduct of patrons viewing adult entertainment on the premises and ensure compliance with this section. Onsite entertainment includes, but is not limited to, live entertainment, the viewing of films and videos and other such entertainment on the premises, whether or not for a fee or other consideration, as opposed to strictly the sale or rental of adult books, magazines, novelties and videos.
 2. The annual fee for such a license shall be as set forth in Sec. 3.40. This amount shall be used for the cost of administration of this section.
 3. This license expires annually on December 31 and must be renewed by January 1.
 4. The applicant must be eighteen (18) years of age or older.
6. **License Applications.**
- a. Adult entertainment business. All applications for an adult entertainment business license for places which offer adult entertainment shall be submitted in the name of the person or entity proposing to conduct such adult entertainment on the business premises. All applications for an adult entertainment business license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be submitted on a form supplied by the City, which shall contain the following information:
 1. Names, any aliases or previous names, business address of the applicant and each general partner, corporate officer, director, and shareholder having a significant responsibility for management of the business, specifying the interest and management responsibility of each such applicant,

- partner, corporate officer and/or director or shareholder.
2. If a partnership, whether general or limited; and if a corporation, date and place of incorporation, evidence that it is in good standing under the laws of Wisconsin, and name and address of any registered agent for service of process.
 3. Addresses of the applicant for the five (5) years immediately prior to the date of application.
 4. A description of the business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.
 5. Whether the applicant or any individual, partner, corporate officer, or director identified in subparagraph (1) above has had a previous license under this section or other similar ordinances from another city or county denied, suspended, revoked or not renewed including the name and location of the adult entertainment business for which the license was denied, suspended, revoked or not renewed as well as the date of the denial, suspension, or revocation.
 6. Whether the applicant or any individual, partner, corporate officer, or director identified in subparagraph (1) above holds any other licenses under this section, or other similar adult entertainment business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.
 7. The single classification of license for which the applicant is filing.
 8. The name and location of the proposed adult entertainment business, including a legal description of the property, street address and telephone number(s) if any, together with the name and address of each owner and lessee of the property. If the applicant is a lessee of the property the applicant shall attach a copy of the lease to the application. If the applicant is the owner of the property the applicant shall attach a copy of the warranty deed or other evidence of ownership of the property. If the applicant is purchasing or has purchased an adult entertainment business that was previously licensed by the City, the applicant shall submit satisfactory evidence that applicant has purchased the business.
 9. In the case of an exotic dance studio, a scale drawing or diagram showing the configuration of the premises for the proposed exotic dance studio, including a statement of the total floor space occupied by the business, and marked dimensions of the interior of the premises. Performance areas, seating areas, manager's office and stations, restrooms and service areas shall be clearly marked on the drawing.
 10. Authorization for the City, its agents and employees to investigate and seek information to confirm any statements set forth in the application.
 11. Identification and/or information, as requested by the clerk, supplemental to that required in a complete application when deemed necessary to confirm statements set forth in the application or determine compliance with this section. The application will be deemed complete when the applicant submits responses to all inquiries on the application form.
 12. All convictions in any state or federal court within the past five years, including municipal violations, exclusive of traffic convictions, and the jurisdiction in which the conviction occurred.
- b. Processing adult entertainment business license applications.
1. Upon receipt of the complete application and fee, the clerk shall provide copies to the sanitarian, police, planning and other applicable departments for their investigation and review to determine compliance of the proposed adult entertainment business with the laws and regulations which each department administers. Each department shall, within ten (10) days of the date of receipt of such application, report to the clerk whether such application and premises complies with the laws administered by each department. No license may be issued unless each department reports that the application and premises comply with the relevant laws. In the event the premises are not yet constructed, the department shall base their recommendation as to premises compliance on their review of the drawings submitted in the application. Any license granted prior to premises construction shall contain a condition that the license not be issued and the premises may not open for business until the premises have been inspected and determined to be in substantial conformance with the drawings submitted with the application and in compliance with this section. A department shall recommend denial of a license under this subsection if it finds that

the proposed adult entertainment business is not in conformance with the requirements of any provision of any applicable statute, code, ordinance, regulation or other law in effect in the city. A recommendation for denial shall be in writing and shall cite the specific reason therefore, including applicable laws.

2. Upon receipt of the departmental recommendation, the clerk shall refer the license application to the License Committee, which shall consider the license application at its next regularly scheduled meeting, but no later than ten (10) days after receipt of the departmental recommendation by the clerk. The License Committee shall make a recommendation to the Common Council within ten (10) days of its first meeting to consider the license application. The Common Council shall consider the License Committee's recommendation to either grant or deny the license application within ten (10) days of the License Committee's recommendation. An adult entertainment business license shall be granted by the Common Council within twenty (20) days of first considering the license application, unless the Common Council determines that the applicant has failed to meet any of the requirements of this section or provide any information required under this subsection, or that the applicant has made a false, misleading or fraudulent statement of material fact on the application for a license. If the Common Council finds that the license has failed to meet any of the requirements for issuance of an adult entertainment license, the Common Council shall deny the application and shall, in its motion denying the application, state the specific reasons therefore, including applicable laws. If the Common Council fails to issue or deny the license within sixty (60) days of the date of filing of a complete application and fee, the applicant shall be permitted, subject to all other applicable laws, to operate the business for which the license was sought until notified, in writing, by the clerk that the license has been denied.
- c. Manager, entertainer or employee license. All applications for a manager's, entertainer's, or employee license shall be signed by the applicant and notarized or certified to be true under penalty of perjury. All applications shall be

submitted on a form supplied by the city, which shall contain the following information:

1. The applicant's name, any aliases or previous names, date and place of birth, and, for entertainers, any stage names or nicknames used in entertaining.
 2. The name and address of each business at which the applicant intends to work.
 3. Documentation that the applicant has attained the age of eighteen (18) years. Any of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth; or
 - b. A state issued identification card bearing the applicant's photograph and date of birth.
 - c. An official passport issued by the United States of America.
 - d. An immigration card issued by the United States of America.
 - e. Any other picture identification that the city determines to be acceptable.
 4. A description of the applicant's principal activities or service to be rendered.
 5. The names and addresses of employers or individuals or businesses for whom the applicant was an employee or independent contractor for the period of three (3) years immediately prior to the date of application, including the period of employment.
 6. Authorization for the city, its agents and employees to investigate and seek information to confirm any statements set forth in the application.
 7. Supplemental identification and/or information, as requested by the clerk, deemed necessary to confirm any information set forth in the application or to determine compliance with this section.
 8. All convictions in any state or federal court within the past five years, including municipal ordinance violations, exclusive of traffic convictions, and the jurisdiction in which the conviction occurred.
- d. Processing manager's, entertainer's or employee license applications. A copy of the application shall be provided to the police and other applicable departments for its review, investigation and recommendation. An adult entertainment business manager's or an adult entertainer's or employee's license shall be issued by the clerk within fourteen (14) days from the date the complete application and fee were received unless the clerk determines that

the applicant has failed to provide any information required to be supplied according to this section, or that the applicant has made any false, misleading or fraudulent statement of material fact in the application for a license. Upon request of the applicant, the clerk shall grant an extension of time, up to but not to exceed twenty (20) additional days, in which to provide all information required for license application. (The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.) If the clerk determines that the applicant has failed to meet any of the requirements for issuance of a manager's, entertainer's or employee's license, the clerk shall deny the application in writing and shall cite the specific reasons therefore, including applicable laws. If a request for extension of time is not made, and the clerk has failed to approve or deny the license within fourteen (14) days of filing of a complete application for an adult entertainment business manager's license, the applicant may, subject to all other applicable laws, commence work as an adult entertainment business manager, entertainer or employee in a duly licensed adult entertainment business until notified, in writing, by the clerk that the license has been denied. An applicant for an adult entertainment manager's, entertainer's or employee's license shall be issued a temporary license upon receipt of a complete license application and fee. Said temporary license will automatically expire on the fourteenth day (or on such day established pursuant to any extension granted herein) following the filing of a complete application and fee, unless the clerk has failed to approve or deny the license application, in which case the temporary license shall be valid until the clerk approves or denies the application, or until the final determination of any appeal from a denial of the application.

- e. All adult entertainment businesses existing at the time of the passage of this section must submit an application for a license within sixty (60) days of the passage of this section. A manager or entertainer at an adult entertainment business existing at the time of the passage of this section must submit an application for a license with sixty (60) days of passage of this section.

7. Issuance of licenses.

Upon completion of the investigation and review by the departments, a review of the recommendations and verifications, and a determination that all matters contained in the application are true and

correct and that this section has been complied with, and upon granting of the license by the Common Council, the clerk shall issue such license applied for in accordance with the provisions of this chapter. The applicable license fee, together with any delinquent fees that may then be due shall first be paid to the city.

8. Denials.

The Common Council shall deny the application to:

- a. An applicant who is under eighteen (18) years of age.
- b. An applicant whose place of business is conducted by an agent, unless such agent possesses the same qualifications required of the licensee, or in the case of a manager of an adult entertainment business, the manager has obtained a manager's license.
- c. A partnership, unless all members having a significant responsibility for management of the business thereof are qualified to obtain a license as provided in this chapter. Such license shall be issued to the agent of said partnership.
- d. A corporation, unless all officers, directors and shareholders having a significant responsibility for management of the business are qualified to obtain a license as provided herein. Such license shall be issued to the agent of said corporation.
- e. An applicant who has failed to provide information required on license application for the issuance of the license or has made, with the intent to mislead, a materially false representation in the application for a license under this section which the applicant knows to be false.
- f. The applicant has failed to comply with any provision or requirement of this section.
- g. An applicant having an interest in any license granted under this section revoked within six (6) months from the date of application.
- h. The applicant, if an individual, any shareholder, officer, agent or director of a corporation having a significant responsibility for the management of the business, if the applicant is a corporation and any of the partners, if the applicant is a partnership, has within five (5) years prior to the date of application been convicted of a felony or of any ordinance or misdemeanor involving moral turpitude, prostitution, or of any other crime of a sexual nature, subject to the provisions of Wis. Stats. Sec. 111.335.
- i. An applicant, unless the applicant can provide proof to the City that it has authority to occupy the property where the proposed adult entertainment business is to be located including a lease, if the property is leased, or a warranty deed, if the applicant owns the property.

- j. The applicant, unless the applicant can provide evidence to the City of the purchase of an adult entertainment business, if the adult entertainment business was previously licensed by the City, or provide other evidence satisfactory to the City that the applicants owns the business and is otherwise legally authorized to operate the business.
9. **License Term, renewals, suspensions and revocations.**
- a. There shall be no prorating of the license fees for licenses required pursuant to this section, and all such licenses shall expire on the thirty-first (31) day of December of each year, except that in the event that the original application is made subsequent to June 30, then one-half of the annual fee may be accepted for the remainder of said year.
 - b. Application for renewal of licenses issued hereunder shall be made to the clerk no later than thirty (30) days prior to the expiration of an adult entertainment business licenses and manager's, entertainer's, or employee's business licenses. The renewal license shall be issued in the same manner as for an original application under this section and on payment of fees pursuant to Sec. 3.40. All applicants for a license renewal shall present their current license for verification of identity, and upon issuance of a renewed license, shall surrender the expiring license to the clerk. There shall be assessed and collected by the clerk, an additional charge of twenty-five (25) percent of the license fee, on applications not made on or before said date.
 - c. The Common Council shall renew a license after review by the License Committee unless the Common Council is aware of facts that would disqualify the applicant from being issued the license for which he or she seeks renewal, and further provided that the application complies with all provisions of this section as now enacted or as the same may hereafter be amended.
 - d. The Common Council may revoke, suspend or not renew a license for any of the following reasons:
 - 1. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - 2. The operator or any employee of the operator violates any provision of this section or any rules or regulation adopted by the Council pursuant to this section.
 - 3. The operator becomes ineligible to obtain a license or permit.
- 4. Any cost or fee required to be paid by this Section is not paid.
 - e. The Common Council, before revoking, suspending or not renewing a license hereunder, shall give the licensee at least twenty (20) days written notice of an intent to revoke, suspend or not renew a license based on charges filed with the Common Council by the clerk, other department head or other aggrieved person and an opportunity for a public hearing. If the licensee files a written request for a hearing with the clerk within twenty (20) days of receipt of written notice of an intent to revoke, suspend or not renew the license, a public hearing shall be held within twenty (20) days thereafter before the Common Council. At the hearing the licensee shall be entitled to be represented by counsel, may call witnesses in his or her behalf and may cross examine witnesses called to support the charges brought against the licensee. If the licensee does not file a timely request for a public hearing, the allegations set forth in the charges shall be taken as true, and if the Common Council finds the charges sufficient the license shall be revoked, suspended or not renewed. If the licensee files a timely request for a hearing and the charges are found to be true by a preponderance of the evidence the license shall be suspended for not less than ten (10) days nor more than ninety (90) days, revoked or not renewed. The licensee shall be provided a written transcript of the hearing at his expense. The Common Council shall provide the licensee with a copy of the written determination within five (5) days of completion of the hearing. Judicial review of the Common Council's determination shall be governed by Sec. 68.13, Wis. Stats. If the licensee makes a timely appeal, no suspension, revocation or non-renewal shall be effective until a final judicial determination is rendered.
10. **Other license requirements.**
- a. Duty to supplement.
 - 1. Applicants for a license under this section shall have a continuing duty to promptly supplement application information required in the event that said information changes in any way from what is stated on the application. If any person or entity acquires, subsequent to the issuance of an adult entertainment business license for places offering adult entertainment, an interest in the licensed premises or the licensed business, immediate notice of such acquisition shall be provided in writing to the clerk. The notice shall include the information required to be provided for the

- original adult entertainment business. The failure to supplement the application on file with the clerk regarding such change in ownership or interest, within thirty (30) days from the date of such change, shall be grounds for suspension or revocation of a license.
2. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with health, fire, and building codes of the city.
 3. The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining an adult entertainment business.
- b. Manager on premises. A licensed manager shall be on duty on the premises of an adult business at all times that adult entertainment is being provided.
 - c. License non-transferable. No license or permit issued pursuant to this section shall be assignable or transferable. For purposes of this section, “assignable” or “transferable” shall mean and include any of the following:
 1. The sale, lease or sublease of the business; or
 2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law.
 - d. Name of business and place of business. No person granted a license pursuant to this section shall operate the adult entertainment business under a name not specified in the license, nor shall he or she conduct business under any designation or location not specified in the license.
 - e. License: posting and display.
 1. The adult entertainment business license, if granted, shall state on its face the name of the person or persons to whom it is issued, the expiration date, and the address of the licensed adult entertainment business. The license shall be posted in a conspicuous place at or near the entrance to the licensed premises so that it can be easily read at any time the business is open.
2. The license of the manager on duty shall be prominently posted during business hours.
 3. Entertainer licenses need not be posted, but must be available on the premises when the entertainer is on the premises, for immediate inspection by any city official or law enforcement agency having jurisdiction. Managers’ and entertainers’ licenses must be endorsed by the clerk for the business premises for which the manager is managing and the entertainer is entertaining.
 4. Under no circumstances will photocopies or other forms of reproduction be acceptable as proof of issuance of any license required under this section.
- f. Inspection of licenses. The manager shall, upon request by any law enforcement officer or inspector, make available for inspection the entertainer licenses required to be on the premises as described herein.
 - g. Hours of Operation.
 - A. Adult bookstores shall be allowed to remain open between the following hours: Monday through Saturday, 8:00 a.m. to 12:00 midnight. Sunday, 11:00 a.m. to 9:00 p.m.
 - B. All other adult entertainment businesses shall be allowed to remain open between 10:00 a.m. and midnight, Monday through Saturday.
- 11. Specification – Exotic dance studios.**
- a. Separation of adult entertainment performance area. The portion of the exotic dance studio premises in which dancing and adult entertainment by an entertainer is performed shall be a stage or platform at least twenty-four (24) inches in elevation above the level of the patron seating areas and shall be situated so that no dances, performances, or exhibitions by an entertainer shall occur closer than ten (10) feet to any patron. The stage(s) must be visible by the human eye from the common areas of the premises and at least one (1) manager’s station.
 - b. Lighting. Sufficient lighting shall be provided and equally distributed in and about the parts of the premises which are open to and used by patrons so that all objects are plainly visible at all times, and shall be illuminated so that patrons, on any part of the premises open to the public, shall be able to read a program, menu, or list printed in eight (8) point type.
 - c. Visibility. No adult entertainment performance may be visible outside the premises of the adult entertainment businesses.

- d. Submittal of plans. Building plans showing conformance with the requirements of this section shall be included with any application for an exotic dance studio business license.

12. Standards of conduct and operation applicable to exotic dance studios.

- a. Standards for patrons, employees and entertainers. The following standards of conduct must be adhered to by patrons, entertainers and/or employees of exotic dance studios at all times adult entertainment is performed:
 - 1. Admission to exotic dance studios under this section shall be restricted to persons of the age of eighteen (18) years or more.
 - 2. All dances, performances, or exhibitions by an entertainer shall occur on the entertainment performance areas intended for that purpose.
 - 3. No dances, performances, or exhibitions by an entertainer shall occur closer than ten (10) feet to any patron.
 - 4. No patron shall go into or upon the adult entertainment performance area while adult entertainment is being performed.
 - 5. No patron, employee or entertainer shall be nude on the premises and no entertainer shall perform adult entertainment as defined in this section or otherwise entertain while nude except on the entertainment performance area.
 - 6. No patron, employee or entertainer shall allow, encourage, or knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, pubic area, or genitals of any other person.
 - 7. No patron, employee or entertainer shall allow, encourage, or permit physical contact between an employee or entertainer and any member of the public, which contact is intended to arouse or excite sexual desires.
 - 8. No entertainer employed or otherwise working at an exotic dance studio shall solicit any gratuity or other payment from a patron or customer.
 - 9. No customer or patron of an adult entertainment business shall directly pay or give any gratuity or other payment to any entertainer.
 - 10. No exotic dance studio licensee shall employ as an entertainer a person under the age of eighteen (18) years or a person not licensed pursuant to this section.
 - 11. No exotic dance studio licensee shall service, sell, distribute, or suffer the consumption or possession of any intoxicating

liquor or controlled substance upon the premises of the licensee.

- b. The responsibilities of the manager of an exotic dance studio shall include but are not limited to:

- 1. A licensed manager shall be on duty at an exotic dance studio at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours. Managers shall be required to verify and ensure that entertainers possess a current and valid entertainer's license available for immediate inspection on the premises.
- 2. The licensed manager shall not be an entertainer.
- 3. The manager shall be responsible for and shall assure that the actions of members of the public, the adult entertainers and all other employees shall comply with the dress code and conduct set forth in this section and all other requirements of this section.

13. Regulations applicable to adult arcades, adult motion picture theaters and other adult entertainment businesses providing onsite entertainment.

- a. Specifications.
 - 1. The licensee shall not permit any doors to public areas on the premises to be locked during business hours.
 - 2. Any room or area on such premises shall be readily accessible at all times for inspection by any law enforcement officer or license inspector.
- b. Additional specifications applicable to adult arcades.
 - 1. The interior of the show premises shall be arranged in such a manner as to ensure that patrons are fully visible from the waist down, and all persons viewing such panorama pictures shall be visible from the common areas of such premises.
 - 2. No more than one (1) patron at a time shall be present in a booth, cubicle, room, or stall wherein adult entertainment is provided.
 - 3. The licensee shall maintain, at a minimum, illumination as required in this chapter for exotic dance studios generally distributed in all parts of the premises at all times when the facility is open or when the public is permitted to enter or remain therein.

c. Construction. Every booth, room or cubicle shall meet the following construction requirements:

1. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
2. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
3. All walls shall be solid and without any openings, extended, smooth textured and easily cleanable.
4. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
5. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

d. Standards of conduct.

1. Admission shall be restricted to persons of the age of eighteen (18) years or more and it shall be unlawful for any owner, operator, manager or employee of an adult arcade to knowingly permit or allow any person under the age of eighteen (18) years to be in or upon such premises.
2. No patron shall be unclothed or in such attire, costume or clothing so as to be in a state of nudity or engage in any specified sexual activity and no owner, operator, manager or employee shall knowingly allow such conduct in or upon the premises.

14. Regulations applicable to stores, novelty stores, video stores and other businesses whether or not qualifying as adult entertainment establishments.

Bookstores, novelty stores, video stores, and other businesses that sell or otherwise distribute books, magazines, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by an emphasis on the depiction, description or simulation of "specified anatomical areas" or "specified sexual activities," whether or not such businesses qualify as an adult entertainment establishment, shall be subject to the following regulations:

1. All such items as are described above shall be physically segregated and closed off from other portions of the store so that these items are not visible and/or accessible from other portions of the store where non-adult entertainment material, if any, is displayed, sold or rented.

2. No advertising for such items shall be posted or otherwise visible, except where such items are authorized for display.
3. Signs readable at a distance of twenty (20) feet shall be posted at the entrance to the business or the area where such items are displayed stating that persons under the age of eighteen (18) are not allowed access to the area where such items are displayed.
4. The manager or attendant shall take responsible steps to monitor the area where such items are displayed to ensure that persons under eighteen (18) years of age do not access the age-restricted area.
5. Employees of such businesses shall check identification of persons appearing to be eighteen (18) or under to ensure that such items are not rented or sold to persons under the age of eighteen (18).

15. Exemptions.

This section shall not be construed to prohibit:

1. Plays, operas, musicals, exhibitions, dances or other dramatic works which involve nudity.
2. Classes, seminars and lectures held for serious educational, or scientific purposes.
3. Public exhibition of artwork or artifacts depicting nudity.
4. Public display of television programs or of a movie at a motion picture theater other than an adult motion picture theater involving brief displays of nudity.
5. Nursing mothers.

16. Record keeping requirements.

- a. All licenses, papers, and records required to be kept pursuant to this chapter shall be open to inspection by the police department during the hours when the licensed premises are open for business, upon two (2) days' written notice. The purpose of such inspections shall be to determine whether the licenses, papers, records, and things meet the requirements of this section.
- b. Each adult entertainment business shall maintain and retain for a period of two (2) years the name, address, and age of each person employed or otherwise retained or allowed to perform on the premises as an adult entertainer, including independent contractors and employees. This information shall be open to inspection by the police department during hours of operation of the business upon twenty-four (24) hours' notice to the licensee.
- c. In order to ensure compliance with this section, all areas of licensed adult entertainment businesses which are open to members of the public shall be open to inspection by city agents and employees during the hours when

the premises are open for business. The purpose of such inspections shall be to determine if the licensed premises are operated in accordance with the requirements of this section. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this section.

17. Nuisance declared.

Any adult entertainment business operated, conducted, or maintained in violation of this section or any law of the City of Oak Creek or the State of Wisconsin shall be, and the same is, declared to be unlawful and a public nuisance. The city attorney may, in addition to or in lieu of any other remedies set forth in this section, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this section.

18. Limitation of liability.

None of the provisions of this section are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or the failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

Ordinance 2184, A 08/20/02, Sec. 7.203
Ordinance 2223, A 11/20/02 Sec. 7.203(3)(b)6,
7.203(3)(q), 7.203(6), 7.203(8), 7.203(9)(b)
Ordinance 2229, A 01/07/03, Sec. 7.203(10)(g)
Ordinance 2575, A 12/01/09, Sec. 7.203, 7203(6)(a)(8)
Ordinance 2575, A 12/01/09, Sec. 7.203(8)(i)&(j)

SEC. 7.204 ESCORT SERVICES

(1) Definitions.

The terms used in this chapter shall be defined as follows:

- a. “Escort” includes any person who, for a fee, commission, salary, hire profit, payment or other monetary consideration accompanies or offers to accompany another person to or about social affairs, places of entertainment or places of amusement or consorts with another person about any public place or within any private quarters.
- b. “Escort service” includes service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons who may accompany other

persons to or about social affairs, places of entertainment or places of amusement, or who may consort with others about any public place or within any private quarters.

- c. “Person” means any natural person, partnership, corporation or other organization operating, conducting, maintaining or owning any escort service.

(2) Exemptions.

This section does not apply to businesses, agencies and persons licensed by the state or the city pursuant to a specific statute or ordinance, and employees employed by a business so licensed, and which perform an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

(3) License required.

- a. No person may engage in, conduct or carry on the operation or maintenance of an escort service without first obtaining a valid escort service license issued under this chapter.
- b. A license may be issued only for one escort service located at a fixed and certain place. Any person desiring to operate more than one escort service must have a license for each escort service.
- c. All escort services existing in the city at the time of the adoption of this chapter must submit an application for a license within sixty (60) days of the adoption of this chapter.

(4) License application.

- a. Any person desiring to obtain an escort service license shall pay a fee as set forth in Section 3.40 to defray the costs of administration and investigation of the application.
- b. Any person desiring an escort service license shall file a written application with the city clerk on a form provided by the clerk’s office. The information provided to the clerk shall be provided under oath.
 - 1. Corporations. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation, together with the date and state of incorporation, the name, aliases, and business address of each of its officers, directors, or shareholders having a significant responsibility for management of the business. The application shall also be verified by an officer of the corporation.
 - 2. Partnership. If the applicant is a partnership, the applicant shall set forth the name of the partnership and the name, aliases, business address of each of the partners,

- including limited partners, having a significant responsibility for management of the business and shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partner.
3. Others. If the applicant is neither a corporation nor a partnership, the application shall set forth the true full name, aliases and business address of the applicant and shall be verified by the applicant. The applicant shall also include any other name by which the applicant has been known during the previous five years.
 - c. The applicant also shall set forth the proposed place of business of the escort service by business address, including suite number, and not by post office box, and shall contain a description of the nature and scope of the proposed business operation. In addition, the following information shall be furnished concerning the applicant if an individual; concerning each officer, director and shareholder, having a significant responsibility for management of the business, if the business is a corporation; concerning each partner, including limited partners having a significant responsibility for management of the business, if the applicant is a partnership.
 1. Written proof that the individual is at least eighteen (18) years of age.
 2. The business, occupation or employment history for three years immediately preceding the date of application, including, but not limited to, whether such person previously operated under any permit or license in another city in this or another state and whether any such permit or license had ever been suspended or revoked;
 3. All convictions in any state or federal court within the past five years, including municipal ordinance violations, exclusive of traffic convictions and the jurisdiction in which the convictions occurred.
 4. The names of persons who will have custody of the business records at the business locations;
 5. The name and address of the person who will be the agent for service of process.
 6. A copy of the deed, lease or other document pursuant to which the applicant occupies the premises.
 - d. The city clerk shall notify the Police Chief, the Fire Chief and the Building Commissioner or its designee of any escort service license application and these officials shall inspect or cause to be inspected each such application and the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the License Committee, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the departments for whom the officer is certifying within ten days of receipt of notice from the city clerk. No license shall be renewed without a re-inspection of the premises.
 - e. Within thirty (30) days of receiving an application for a license, the Common Council shall grant or deny a license to the applicant upon a recommendation of the License Committee. The city clerk shall notify the applicant whether the application is granted or denied.
 - f. Whenever an application is denied, the city clerk shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within ten days thereafter before the Common Council or its designee.
 - g. Failure or refusal of the applicant to give any information relevant to the application, failure or refusal to appear at any reasonable time and place for examination under oath regarding the application or refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial.
- (5) License – Issuance standards.
The Common Council shall issue an escort service license if, upon recommendation by the License Committee, it finds that:
- a. The required fee has been paid;
 - b. The application conforms in all respects to this chapter;
 - c. The applicant has not knowingly made a material misstatement in the application;
 - d. The applicant has fully cooperated in the investigation of his application;
 - e. The escort service, as proposed by the applicant, complies with all applicable laws, including, but not limited to, the city’s building and zoning codes;
 - f. The applicant has not had an escort service license or permit or other similar license or permit revoked or suspended in this state or any other state within three years prior to the date of application;

- g. The applicant, if a corporation, is licensed to do business and is in good standing in the state;
 - h. All individual applicants, all shareholders, directors and officers having significant responsibility for management of the business, if the application is a corporation, or all partners, including limited partners having significant responsibility for management of the business, if the applicant is a partnership, are at least eighteen (18) years of age.
 - i. The applicant, if an individual, any shareholders, officers, agents and directors of a corporation having a significant responsibility for management, if the business of the applicant is a corporation, any of the partners, if the applicant is a partnership, has not within five years prior to the date of application been convicted of a felony or of any ordinance or misdemeanor involving moral turpitude, prostitution or any crime of a sexual nature, subject to the provisions of Wis. Stats. Sec. 111.335.
- (6) Display of license
The escort service license shall be displayed in a conspicuous public place in the escort service's place of business.
- (7) Escort license required for employees.
- a. No person may work or perform services as an escort in the city, either individually or while working for an escort service, unless the person has first obtained a valid escort license issued under this section.
 - b. All persons working or performing services as an escort in the city at the time of the passage of this section shall submit an application for a license within sixty (60) days of the adoption of this section.
 - c. This subsection shall not apply to persons who are on the premises used as an escort service exclusively for the repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
- (8) Escort license application.
- a. Any person desiring to obtain an escort license shall pay the fee as set forth in Section 3.40 to defray the costs of administration and investigation of the application.
 - b. Any person desiring an escort license shall file a written application with the city clerk on a form to be provided by the clerk's office. The information provided to the clerk shall be provided under oath. Any applicant for an escort license shall furnish all information required by sub (4).
 - c. Applications for an escort license shall be referred to the Police Chief who shall cause an investigation to be made of the applicant and report the findings of the investigation to the License Committee of the Common Council within ten days of receipt of notice from the city clerk.
- d. Within thirty (30) days of receiving an application for an escort license, the Common Council shall grant or deny a license to the applicant upon a recommendation of the License Committee. The city clerk shall notify the applicant whether the application is granted or denied.
 - e. Whenever an application is denied, the city clerk shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing within ten days of receipt of notification of denial, a public hearing shall be held within ten days thereafter before the Common Council or its designee.
 - f. Failure or refusal of the applicant to give any information relevant to the application, failure or refusal to appear at any reasonable time and place for examination under oath regarding the application or refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial.
- (9) Escort license – Issuance standards.
The Common Council shall issue an escort license if, upon recommendation by the Licensing Committee, it finds that:
- a. The required fee has been paid.
 - b. The application conforms in all respects to this chapter.
 - c. The applicant has not knowingly made a material misstatement in the application.
 - d. The applicant has fully cooperated in the investigation of his application.
 - e. The applicant has not had an escort license or permit or other similar license or permit revoked or suspended in this state or any other state within three years prior to the date of application.
 - f. The applicant is at least eighteen (18) years of age.
 - g. All applicants, if an individual, all shareholders, officers, agents and directors of a corporation having a significant responsibility for management, if the business of the applicant is a corporation or all partners including limited partners, if the applicant is a partnership, has not within five years prior to the date of application been convicted of a felony or of any ordinance or misdemeanor involving moral turpitude, prostitution or of any crime of a sexual nature, subject to the provisions of Wis. Stats. Sec. 111.335.

(10) Display of escort license.

- a. The city clerk shall issue an escort license on which there shall be the applicant's true first name, surname and middle initial, if any; the picture of the applicant; and the license number and the expiration date of the license. The license shall be in such form as to avoid alteration.
- b. The certificate shall be carried on the person of the escort and shall be exhibited to any person, including law enforcement personnel, requesting to see it at any time while the person is engaged in acting as an escort.

(11) Restrictions on corporate licenses.

Any corporation holding an escort service license under this chapter shall report to the city clerk, in writing, within fifteen (15) days of the event described herein, any of the following:

- a. Any change of officers of the corporation.
- b. Any change in the membership of the board of directors of the corporation.

(12) Sale or transfer of interest in escort service.

Upon the sale or transfer of any interest in an escort service, the license shall be void. Any person desiring to continue to operate an escort service following sale or transfer shall apply for a license. No license may be transferred to any other person.

(13) Responsibilities of licenses.

- a. Every act or omission by an employee constituting a violation of the provisions of this section shall be deemed the act or omission of the escort service operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- b. Every act or omission by an escort, regardless of whether the escorts are employees, agents or independent contractors, shall be deemed the act or omission of the escort service operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the escort's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator caused such act or omission.
- c. No escort service operator may allow or permit any person to work as an escort for such escort service unless the person so employed has a valid escort license issued by the city.
- d. No escort may work for any escort service operator unless the escort service operator has a valid escort service license issued by the city.

e. No escort service may conduct any business without maintaining on its premises a daily register containing the name of each escort currently employed or otherwise working for the escort service on the date in question, a duplicate of the escort license certified required under Sub. (7) and the actual hours of employment of each escort for each day. The daily register shall be available during all business hours for inspection by law enforcement personnel.

f. No person licensed as an escort or escort service may in any manner advertise its services as licensed by the city.

g. No person shall escort or agree to escort a person under the age of eighteen (18) years.

(14) License renewal.

a. Every license issued pursuant to this section expires annually on December 31 and must be renewed by January 1. All applications for the renewal of escort license issued by the city shall be filed with the city clerk's office on a form to be provided by the clerk no later than sixty (60) days prior to the expiration of the license. The renewal application shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. Applications to renew licenses shall be processed by the city in the same fashion as new applicants.

b. A license renewal fee as set forth in Sec. 3.40 shall be submitted with the renewal application. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against any applicant who files for renewal less than sixty (60) days before the license expires. If the application for renewal is denied, one-half of the total fees collected shall be returned.

(15) Suspension or revocation of license.

- a. Any escort service or escort license may be suspended for not more than ninety (90) days or revoked by the Common Council for any of the following reasons:
 1. Any of the grounds that would warrant the denial of the original application for the license.
 2. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 3. The operator or any employee of the operator or any escort employed by the operator violates any provision of this section or any rules or regulations adopted by the Common Council pursuant to this chapter; provided, how-

ever, that in the case of a first offense by an operator where the conduct was solely that of an employee or escort, the penalty shall not exceed a suspension of thirty (30) days if the Common Council shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.

4. The license becomes ineligible to obtain a license or permit.
 5. Any cost or fee required to be paid by this chapter is not paid.
- b. An escort service or escort license may be suspended or revoked after notice and hearing before the Common Council to determine if grounds for such suspension or revocation exist. Notice of the hearing shall be in writing and may be served by certified mail addressed to the licensee at the current address of the licensee on file with the city clerk's office. The notice shall be served at least ten days prior to the date of hearing. The notice shall state the grounds of the complaint against the licensee and shall designate the time and place where the hearing will be held. At the hearing, the licensee shall be entitled to be represented by counsel, may call witnesses in his or her behalf and may cross-examine witnesses called to support the charges brought against the licensee. If the Common Council finds the charges sufficient, the license may be suspended, revoked or not renewed. The licensee shall be provided a written transcript of the hearing at this or her expense. The Common Council shall provide the licensee with a copy of the written determination within five days of completion of the hearing. Judicial review of the Common Council's determination shall be governed by Sec. 68.13, Wis. Stats. If the licensee makes a timely appeal, no suspension, revocation or non-renewal shall be effective until a final judicial determination is rendered.
- c. Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an escort service for six months from the date of revocation of the license.

(16) Penalties.

Any person who violates any provision of this section or who fails to obtain a license as required in this chapter shall, upon conviction, be subject to penalty as provided in Sec. 1.07.

Ordinance 2222, A 11/19/02, Sec. 7.204

SEC. 7.205 MASSAGE THERAPISTS AND BODYWORKERS

Massage therapists and bodyworkers certified by the State of Wisconsin must display a certification in a conspicuous space within the massage business so that the same may be readily seen by persons entering the premises. As a condition of the certificate, the person holding the certificate must permit City employees, without notice, to inspect the premises at any time during business hours. Every massage therapist performing off-site massage therapy shall carry his or her certificate issued by the State of Wisconsin with him or her.

Ordinance 2267, A 8/19/03, Sec. 7.205